

# **City of Hercules**

*111 Civic Drive  
Hercules, CA 94547*



## **Meeting Agenda**

**Tuesday, September 24, 2019**

**6:00 PM**

**Closed Session - 6:00 p.m.**

**Regular Session - 7:00 p.m.**

**Council Chambers**

### **City Council**

*Mayor Dan Romero  
Vice Mayor Roland Esquivias  
Council Member Chris Kelley  
Council Member Gerard Boulanger  
Council Member Dion Bailey*

*David Biggs, City Manager  
Patrick Tang, City Attorney  
Lori Martin, City Clerk*

*To view webcast of meetings, live or on demand, go to the City's website at [www.ci.hercules.ca.us](http://www.ci.hercules.ca.us)*

**I. SPECIAL MEETING - CLOSED SESSION – 6:00 P.M. CALL TO ORDER - ROLL CALL**

**II. PUBLIC COMMUNICATION - CLOSED SESSION ITEMS**

**III. CONVENE INTO CLOSED SESSION**

The Hercules City Council will meet in Closed Session regarding the following:

1. [19-721](#) Pursuant to Government Code Section 54957(b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - Title: City Attorney
2. [19-724](#) Pursuant to Government Code Section 54956.9(a), Conference with Legal Counsel - Pending/Existing Litigation: Successor Agency to the Hercules Redevelopment Agency and City of Hercules v. California Department of Finance, et al, Sacramento Superior Court Case No. 34-2018-80003038
3. [19-725](#) Pursuant to Government Code Section 54956.9 (d)(1), Conference with Legal Counsel - Pending/Existing Litigation - Taylor Morrison of California, LLC, entitled *Taylor Morrison of California, LLC v. City of Hercules*, Superior Court for the County of Contra Costa, Case No. C19-00366.

**IV. REGULAR MEETING – 7:00 P.M. CALL TO ORDER - ROLL CALL**

**V. REPORT ON ACTION TAKEN IN CLOSED SESSION**

**VI. PLEDGE OF ALLEGIANCE**

**VII. MOMENT OF SILENCE**

**VIII. INTRODUCTIONS/PRESENTATIONS/COMMISSION REPORTS**

1. [19-723](#) Proclamation Recognizing Dr. Phillip A. Howard, Founder and Senior Pastor of Valley Bible Church and Caroline Howard for 48 Years of Leadership to the People of Valley Bible Church and the Hercules Community

Attachments: [Proclamation - Dr. Phillip A. Howard - Valley Bible Church](#)

**IX. AGENDA ADDITIONS/DELETIONS**

## X. PUBLIC COMMUNICATIONS

This time is reserved for members of the public to address issues not included in the agenda. In accordance with the Brown Act, Council will refer to staff any matters brought before them at this time, and those matters may be placed on a future agenda.

Individuals wishing to address the City Council are asked to complete a form indicating the name and address of the speaker and the general topic to be addressed. Speakers must make their comments from the podium and will be allowed 3 minutes to discuss their concerns. All public comments are recorded and become part of the public record. A limit of 30 minutes will be devoted to taking public comment at this point in the agenda. If any speakers remain at the conclusion of the initial 30 minute period, time will be reserved at the conclusion of the meeting to take the remaining comments.

## XI. PUBLIC HEARINGS

## XII. CONSENT CALENDAR

1. [19-720](#) **Meeting Minutes**  
**Recommendation:** Approve the regular meeting minutes of September 10, 2019.

**Attachments:** [Minutes - 091019 - Regular](#)

2. [19-729](#) **Second Reading and Adoption of an Ordinance Approving Re-Zone #17-02 for the Sycamore Crossing Project (Assessor Parcel Numbers 404-020-094-3 and 404-020-095-00)**  
**Recommendation:** Waive the second reading and adopt Ordinance 524 with modified diagram and findings with facts, changing the zoning district for the westerly portion of the Sycamore Crossing site, revising the zoning district designation from General Commercial (CG) to Planned Commercial Residential (PC-R) zoning for the approved hotel and multi-family residential parcels, and changing the open space area that traverses the site to Public/Quasi-Public-Open Space (P/QP-O).

**Attachments:** [Staff Report - Sycamore Crossing - CC Ordinance 524 - RZ - 2nd Reading](#)  
[Attach 1 - Sycamore Crossing - CC Ordinance 524 - RZ - 2nd Reading](#)  
[Attach 2 - Sycamore Crossing - CC 2019-09-10 - Staff Report](#)

## XIII. DISCUSSION AND/OR ACTION ITEMS

1. [19-726](#) **Memorandum of Understanding with Hercules Bayfront for Expanded Use of an Existing Public Access Easement to Facilitate Interim Bus Service to the Waterfront.**  
**Recommendation:** Adopt a Resolution Approving a Memorandum of Understanding (MOU) with Hercules Bayfront for Expanded Use of an Existing Public Access Easement to Facilitate Interim Bus Service to the Waterfront.

**Attachments:**     [Staff Report - MOU with Cury for Interim Transit 09242019](#)  
                              [Attach 1 - Resolution Hercules Bayfront MOU](#)  
                              [Attach 2 - Bayfront Transit Loop MOU - signed](#)

2.     [19-727](#)     **Streetlight Purchase for Landscaping and Lighting Citywide District 83-2 Zone 1 "Hercules by the Bay" and Zone 7 "The Heights"**

**Recommendation:** Adopt a Resolution authorizing the City Manager to sole source purchase 160 streetlights from Holophane in the amount of \$317,578 including sales tax.

**Attachments:**     [Staff Report - 2019 Streetlight 2nd Purchase](#)  
                              [Attach 1 - Resolution - streetlight purchase](#)  
                              [Attach 2 - City of Hercules Zone 1 & 7 PH2 Quote 19-11327-6.pdf 8.12.19](#)  
                              [Attach 3 - Streetlight Specs](#)  
                              [Attach 4 - Street Light Replacement Maps - Zone 1 & Zone 7](#)  
                              [Attach 5 - Sole Source 2019 Streetlight 2nd Purchase](#)

3.     [19-731](#)     **2019 Streetlight Replacement Project Construction Contract with NEMA Construction**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract with NEMA Construction for the 2019 Streetlight Replacement Project in the amount of \$168,400 and up to a 5% contingency of \$8,420 for a not to exceed amount of \$176,820 to replace a total of 160 streetlights in Landscaping & Lighting District (LLAD ) No. 83-2 Zones 1 "Hercules By The Bay" and Zone 7 "Heights".

**Attachments:**     [Staff Report - 2019 Streetlight Replacement Contract](#)  
                              [Attach 1 - Resolution - 2019 Streetlight Replacement Project](#)

4.     [19-728](#)     **Engie Service Company's Feasibility Assessment for Energy Conservation Facilities and Associated Program Development Agreement**

**Recommendation:** Receive report from staff and presentation on the feasibility assessment findings from Engie, discuss, provide direction to staff if any, approve Program Development Agreement if desired by adopting a Resolution Approving a Program Development Agreement with Engie.

**Attachments:**     [Staff Report - Engie 924919 dcb comments](#)  
                              [Attach 1 - Resolution - Engie PSA](#)  
                              [Attach 2 - PDA for Hercules 20190917 Revised Scope v1](#)  
                              [Attach 3 - ENGIE Hercules City Council Preso 2019-09-09 v2 DRAFT](#)  
                              [Attach 4 - ENGIE Resumes For Hercules v3](#)

5.     [19-730](#)     **Approve a Debt Issuance and Management Policy in Accordance with Senate Bill 1029**  
          **Recommendation:** Adopt a Resolution approving the Debt Issuance and Management Policy.
- Attachments:     [Staff Report - Debt Issuance and Management Policy - 092419](#)  
                              [Attach 1 - Resolution](#)  
                              [Attach 2 - Debt Issuance and Management Policy](#)  
                              [Attach 3 - Disclosure Procedures](#)
6.     [19-722](#)     **Update on Parking Considerations & Issues**  
          **Recommendation:** Receive report, discuss, and provide direction, if any.
- Attachments:     [Staff Report - Parking Updates 09242019](#)
7.     [19-719](#)     **League of California Cities Resolutions**  
          **Recommendation:** Discuss and consider two (2) Resolutions introduced by the League of California Cities and determine a City position that the voting delegate can represent at the Annual Business Meeting.
- Attachments:     [Staff Report - LCC Resolutions 092419](#)  
                              [Attach 1 - 2019 Annual Conference Resolutions Packet](#)

#### **XIV. PUBLIC COMMUNICATIONS**

This time is reserved for members of the public who were unavailable to attend the Public Communications period during Section X of the meeting, or were unable to speak due to lack of time. The public speaker requirements specified in Section X of this Agenda apply to this Section.

#### **XV. CITY COUNCIL/CITY MANAGER/CITY ATTORNEY ANNOUNCEMENTS, COMMITTEE, SUB-COMMITTEE AND INTERGOVERNMENTAL COMMITTEE REPORTS AND FUTURE AGENDA ITEMS**

This is the time for brief announcements on issues of interest to the community. In accordance with the provisions of the Brown Act, matters which do not appear on this agenda but require City Council discussion may be either (a) referred to staff or other resources for factual information or (b) placed on a future meeting agenda.

#### **XVI. ADJOURNMENT**

The next Regular Meeting of the City Council will be held on Tuesday, October 8, 2019 at 7:00p.m. in the Council Chambers.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at [www.ci.hercules.ca.us](http://www.ci.hercules.ca.us) and can receive e-mail notification of agenda and staff report postings by signing up to receive an enotice from the City's homepage. Agendas and staff reports may also be obtained by contacting the Administrative Services Department at (510) 799-8215

(Posted: September 19, 2019)

**THE HERCULES CITY COUNCIL ADHERES TO THE FOLLOWING POLICIES,  
PROCEDURES AND REGULATIONS REGARDING CITY COUNCIL MEETINGS**

1. SPECIAL ACCOMODATIONS: In compliance with the Americans with Disabilities Act, if you require special accommodations to participate at a City Council meeting, please contact the City Clerk at 510-799-8215 at least 48 hours prior to the meeting.

2. AGENDA ITEMS: Persons wishing to add an item to an agenda must submit the final written documentation 12 calendar days prior to the meeting. The City retains the discretion whether to add items to the agenda. Persons wishing to address the City Council otherwise may make comments during the Public Communication period of the meeting.

3. AGENDA POSTING: Agendas of regular City Council meetings are posted at least 72 hours prior to the meeting at City Hall, the Hercules Swim Center, Ohlone Child Care Center, Hercules Post Office, and on the City's website ([www.ci.hercules.ca.us](http://www.ci.hercules.ca.us)),

4. PUBLIC COMMUNICATION: Persons who wish to address the City Council should complete the speaker form prior to the Council's consideration of the item on the agenda.

Anyone who wishes to address the Council on a topic that is not on the agenda and is relevant to the Council should complete the speaker form prior to the start of the meeting. Speakers will be called upon during the Public Communication portion of the meeting. In accordance with the Brown Act, the City Council may not take action on items not listed on the agenda. The Council may refer to staff any matters brought before them at this time and those matters may be placed on a future agenda.

In the interests of conducting an orderly and efficient meeting, speakers will be limited to three (3) minutes. Anyone may also submit written comments at any time before or during the meeting.

5. CONSENT CALENDAR: All matters listed under Consent Calendar are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Council or a member of the public prior to the time the City Council votes on the motion to adopt.

6. LEGAL CHALLENGES: If you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the meeting or in written correspondence delivered at, or prior to, the meeting. Actions challenging City Council decisions shall be subject to the time limitations contained in Code of Civil Procedure Section 1094.6.

## **PROCLAMATION**

### **RECOGNIZING DR. PHILLIP A. HOWARD, FOUNDER AND SENIOR PASTOR OF VALLEY BIBLE CHURCH AND CAROLINE HOWARD FOR 48 YEARS OF LEADERSHIP TO THE PEOPLE OF VALLEY BIBLE CHURCH AND THE HERCULES COMMUNITY**

**WHEREAS**, Dr. and Caroline Howard came to the Hercules area in 1971 and began Valley Bible Church; and

**WHEREAS**, Pastor Howard has been a student of the Word since age 14 and earned his Bachelor of Science degree from Western Baptist College and completed the core for the Masters of Divinity at San Francisco Conservative Baptist Theological Seminary and completed his Master's degree at Denver Baptist College and Seminary and completed his Doctorate at Dallas Theological Seminary; and

**WHEREAS**, Pastor Howard's love for people comes through in his presentation of the Word as a practical guide for everyday living and has become known for his challenging, Bible-centered preaching and teaching; and

**WHEREAS**, in October 2019, after 48 years of leadership to the people of Valley Bible Church, Pastor Phillip Howard will be transitioning from Senior Pastor to Pastor Emeritus; and

**WHEREAS**, on Sunday, October 13<sup>th</sup>, the congregation of Valley Bible Church will honor their beloved Pastor and celebrate Valley Bible Church's 48<sup>th</sup> anniversary; and

**WHEREAS**, Pastor Phillip Howard will begin his new role as Pastor Emeritus at the conclusion of the morning service on Sunday, October 13<sup>th</sup>; and

**WHEREAS**, without the assistance of the Divine Being who ever attended him, I cannot succeed. With that assistance I cannot fail. Trusting in Him who can go with me, and remain with you, and be everywhere for good, let us confidently hope that all will yet be well. To His care commending you, as I hope in your prayers you will commend me, I bid you an affectionate farewell. President-elect Abraham Lincoln; Springfield, Illinois, February 11, 1861.

**NOW THEREFORE BE IT PROCLAIMED** that I, Dan Romero, Mayor of the City of Hercules, on behalf of the entire City Council and the Hercules Community, do hereby recognize and express appreciation to Dr. Phillip A. Howard and Caroline Howard for 48 years of service and leadership to the people of Valley Bible Church and the Hercules community and extend to them sincere best wishes for continued success in all future endeavors.

In witness whereof, I hereunto set my hand and cause the Seal of the City of Hercules to be affixed this 24<sup>th</sup> day of September, 2019.

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Dan Romero, Mayor



# City of Hercules

111 Civic Drive  
Hercules, CA 94547

## Meeting Minutes

### City Council

*Mayor Dan Romero*  
*Vice Mayor Roland Esquivias*  
*Council Member Chris Kelley*  
*Council Member Gerard Boulanger*  
*Council Member Dion Bailey*

*David Biggs, City Manager*  
*Patrick Tang, City Attorney*  
*Lori Martin, City Clerk*

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Tuesday, September 10, 2019

5:00 PM

Council Chambers

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#### I. SPECIAL MEETING - CLOSED SESSION – 5:00 P.M. CALL TO ORDER - ROLL CALL

Mayor Romero called the meeting to order at 5:02 p.m.

**Present:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

#### II. PUBLIC COMMUNICATION - CLOSED SESSION ITEMS

None.

#### III. CONVENE INTO CLOSED SESSION

City Attorney Tang announced the items to be discussed in closed session.

Mayor Romero recessed the meeting at 5:02 p.m.

1. [19-687](#) Pursuant to Government Code Section 54957.6 Conference With Labor Negotiators - City Negotiators: David Biggs, City Manager; Edwin Gato, Director of Finance; Lori Martin, Director of Administrative Services relative to the following employee groups:
  - a. Teamsters Local 315 Employee Organizations
2. [19-688](#) Pursuant to Government Code Section 54956.9(a), Conference with Legal Counsel - Pending/Existing Litigation: Successor Agency to the Hercules Redevelopment Agency and City of Hercules v. California Department of Finance, et al, Sacramento Superior Court Case No. 34-2018-80003038
3. [19-690](#) Conference with Legal Counsel - Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2): In one (1) matter: Hercules Development Partners, LP / Ledcor Corporation



4. [19-691](#) Pursuant to Government Code Section 54956.9 (d)(1), Conference with Legal Counsel - Pending/Existing Litigation - Taylor Morrison of California, LLC, entitled *Taylor Morrison of California, LLC v. City of Hercules*, Superior Court for the County of Contra Costa, Case No. C19-00366.
5. [19-695](#) Pursuant to Government Code Section 54956.9, Conference with Legal Counsel - Existing Litigation: *Narcisse v. Tafesse et al.* USDC Northern District of California Case No. 5:16CV-000682-EJD

#### **IV. REGULAR MEETING – 7:00 P.M. CALL TO ORDER - ROLL CALL**

Mayor Romero called the meeting to order at 7:08 p.m.

**Present:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

#### **V. REPORT ON ACTION TAKEN IN CLOSED SESSION**

City Attorney Tang announced the items which were discussed in closed session. City Attorney Tang reported that there were no final or reportable actions taken in closed session.

#### **VI. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by the Hercules Police Explorer Color Guard.

#### **VII. MOMENT OF SILENCE**

Mayor Romero called for a moment of silence for all of the victims and first responders that lost their lives 18 years ago during the tragic events of 9/11/2001.

#### **VIII. INTRODUCTIONS/PRESENTATIONS/COMMISSION REPORTS**

1. [19-693](#) Proclamation Recognizing September 11, 2019 as Patriot Day and Honoring the Heroic Acts following this Day of Remembrance  
Mayor Romero read aloud the Proclamation and presented it to Police Chief Imboden.

#### **IX. AGENDA ADDITIONS/DELETIONS**

City Manager Biggs stated there were no additions or deletions to the agenda and identified the supplemental documents handed out prior to the meeting and available to the public on the side table.

#### **X. PUBLIC COMMUNICATIONS**

None.

**XI. PUBLIC HEARINGS**

1.     [19-685](#)     **Vacation of Public Right of Way Within the Southeasterly Portion of Linus Pauling Drive**  
          **Recommendation:** Open the continued public hearing and adopt a Resolution approving the vacation of public right of way within the Southeasterly portion of Linus Pauling Drive subject to conditions stated therein.  
  
          Council Member Kelley announced that she is recusing herself from this item due to being employed by an agency that may have an interest in this abandonment. Council Member Kelley left the room at 7:16 p.m.  
  
          City Manager Biggs introduced the item and provided a staff report.  
  
          Mayor Romero opened the continued public hearing at 7:20 p.m.  
  
          Mayor Romero called Mr. Ben Ortega of Ledcor to the podium to provide any additional information. Mr. Ben Ortega stated that he did not have any additional information, however is available to answer any questions.  
  
          City Council asked questions and provided comments.  
  
          Public Speaker: Joanne Spalding.  
  
          Mayor Romero closed the public hearing at 7:24 p.m. with no other comments offered from the public.  
  
          **MOTION: A motion was made by Council Member Boulanger, seconded by Vice Mayor Esquivias, to adopt Resolution 19-049. The motion carried by the following vote:**  
  
          **Aye:**    4 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member G. Boulanger, and Council Member D. Bailey  
  
          **Recused:** 1 - Council Member C. Kelley
  
2.     [19-697](#)     **Sycamore Crossing Project, a Proposal by Sycamore Crossing Land Developers, LLC to Relocate Existing Utilities and Easements and Construct Approximately 29,511 Square Feet of Commercial Space, a 105-room hotel, and up to 120 residential dwellings on approximately 12.88 acres bound by San Pablo Avenue, Sycamore Avenue and Tsushima Street, Requiring Approval of: CEQA Initial Study & Determination #IS 17-02, General Plan Amendment #GPA 17-02, Re-Zone #RZ 17-02, Initial/Final Planned Development Plan #FPDP 17-02, Design Review Permit #DRP 17-04, Including a Master Sign Program; Conditional Use Permit #CUP 17-01; Vesting**

**Tentative Map #VTM 9477; and Minor Exception #ME19-01 on Assessor Parcel Numbers 404-020-094-3 and 404-020-095-0.**

**RECOMMENDATION:** Open the public hearing, invite the applicant to make a presentation, receive a presentation from City staff, receive any testimony from the public, ask applicant team or city staff to answer questions, request any changes, and if ready to take action close the public hearing and consider adopting two (2) Resolutions and one (1) Ordinance for the project entitlements.

Council Member Kelley returned to the dais at 7:28 p.m.

Vice Mayor Esquivias recused himself from this item due to living within the 500 foot boundary of the project.

City Manager Biggs introduced the item and provided a brief staff report.

Planning Director Smyth provided additional information and invited Mr. Sam Miller of the Lewis Group to the podium to give a presentation on the project.

City Council asked questions and provided comments.

Mayor Romero opened the public hearing at 8:09 p.m.

Mayor Romero closed the public hearing at 8:09 p.m. with no comments offered from the public.

Members of the City Council asked further questions and provided comments.

There was a consensus of City Council to amend Condition #27 to include an updated preliminary landscape plan/map to be reviewed by the Planning Commission.

Planning Director Smyth noted one additional minor change is needed to the vesting tentative map to change Tsushima Way to Tsushima Street for consistency purposes. There was a consensus of City Council to incorporate that change.

**MOTION: A motion was made by Council Member Kelley, seconded by Council Member Boulanger, to adopt Resolution 19-050. The motion carried by the following vote:**

**Aye:** 4 - Mayor D. Romero, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

**Recused:** 1 - Vice Mayor R. Esquivias

**MOTION: A motion was made by Council Member Kelley, seconded by Council Member Boulanger, to waive the first reading and approve the introduction of**

**Ordinance 524. The motion carried by the following vote:**

**Aye:** 4 - Mayor D. Romero, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

**Recused:** 1 - Vice Mayor R. Esquivias

**MOTION: A motion was made by Council Member Kelley, seconded by Council Member Boulanger, to adopt as amended Resolution 19-051. The motion carried by the following vote:**

**Aye:** 4 - Mayor D. Romero, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

**Recused:** 1 - Vice Mayor R. Esquivias

**XII. CONSENT CALENDAR**

Vice Mayor Esquivias returned to the dais at 8:30 p.m.

**MOTION: A motion was made by Council Member Boulanger, seconded by Council Member Kelley, to adopt the Consent Calendar. The motion carried by the following vote:**

**Aye:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

1.     [19-692](#)     **Meeting Minutes**  
          **Recommendation:** Approve the regular meeting minutes of July 23, 2019.  
          Approved.
2.     [19-680](#)     **Informational Report on Updated Purchasing Guidelines**  
          **Recommendation:** Receive Report.  
          Approved.
3.     [19-682](#)     **Close-Out of the 1991-01 Sewer Assessment District and the 2001 Alfred Nobel Assessment District Update**  
          **Recommendation:** Receive Informational Report.  
          Approved.
4.     [19-701](#)     **Proclamation Recognizing Constitution Week September 17-23, 2019 in the City of Hercules**  
          **Recommendation:** Receive and file the Proclamation.  
          Received and filed.
5.     [19-686](#)     **Amendment No. 1 to the Utility User's Tax Billing and Collection Agreement with East Bay Municipal Utility District (EBMUD)**  
          **Recommendation:** Adopt a Resolution authorizing the City Manager to execute the first amendment to the agreement between the City of Hercules

and EBMUD for the utility user's tax billing and collection.

Approved.

6. [19-684](#)

**Review Upcoming Council Agenda Items List**

**Recommendation:** Review, discuss and provide direction, if any.

Received and filed.

**XIII. DISCUSSION AND/OR ACTION ITEMS**

1. [19-700](#)

**Consideration and Adoption of Resolution of Support for the Countywide Imposition of One-Half of One Percent Sales Tax to Fund Transportation Improvements in Contra Costa County and Adopting the Proposed Transportation Expenditure Plan (TEP) Conditionally Amending the Growth Management Program (GMP), Which Includes Attachment A: Principles of Agreement for Establishing the Urban Limit Line (ULL) in the Measure J TEP to Match that Found in the 2020 TEP**

**Recommendation:** Adoption of Resolution of Support for the Countywide Imposition of One-Half of One Percent Sales Tax to Fund Transportation Improvements in Contra Costa County and Adopting the Proposed Transportation Expenditure Plan (TEP) Conditionally Amending the Growth Management Program (GMP), which includes Attachment A: Principles of Agreement for Establishing the Urban Limit Line (ULL) in the Measure J TEP to Match that Found in the 2020 TEP.

City Manager Biggs introduced the item and provided a staff report. City Manager Biggs invited Don Tatson, spokesperson for Contra Costa Transportation Authority to the podium to give a presentation.

City Council asked questions and provided comments.

Mayor Romero requested that the Powerpoint presentation be provided to the public by including it with the item material in the agenda packet.

**MOTION:** A motion was made by Vice Mayor Esquivias, seconded by Council Member Kelley, to adopt Resolution 19-052. The motion carried by the following vote:

**Aye:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

2. [19-681](#)

**Approval of the Fifth Amended and Restated Joint Exercise of Powers Agreement for the West Contra Costa Integrated Waste Management Authority**

**Recommendation:** Adopt a Resolution approving the Fifth Amended and Restated Joint Exercise of Powers Agreement ("Agreement") for the West Contra Costa Integrated Waste Management Authority to which the City is

a party, and authorizing the Mayor to execute the Agreement.

City Manager Biggs introduced the item and provided a staff report. City Manager Biggs pointed out that former City Manager Steve Duran and current Interim Executive Director of West Contra Costa Integrated Waste Management Authority is in the audience and available to answer any questions.

City Council asked questions and provided comments.

**MOTION:** A motion was made by Council Member Bailey, seconded by Council Member Kelley, to adopt Resolution 19-053. The motion carried by the following vote:

**Aye:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

3. [19-699](#)

**Approve Memorandum of Understandings with Teamsters Local 315 Full-Time and Part-Time Units for Fiscal Year 2019-20 and Approve an Updated Unrepresented Part-Time Employee FY 2019-20 Salary Schedule and the Updated FY 2019-20 and FY 2020-21 Salary Schedules for the HPOA, Executive Level, Mid-Management and Non-Represented Employees**

**Recommendation:** Adopt a Resolution approving the FY 2019-20 Memorandum of Understandings with Teamsters Local 315 Full-Time and Part-Time Units and approve an updated 2019-20 salary schedule for unrepresented part-time employees and approve updated FY 2019-20 and 2020-21 salary schedules for HPOA, Executive Level, Mid-Management and Non-Represented employees.

City Manager Biggs introduced the item and provided a staff report.

City Council asked questions and provided comments.

**MOTION:** A motion was made by Council Member Kelley, seconded by Vice Mayor Esquivias, to adopt Resolution 19-054. The motion carried by the following vote:

**Aye:** 5 - Mayor D. Romero, Vice Mayor R. Esquivias, Council Member C. Kelley, Council Member G. Boulanger, and Council Member D. Bailey

4. [19-698](#)

**Update on Sign Ordinance Content**

**Recommendation:** Review, discuss and provide direction, if any.

City Attorney Tang introduced the item and provided a staff report.

City Council asked questions and provided comments and direction was given to staff.

5. [19-652](#) **2019 Development Site Update and Review**

**Recommendation:** Receive report, discuss, and provide direction if any.

City Manager Biggs introduced the item and provided a staff report and presentation. City Council asked questions and provided comments.

**XIV. PUBLIC COMMUNICATIONS**

None.

**XV. CITY COUNCIL/CITY MANAGER/CITY ATTORNEY ANNOUNCEMENTS,  
COMMITTEE, SUB-COMMITTEE AND INTERGOVERNMENTAL COMMITTEE REPORTS  
AND FUTURE AGENDA ITEMS**

City staff and Council Members reported on attendance at events and community and regional meetings.

Not future agenda items were requested.

**XVI. ADJOURNMENT**

Mayor Romero adjourned the meeting at 10:14 p.m.

\_\_\_\_\_  
Dan Romero, Mayor

Attest:

\_\_\_\_\_  
Lori Martin, MMC  
Administrative Services Director/City Clerk



## REPORT TO THE CITY COUNCIL

**DATE:** Regular Meeting of September 24, 2019

**TO:** Mayor and Members of the City Council

**SUBMITTED BY:** Holly Smyth, AICP, Planning Director  
Robert Reber, AICP, Adjunct Planner

**SUBJECT:** Second Reading and Adoption of an Ordinance Approving Re-Zone #17-02 for the Sycamore Crossing Project (Assessor Parcel Numbers 404-020-094-3 and 404-020-095-00).

**RECOMMENDED ACTION:** Waive second reading and adopt the attached Ordinance 524, with modified diagram and findings with facts, changing the zoning district for the westerly portion of the Sycamore Crossing site, revising the zoning district designation from General Commercial (CG) to Planned Commercial Residential (PC-R) zoning for the approved hotel and multi-family residential parcels, and changing the open space area that traverses the site to Public/Quasi-Public—Open Space (P/QP-O).

### FISCAL IMPACT OF RECOMMENDATION:

Once constructed, the Sycamore Crossing project is anticipated to generate approximately \$514,000 in revenue annually to the City through transient occupancy tax and sales tax.

### COMMISSION/SUBCOMMITTEE RECOMMENDATION:

After seven (7) workshops, the Planning Commission held two public hearings, one on July 15, 2019, and continued to August 5, the latter at which the Commission passed three resolutions recommending that the City Council approve the applications for the land use and zoning changes, development, design review, use permits, and vesting map necessary to entitle the Sycamore Crossing project.

At its September 10, 2019, meeting, the City Council approved the Sycamore Crossing project, including waiving the first reading and approving Ordinance 524.

### DISCUSSION:

The Sycamore Crossing Project site is a three-sided property located along the south side of Sycamore Avenue and on the northwest side of San Pablo Avenue east of Tsushima Street. The project site consists of approximately 12.88 acres of vacant land with rolling topography and no structures. A natural drainage way and tributary of Refugio Creek, referred to as Ohlone Creek, divides the project site in a northeasterly direction between San Pablo Avenue and Sycamore Avenue.



General Plan Amendment #17-02, which the Council approved on September 10, 2019 as part of the Sycamore Crossing entitlements, amended the General Plan Land Use Designation for the westerly portion of the project site from General Commercial (CG) to Planned Commercial–Residential (PC-R) and changed the land use designation for the 2.02-acre Ohlone Creek Open Space Corridor in the approximate center of the site from General Commercial (CG) to Public/Semi-Public—Open Space (P/SP-OS).

Consistent with this General Plan Amendment, Ordinance 524 would amend the existing Zoning Designation for the westerly portion of the project site from General Commercial (GC) to Planned Commercial–Residential (PC-R) and change the Zoning Designation for the 2.02-acre Ohlone Creek Open Space Corridor in the approximate center of the site from General Commercial (GC) to Public/Quasi-Public—Open Space (P/QP-O).

The project site is proposed to be developed with the following uses: (a) approximately 29,511 square feet of retail commercial uses located on the eastern portion of the site, including a major drug store/pharmacy (13,111 square feet), with the remaining retail uses in three additional buildings, with parking and landscaping; (b) a four-story, 105-room hotel (approximately 63,163 square feet) with parking and landscaping in the approximate center of the site; and (c) up to 120 attached residential dwellings units on the western portion of the site.

Once approved, the City staff will publish a summary of the Ordinance with the Council vote within fifteen (15) days after its passage and adoption. The Ordinance could become effective 30 days after its adoption.

## **ATTACHMENTS / DRAFT RESOLUTIONS & ORDINANCES**

Attachment 1. Draft Ordinance approving Re-Zone #17-02 with revised diagram and Findings with Facts contained therein.

Attachment 2. Staff report for Sycamore Crossing project (City Council meeting of September 10, 2019)

## ORDINANCE NO. 524

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING RE-ZONE #RZ 17-02 (previously called Zone Amendment #ZA 17-02) FOR THE 12.88-ACRE PROJECT SITE KNOWN AS SYCAMORE CROSSING, LOCATED ALONG THE SOUTH SIDE OF SYCAMORE AVENUE AND THE NORTHWEST SIDE OF SAN PABLO AVENUE, EAST OF TSUSHIMA WAY (APNs 404-020-094-3 AND 404-020-095-0), TO REZONE THE WESTERLY PORTION OF THE PROJECT SITE FROM GENERAL COMMERCIAL (CG) TO PLANNED COMMERCIAL-RESIDENTIAL (PC-R) AND TO REZONE THE CENTRAL PORTION OF THE PROJECT SITE FROM GENERAL COMMERCIAL (CG) TO PUBLIC/QUASI-PUBLIC OPEN SPACE (P/QP-O).**

**WHEREAS**, an application was received from Sycamore Crossing Land Developers, LLC for a Re-Zone #RZ 17-02 (previously called Zoning Amendment #ZA 17-02) requesting a change in the Zoning designation of a portion of the 12.88 acre project site known as “Sycamore Crossing” located along the south side of Sycamore Avenue and northwest side of San Pablo Avenue east of Tsushima Street;

**WHEREAS**, the RZ would affect approximately 8.88 acres of the site with 6.86 acres of the westerly portion changing from General Commercial (CG) to Planned Commercial-Residential (PC-R) and 2.02 acres of the center portion, over the Ohlone Creek, changing from General Commercial (CG) to the Public/Quasi-Public-Open Space (P/QP-O) designation; and

**WHEREAS**, Section 13-52 (Zoning Amendments) section of the Hercules Municipal Code Zoning section identifies the process for amending the Zoning Ordinance which requires properly noticed public hearings before the Planning Commission and the City Council prior to adoption, and

**WHEREAS**, the proposed Sycamore Crossing Project is located within the Central Quarter of the Plan for Central Hercules (considered the Penterra/Poe property) and classified as a Phase II/Permissive category (meaning that the applicant has the discretion to adhere to the uses and design standards of development allowed under the *Central Hercules Plan Regulation Code* rather than the standard City Zoning Code) but the Applicant has opted not to pursue development according to the *CHP Regulation Code*; and

**WHEREAS**, the Project Site is not subject to Chapter 29 of the Zoning Ordinance entitled “Zoning Regulations and Development Standards for Sycamore Crossing” adopted by Ordinance #459, which anticipated mixed-use development in accordance with the existing PC-R land use designation, because it was rescinded from the Zoning Ordinance by City Council through Ordinance No. 482 adopted January 27, 2015; and

**WHEREAS**, the Project Site in its current state generally is vacant/undeveloped, although it also contains remnant foundations, building pads, and retaining walls from past

industrial uses, as well as utility improvements associated with a utility right-of-way along the site's southern boundary; and

**WHEREAS**, the Project Site is comprised of two separate Assessor parcel numbers which along with a combination of right-of-way dedications and vacations will result in Project Site of approximately 12.88 acres; and

**WHEREAS**, the overall Sycamore Crossing Project includes up to 120 multi-family condominiums residences, a four-story hotel and up to 29,511 square feet of retail uses, including a CVS drug store and pharmacy, along with parking and open spaces and a permanent open space corridor on 12.88 acres of land; and

**WHEREAS**, in addition to the Re-Zone application referenced above, the following applications for development entitlements related to the Sycamore Crossing project also have been filed concurrently and collectively define the "Project":

- Initial Study – #IS 17-02 dated June 2019 pursuant to Sections 15063 and 15168 of the California Environmental Quality Act (CEQA) Guidelines;
- General Plan Amendment #GPA17-02 to change the land use designation of 6.86 acres of the westerly portion of the site and 2.02 acres of the central portion of the Project Site from General Commercial (GC) to a combination of Planned Commercial-Residential (PC-R) and Public/Semi-Public Open Space (P/SP-O) respectively; and
- Vesting Tentative Map #VTM 9477 to subdivide approximately 12.88 acres into seven (7) smaller lots and incorporating the abandonment of small portions of existing roadways, dedication of additional roadways, and removal of existing on-site easements (including the preservation of Ohlone Creek, a natural drainage way), with conditions of approval; and
- Initial/Final Planned Development Plan #FPDP 17-02 for 120 multi-family dwelling units, a 105-room hotel, surface parking, and 29,511 square feet of total commercial space, to include a pharmacy, and retail and service uses, including a neighborhood restaurant with a drive-through, in four (4) buildings ranging from 4,400 square feet to approximately 6,000 square feet. The Project Site will include water quality features, utility extensions, and common areas for parking, landscaping, and pedestrian use;
- Design Review Permit #DRP 17-04 with a Master Sign Program (MSP), in accordance with Section 13-34.400(R) of the Hercules Municipal Code Zoning section, for the above listed project.
- Conditional Use Permit #CUP17-04 to allow: a) retail stores greater than 2,000 square feet; b) drive-through facilities for the pharmacy and for a food service pad building; c) seasonal outdoor sales; d) a hotel; e) a shopping center; f) beer & wine and potential alcohol sales, and g) potential 24-hour pharmacy store; and
- Minor Exception (ME) #19-01 to reduce the amount of required parking for the hotel use; and

**WHEREAS**, the Project Site was the subject of the 2009 Updated Redevelopment Plan EIR (the 2009 EIR) (SCH #200112049) certified by the City Council on April 20, 2009, which, among other things, identified and analyzed the potential environmental effects from development of approximately 58 acres, including the Project Site; and

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA) and its implementing regulations (the CEQA Guidelines), an Initial Study (IS #17-02, dated June 2019) was prepared to analyze the potential impacts of the proposed project; and

**WHEREAS**, on August 5, 2019, the Planning Commission adopted Resolution #17-06 setting forth its determination, based on its review of IS #17-02, that the proposed Sycamore Crossing Project is within the scope of the development program evaluated in the 2009 EIR and would result in no new or more severe significant impacts than previously analyzed, and recommended that the City Council approve Zone Amendment #ZA 17-02 (aka Re-Zone #RZ 17-02) based on the information provided during the seven workshops and two public hearings of the projects as stated in their Resolution; and

**WHEREAS**, on September 10, 2019, the City Council held a properly noticed public hearing on the Project at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, a Staff Report for the City Council, dated September 10, 2019 (which includes July 15<sup>th</sup> and August 5<sup>th</sup> Planning Commission staff reports), and incorporated herein by reference, described and analyzed the application for Re-Zone #RZ17-02, and the related applications listed above and recommended that the City Council approve the application and related Project applications; and

**WHEREAS**, on September 10, 2019, the City Council adopted a Resolution approving General Plan Amendment #GPA17-02 setting forth its determination, based on Planning Commission Resolution #17-05 and its independent review of #IS 17-02, that the proposed Sycamore Crossing Project is within the scope of the development program evaluated in the 2009 EIR, and changing the land use designation for two portions of the Project Site from General Commercial (GC) to Planned Commercial-Residential (PC-R) and Public/Quasi-Public Open Space (P/QP-O), respectively; and

**WHEREAS**, the City Council has received oral and written comments from the general public, property owners, and interested parties, and has thoroughly considered all above referenced information, reports, recommendations, and testimony before taking any action on the Project; and

**WHEREAS**, approval of the Project would amend corresponding maps, text, tables, and figures related to the Re-Zone #RZ 17-02; and

**WHEREAS**, the City Council heard and used its independent judgment and considered all such information, reports, recommendations, and testimony described herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby finds, after due study, deliberation, and public hearing for the proposed Re-Zone #RZ 17-02, that:

- a. The foregoing recitals are true and correct and made a part of this Resolution by this reference.
- b. The Proposed Project i) Falls within the scope of the development program evaluated previously in the 2009 Certified EIR and subsequent analysis provided in the June 2019 CEQA Initial Study checklist, ii) Will not result in any new, significant impacts that were not examined and that none of the circumstances that would require preparation of an addendum or a subsequent or supplemental EIR under CEQA exists or needs to be filed for the proposed project, iii) Should still be subject to the Mitigation Monitoring and Reporting Program of the 2009 EIR as part of the entitlement approvals, and iv) Does not require further environmental review, Pursuant to Sections 15168(c)(2) of the CEQA Guidelines.
- c. Zone Amendment #RZ 17-02 is consistent with the Planned Commercial-Residential (PC-R) and Public/Quasi-Public–Open Space (P/QP-OS) land use designations contingent upon its adoption;
- d. Potential uses for the Project Site allowed by the proposed Re-Zone #RZ 17-02 are compatible with the objectives, policies, general land uses, and programs specified and allowed by the Planned Commercial-Residential (PC-R) and Public/Quasi-Public – Open Space (P/QP-O) land use designations;
- e. Re-Zone #RZ 17-02, as proposed, would not be detrimental to the health, safety, welfare, and public interest of the City;
- f. Re-Zone #RZ 17-02, as proposed, is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance; and
- g. All elements, requirements, and conditions of Re-Zone #RZ 17-02 are a reasonable and appropriate manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit, or live in this development in particular; and

**SECTION 2. Amendment :** The City Council hereby approves and adopts Re-Zone #RZ 17-02 changing the zoning district for approximately 8.88 acres of the 12.88-acre total project site known as Sycamore Crossing from General Commercial (CG) to a combination of Planned Commercial-Residential (PC-R) and Public/Quasi-Public – Open Space (P/QP-O) is hereby approved based on the attached Findings with Facts and various exhibits, contingent upon the adoption of the aforementioned CEQA Initial Study and Determination #IS 17-02), General Plan Amendment #GPA 17-02), and related project applications, including Vesting Tentative Map #VTM 9477, Design Review Permit #DRP 17-02, and Initial/Final Planned Development Plan #FPDP 17-07), Conditional Use Permit #CUP 17-04, Minor Exception #ME 19-01, and Master Sign Program.

Exhibit A attached hereto, maps the existing and proposed zoning designations for the Sycamore Crossing Property as amended by Re-Zone #RZ 17-02 (which will cause the City's Land Use and Zoning Map to be updated after the effective date of this ordinance), and Exhibit B attached hereto, sets forth additional findings with supporting facts; and

**SECTION 3. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

**SECTION 4. Effective Date and Publication.**

- A. This Ordinance shall be published in accordance with applicable law, by one or more of the following methods:
1. Posting the entire Ordinance in at least three (3) public places in the City of Hercules, within fifteen (15) days after its passage and adoption; or
  2. Publishing the entire Ordinance at least once in the West County Times, a newspaper of general circulation published in the County of Contra Costa and circulated in the City of Hercules, within fifteen (15) days after its passage and adoption; or
  3. Publishing a summary of the Ordinance prepared by the City Attorney in the West County Times and posting a certified copy of the entire Ordinance in the office of the City Clerk at least five (5) days prior to the passage and adoption, and a second time within fifteen (15) days after its passage and adoption, along with the names of those City Councilmembers voting for and against the Ordinance.
- B. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

**THE FOREGOING ORDINANCE** was first read at a regular meeting of the Hercules City Council on the 10<sup>th</sup> day of September, 2019, and was passed and adopted at a regular meeting of the Hercules City Council on the 24th day of September, 2019, by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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Dan Romero, Mayor

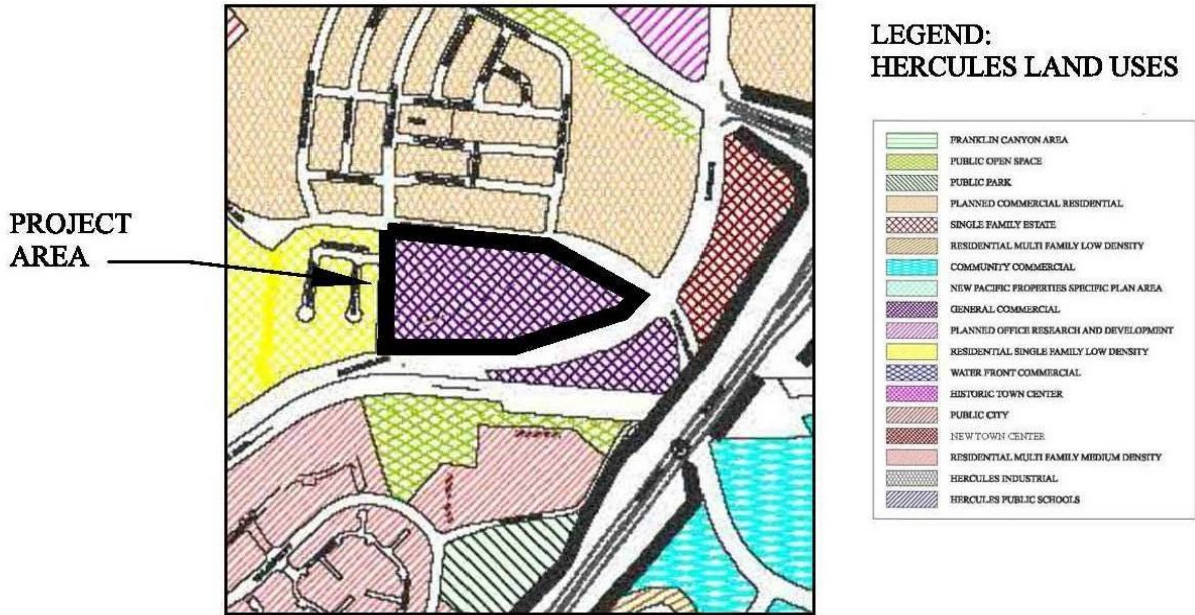
ATTEST:

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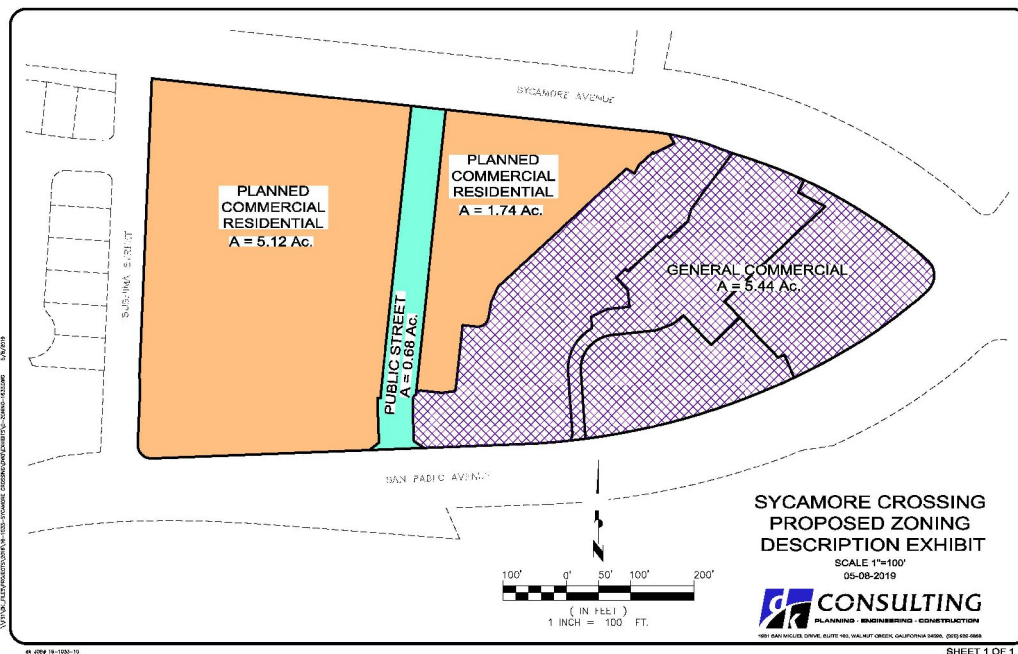
Lori Martin  
Administrative Services Director/City Clerk

## Exhibit A – Existing and Proposed Zoning Designation Map for #ZA 17-02

### SYCAMORE CROSSING - Existing Zoning Designation: General Commercial (GC) on entire site



### SYCAMORE CROSSING - Proposed Zoning Designation: Changing the westerly half to Planned Commercial-Residential (PC-R) & Public / Quasi-Public Open Space (P/QP-O)





**EXHIBIT B**  
**FINDINGS WITH FACTS**  
**SYCAMORE CROSSING**  
**RE-ZONE AMENDMENT #RZ 17-02**

Section 52.400 of the City of Hercules Zoning Ordinance requires all of the following findings to be made for granting an amendment to the Zoning Map or Zoning Ordinance:

**FINDING NO. 1:** The proposed amendment is consistent with the General Plan.

**FACT:** The proposed Planned Commercial-Residential (PC-R) and Public/Quasi-Public-Open Space (P/SP-OS) land use designations allow for the development of residential uses within mixed-use development projects, such as the Sycamore Crossing Project. The PC-R land use designation of the General Plan and the zoning designation allow for higher density housing that complements mixed-use developments, and—along Sycamore Avenue—allow for the taller hotel structure (up to 65 feet). The P/SP-O District would provide for a permanent open space designation for the Ohlone Creek Corridor through the Site.

The proposed Zone Amendment #ZA 17-02 to Planned Commercial-Residential (PC-R) and Public/Quasi-Public Open Space (P/QP-O) is consistent with the General Plan and includes a Planned Development Plan as required by Section 13-15-200 of the Municipal Code for all new and expanded development of Planned Commercial-Residential Mixed-Use districts.

**FINDING NO 2:** The proposed Zone Amendment #ZA 17-02 would not be detrimental to the health, safety, welfare, and public interest of the City.

**FACT:** Development of the Project will result in a public benefit, including the provision of a mixed-use shopping center and adjacent residences that will provide needed local commercial services, including a pharmacy, in addition to attracting clientele from the adjacent communities and/or those using Interstate 80 and Highway 4. In addition, the project includes a major hotel component to broaden the City's commercial base and supply transient-occupancy (hotel-oriented) taxes.

The project will preserve the Ohlone Creek channel, will contribute to the City's policies, goals, and vision for the center of town, and will provide a community base for increasing the City's sales and property tax revenues.

Surrounding circulation and other public improvements will be completed, and the buildings will be constructed to current building safety and fire codes, which promote development concepts of the General Plan.

**FINDING NO. 3:** The proposed Zone Amendment #ZA 17-02 is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance.

**FACT:** The proposed Zone Amendment #ZA 17-02 is consistent with General Plan Amendment #17-02 and would allow for the development of the proposed project as a locally-serving mixed-use center of approximately 29,500 square feet of commercial space, a four-story hotel, and up to 120 multi-family residences with common areas for parking, landscaping, and pedestrian access, and preservation of a natural drainage way.

The proposed Zone Amendment is internally consistent and does not conflict with the purposes, regulations, and required findings of the Zoning Ordinance for the Planned Commercial-Residential (PC-R) or the Public/Quasi-Public-Open Space zoning districts in that approvals are being considered under the Planned Development Plan. The accompanying Planned Development Plan pursuant to Chapter 48 of the Zoning Ordinance would establish the Development Regulations applicable to the proposed project.



## REPORT TO THE CITY COUNCIL

**DATE:** Regular Meeting of September 10, 2019

**TO:** Mayor and Members of the City Council

**SUBMITTED BY:** Holly Smyth, AICP, Planning Director  
Robert Reber, AICP, Adjunct Planner  
Jerry Haag, Planning Consultant (SP2)

**SUBJECT:** Sycamore Crossing project, a proposal by Sycamore Crossing Land Developers, LLC to relocate existing utilities and easements and construct approximately 29,511 square feet of commercial space, a 105-room hotel, and up to 120 residential dwellings on approximately 12.88 acres bound by San Pablo Avenue, Sycamore Avenue and Tsushima Street, requiring approval of: CEQA Initial Study & Determination #IS 17-02, General Plan Amendment #GPA 17-02, Re-Zone #RZ 17-02, Initial/Final Planned Development Plan #FPDP 17-02, Design Review Permit #DRP 17-04, including a Master Sign Program; Conditional Use Permit #CUP 17-01; Vesting Tentative Map #VTM 9477; and Minor Exception #ME19-01 on Assessor Parcel Numbers 404-020-094-3 and 404-020-095-0.

**RECOMMENDED ACTION:** City Council open the public hearing, invite the applicant to make a presentation, receive a presentation from City staff, receive any testimony from the public, ask applicant team or city staff to answer questions, request any changes, and if ready to take action close the public hearing and consider adopting the following 2 Resolutions and 1 Ordinance for the project entitlements.

1. Consider adopting a City Council Resolution approving General Plan Amendment #GPA 17-02 with diagram and Statement of Consistency;
2. Consider adopting and waiving the first reading of a City Council Ordinance # approving Re-Zone #RZ 17-02 with diagram attachment and Findings with Facts;
3. Consider adopting a City Council Resolution approving Initial/Final Planned Development Plan #FPDP 17-04 (which supersedes FPDP #14-01 for the site), Design Review Permit #DRP 17-04 with a Master Sign Program, Conditional Use Permit #CUP 17-04, Vesting Tentative Map #VTM 9477, and Minor Exception #ME 19-01 for reduced parking minimum, subject to recommended Conditions of Approval based on Findings with Facts contained therein contingent upon the Zoning Amendment effectiveness.

## **ALTERNATIVES:**

- Deny, with findings and facts, any or all of the above referenced resolutions and/or ordinance. However, approval or rejection of each action typically would be related to all other actions and may impact consistency with other approvals or feasibility of implementation; or
- Continue the application requests to a later date and provide direction to staff; or
- Make modifications to the Resolutions, Ordinance, Conditions of Approval, or any of the drawings to be incorporated with adoption documents.

## **FISCAL IMPACT OF RECOMMENDATION:**

Once constructed it is anticipated that the project will generate approximately \$\_\_\_\_\_ in revenue to the City through transient occupancy tax and sales tax.

## **COMMISSION/SUBCOMMITTEE RECOMMENDATION:**

After seven (7) workshops, the Planning Commission held two public hearings, one on July 15, 2019, and continued to August 5, the latter at which the Commission passed three resolutions recommending that the City Council approve the applications for the land use and zoning changes, development, design review, use permits, and vesting map necessary to entitle the Sycamore Crossing project. Copies of the adopted Planning Commission resolutions are included in the attached documents. In a few instances, City staff have made minor clerical and typographical corrections in addition to those changes described above. A more thorough discussion of the Planning Commission issues is contained below.

A more detailed description, background account, and analysis of the proposed Sycamore Crossing project are included in the attached Planning Commission staff reports dated July 15, 2019, and August 5, 2019 (see Attachments 8 & 9). The following is a summary of the material reviewed by the Planning Commission and any subsequently available information.

## **DISCUSSION:**

**Description.** The Sycamore Crossing Project site is a three-sided property located along the south side of Sycamore Avenue and on the northwest side of San Pablo Avenue east of Tsushima Street. The project site consists of approximately 12.88 acres of vacant land with rolling topography and no structures. A natural drainage way and tributary of Refugio Creek, referred to as Ohlone Creek, divides the project site in a northeasterly direction between San Pablo Avenue and Sycamore Avenue.

The proposal would amend the existing General Plan Land Use Designation for the westerly portion of the project site from General Commercial (CG) to Planned Commercial–Residential (PC-R) and change the land use designation for the 2.02-acre Ohlone Creek Open Space Corridor in the approximate center of the site from General Commercial (CG) to Public/Semi-Public—Open Space (P/SP-OS).

The proposal would amend the existing Zoning Designation for the westerly portion of the project site from General Commercial (GC) to Planned Commercial–Residential (PC-R) and change the Zoning Designation for the 2.02-acre Ohlone Creek Open Space Corridor in the approximate center of the site from General Commercial (GC) to Public/Quasi-Public—Open Space (P/QP-O).

The project site is proposed to be developed with the following uses: (a) approximately 29,511 square feet of retail commercial uses located on the eastern portion of the site, including a major drug store/pharmacy (13,111 square feet), with the remaining retail uses in three additional buildings, with parking and landscaping; (b) a four-story, 105-room hotel (approximately 63,163 square feet) with parking and landscaping in the approximate center of the site; and (c) up to 120 attached residential dwellings units on the western portion of the site.

**Background.** The property within the project site is located within the 1,300-acre area originally owned by the California Powder Works company (later known as the Hercules Powder Company). Following the closure of the facility in the 1970s and sale of specific parcels, the two properties that make up the project site were sold to separate private interests. The two properties were identified in redevelopment plans as Penterra (Parcel C) and Poe (Parcel D). The City’s Redevelopment Agency acquired the properties in 2007 for \$11,050,101. When the State legislature dissolved redevelopment agencies in February 2012, ownership of the project properties transferred to the City as Successor Agency to the Hercules Redevelopment Agency (RDA) for non-housing assets.

Following acquisition by the RDA, the City undertook a major planning effort to provide for a mixed-use project on the site. The City created and approved Initial Planned Development Plan IPDP #10-01 reflecting development standards for a potential mixed-use project combining approximately 140,000 square feet of retail commercial (including a 25,000 square foot grocery store), 170,000 square feet of office space, a 180-room hotel, 170 residential apartment units, and structured parking. In June of 2010, by adoption of Ordinance #459, the City codified IPDP #10-01 as a form-based code in a new Chapter 29 added to the City’s Zoning Ordinance, entitled “Zoning Regulations and Development Standards for Sycamore Crossing.” Development of the mixed-use project was subject to environmental review pursuant to the California Environmental Quality Act (CEQA), as documented in the *2009 Updated Redevelopment Plan EIR*, which was certified to support the City’s approval of IPDP #10-01 for Sycamore Crossing as well as development of the Hilltown site. The intent of the RDA was to market the Sycamore Crossing site to a developer/builder with basic land use, zoning, and development regulations in place.

In 2015, the City Council rescinded Ordinance #459 and removed Chapter 29 of the Zoning Code and approved a number of entitlements for this site to allow development of up to 135,250 square feet of retail commercial uses. This approved development included a 55,000-square-foot Safeway grocery and pharmacy, an 18-pump gasoline-dispensing station, a 37,000-square-foot fitness center, and other similar retail uses along with on-site parking and landscaping. Following project approval, the applicant notified the City that the center could not be leased, and the project was abandoned.

In July 2016, the City, as Successor Agency to the RDA, passed Resolution No. 16-085 approving the sale of the Sycamore Crossing properties in “as-is condition” to Sycamore Crossing Land Developers LLC (an affiliated entity of Lewis Operating Companies) for \$3,075,000 and completed the abandonments of portions of San Pablo and Sycamore Avenues and a remnant piece.

In May 2017, the City approved the Lewis Management Corporation’s request for a lot line adjustment between the two parcels (Parcels C and D on Parcel Map MS 476-97; Assessor Parcel Numbers 404-020-057-0 and 404-020-058-8) consisting of approximately 12.80 acres and resulting in two new parcels. Lot 1 (1.77 acres, now APN 404-020-094) fronts Sycamore Avenue and abuts the west side of the creek. Parcel 2 (11.03 acres, now 404-020-095) extends from Tsushima Way on the west side of the site, across the creek, to the eastern tip at the intersection of San Pablo Avenue and Sycamore Avenue. In June 2017, the project applicants sold the smaller of the two Sycamore Crossing properties to William C. Herrick for \$2,313,000. Mr. Herrick is a co-applicant for the project and represents Hampton-by-Hilton’s interest in developing the hotel portion of the proposed project.

In October 2017, the Lewis Management Corporation submitted applications to develop the project site with approximately 29,000 square feet of commercial space, a 62,000-square-foot hotel, and 67 single-family residences. Over the course of seven Planning Commission workshops between October 2017 and December 2018, the Commission discussed a wide range of project issues, as summarized below.

#### **Planning Commission Workshops Topics:**

- ***Retail Economics:*** Based on market assessment, the current project applicant proposes to include substantially less commercial space than the 2014 proposal by Safeway to develop the site with a grocery store-anchored shopping center.
- ***Housing Type:*** With substantially reduced commercial space (as compared to prior proposals), the project uses the remaining available space for housing. The Commission felt that small-lot, three-story single-family homes (as proposed at the outset) were already amply available in adjacent neighborhoods and therefore requested the applicant propose a different type of housing, preferably something not already readily available in Hercules and preferably affordable, accessible, and appealing to a wider range of residents (e.g., multi-generational housing, stacked flats, condos, etc.). Thus, the residential portion of the project transitioned from 67 single-family residences to the currently proposed attached-townhome/stacked-flats. The two-bedroom units would range from approximately 900 to 1,200 square feet (about half the size of an average single-family home). All units would be eligible for Federal Housing Administration (FHA) loans. The Planning Commission expressed concerns about the initially proposed residential density. In response, the applicant iteratively reduced the number of multi-family residences from 134 to 120 units.

- ***Residential and Hotel Parking:*** Although the proposed residential parking (2.0 spaces per unit, plus 0.8 guest space per unit) exceeds the City's Zoning Ordinance requirement for multi-family residences (1.5 spaces for residents, plus 0.5 guest spaces per unit), the Commission expressed concern about the sufficiency of the parking, particularly the practical viability of tandem garages with no driveways. Commissioners stressed that the project's on-site parking must be self-sufficient, without relying upon on-street parking along Tsushima Way or Sycamore Avenue. In response, the applicant reduced the residential unit count from 134 to 120, which both lowered the parking demand and gained additional on-site surface parking spaces for guests and residents. The applicant also submitted a "white paper" study of examples of residential tandem-garage projects in other jurisdictions. In regards to hotel parking, the applicants shared examples from comparable nearby hotels to support a parking ratio of 1 space per room (lower than the City's standard requirement of 1.2 spaces per room). To help justify approving a minor exception to allow a lower minimum parking requirement for the hotel, the applicant provided testimony regarding the adequacy of parking at similar Hampton Inn hotels in the Bay Area that have one or less parking space per room.
- ***Architecture:*** The Commission supported hotel and residential buildings in approximate scale with the existing four-story Aventine Apartments facing the project on the opposite side of Sycamore Avenue. Conversely, the Commission wanted the tower elements of the primary commercial building (CVS pharmacy) scaled down and better integrated into the single-story architecture. Commissioners requested that both the pharmacy and hotel buildings have more articulation and window glazing.
- ***Commercial Drive-Throughs:*** In considering queueing lengths, screen walls, and adjacency to street frontage, two options for the pharmacy drive-through were explored, including (a) a drive-through wrapping around the north-east and south-east facing sides of the building, and (b) a shortened drive-through on only the northwest facing (parking lot) side of the building, with a façade-screened loading dock area on the northeast side of the building. The Commission preferred the former option, as reflected in the recommended plans.
- ***Vehicular Circulation:*** Based on Commission and staff comments regarding the need for direct access, the new internal street (Ohlone Creek Place) was extended as a through street from Sycamore Avenue to San Pablo Avenue, with two driveway connections to the hotel site and one connection to the residential portion of the site. The plan also would provide for a residential connection to Tsushima Way. Ohlone Creek Place would be the only public street in the entire project due to its connectivity to two arterial streets with the remaining circulation being privately owned and maintained.
- ***Pedestrian Circulation:*** The Commission expressed preference for building a pedestrian bridge over Ohlone Creek to connect the hotel and retail center, but accepted applicant's plan to use the sidewalk along Sycamore Avenue to connect the two areas without having to disturb the creek corridor.

- ***Open Space & Amenities:*** Commission stressed the importance of the residential common area in mitigating the residential density and limited individual outdoor space. Adjacent parking was removed to enlarge the common area and provide additional landscaping and play space for older children. Table and umbrellas at corner plazas were replaced with shade trees to reduce susceptibility to vandalism while still providing pleasant shaded areas.
- ***Preservation of Wetlands Areas:*** The project site includes areas identified as natural and jurisdictional wetlands to be preserved for drainage and water quality purposes. The Ohlone Creek drainage area will be preserved and protected as a 2.02-acre open space parcel. At Sycamore Avenue, a culvert runs under the street right-of-way and into a wetlands area of Refugio Creek at the east end of the existing Bayside neighborhood. The project site also includes a smaller area of approximately 0.18 acres of wetlands along San Pablo Avenue.
- ***Removal of Fill Materials:*** The project site surface contains a variety of fill material brought from surrounding projects over the years. For the Sycamore Crossing project, the site is currently being graded and material is being removed from the site under an approved Grading Permit from the City.
- ***Tree Removal:*** The project site includes a number of mature trees, as defined in Section 4-15.02 of the Municipal Code. The mature trees consist mainly of those remaining in the eucalyptus grove along San Pablo Avenue. Mature trees may be removed in conjunction with a development provided that certain conditions are satisfied, including: 1) an approved grading permit with measures for erosion prevention and sediment control; and 2) an approved tree replacement plan (also required to fulfill a mitigation measure contained in the 2009 EIR (see CEQA section below), and therefore included as a condition of approval).
- ***Sycamore Avenue Interface:*** The Sycamore Avenue frontage along the westerly portion of the project site is designated in the *Regulating Code for the Central Hercules Plan* as “Main Street,” which is intended to be pedestrian-friendly with building shop fronts positioned close to the street, wide sidewalks, and angled curbside parking, reflective of the street improvements on the opposite side of Sycamore Avenue in front of the Aventine project. The applicant proposes pedestrian plazas at: the corner of Tsushima Street and Sycamore Avenue; at the corner of Ohlone Creek Place and Sycamore Avenue; and in front of the proposed hotel building along Sycamore Avenue.
- ***San Pablo Avenue Improvements:*** The applicant is proposing two driveways into the site from San Pablo Avenue. A full signalized intersection would be provided into the retail component of the Project and is designed to accommodate the far easterly driveway of the existing retail center to the south. A second unsignalized intersection would be located at San Pablo Avenue and the future Ohlone Creek Place. Various minor modifications to San Pablo Avenue would be made related to turning movements with median and landscaping improvements for improved pedestrian connectivity. A continuous sidewalk of varying widths would be provided along the north side of San Pablo Avenue. San Pablo Avenue between Sycamore and Ohlone Creek Place would generally be a monolithic sidewalk directly adjacent to the roadway while the section between Ohlone Creek Place and Tsushima would generally have a landscaped parkway



style with landscape directly adjacent to the roadway with the sidewalk behind the landscape strip.

- **Conditional Use Permit:** Conditional Use Permit #CUP 17-04 would allow: (a) retail stores greater than 2,000 square feet; (b) drive-through facilities for the pharmacy and for a food service building; (c) seasonal outdoor sales; (d) a hotel; (e) a shopping center; and (f) beer & wine and potential alcohol sales. It is unclear in the zoning code if a 24-hour business would necessitate a CUP, therefore this application includes a potential 24-hour pharmacy.
- **Master Sign Program:** A Master Sign Program is required by Section 13-34.400(R) of the Hercules Municipal Code Zoning section when a building or group of buildings contains six (6) or more business or office uses. The proposed Sycamore Crossing project contains two multi-tenant commercial buildings and three free-standing structures (hotel, CVS, and Pad 1). A Master Sign Program is a condition of approval of any planned development, design review, use permit, or other application required by the City. Aside from building-mounted signs, the Master Sign Program allows for three monument signs: one for the hotel, one for the pharmacy, and one multi-tenant sign for other on-site businesses. The Planning Commission recommends that the Master Sign Program allow for an additional freestanding monument sign at the intersection of San Pablo Avenue and Ohlone Creek Place for the proposed hotel use. During Planning Commission hearing the Master Sign Program was a separate attached but for the Council's consideration is incorporated into the spiral bound design plans.

### **Planning Commission Action**

The Planning Commission held two public hearings, one on July 15, 2019, and continued to August 5, the latter at which the Commission passed three resolutions recommending that the City Council approve the applications for the land use and zoning changes, development, design review, use permits, and vesting map necessary to entitle the Sycamore Crossing project.

1. All five Planning Commissioners were present for both dates.
2. City staff and planning consultant Jerry Haag of Stevenson, Porto & Pierce (SP2), presented an overview of the California Environmental Quality Act (CEQA) for the project.
3. Speaking on behalf of the Applicant:
  - a. Sam Miller and Doug Mull of Lewis Management Corporation provided an overview of the project and background information.
  - b. Debra Falese of the Woodley Architectural Group explained the proposed architectural design, materials, and colors for the residential component of the Project.
4. Planning Director Holly Smyth announced that the City had received no written comments on the Project.

5. One member of the public spoke on the Project with questions and comments on proposed parking, potential fencing of the private recreation area, and about future solar collectors on dwellings.
6. The Planning Commission expressed concerns about the following issues:
  - a. Hotel plaza: should minimize or cover concrete surfaces of wall seating;
  - b. Fencing: should minimize amount and visibility of fencing; where necessary, use fences lower than 6-ft-tall; replace proposed mesh fencing with post-and-cable fencing;
  - c. Corner bollards: should be lower scale with attractive, maintainable plantings;
  - d. Playground equipment: should be of a wider scale and appeal to a broader age range of children;
  - e. Hotel signage: consider adding a monument or directional sign at corner of San Pablo Avenue and Ohlone Creek Place;
  - f. Palm trees: replace with a variety/species better suited to the local climate.

Based on the Planning Commission discussion, the Applicant and City staff have subsequently met to address each of these concerns; changes and clarifications are included and recommended for approval as reflected in the plans presented to the Council with the current agenda item materials (see Exhibit C of Attachment 3).

7. The Planning Commission passed and adopted the following resolutions:
  - a. Resolution 19-05 recommending City Council approve General Plan Amendment #GPA 17-02, with modified diagram and a Statement of Consistency, amending the land use of the project site for the westerly portion of the project site from General Commercial (CG) to Planned Commercial–Residential (PC-R) and to change the 2.02-acre Ohlone Creek open space corridor in the approximate center of the site from General Commercial (GC) to Public/Semi-Public—Open Space (P/SP-OS);
  - b. Resolution 19-06 recommending City Council approve an ordinance approving Zone Amendment #ZA 17-02 (aka Re-Zone #RZ 17-02), with modified diagram and Findings with Facts, changing the zoning district for the westerly portion of the site, revising the zoning district designation from General Commercial (CG) to Planned Commercial Residential (PC-R) zoning for the hotel and multi-family residential parcels, and changing the open space area that traverses the site to Public/Quasi-Public—Open Space (P/QP-O);
  - c. Resolution 19-07 recommending City Council approve Initial/Final Planned Development Plan #FPDP 17-02, Design Review Permit #DRP 17-04 with Master Sign Program, Conditional Use Permit #CUP 17-04, Vesting Tentative Map #VTM 9477, Minor Exception #ME 19-01, with Conditions of Approval and Findings with Facts.

*Resolutions 19-05, 19-06, and 19-07 passed on a unanimous vote. Copies of the adopted Planning Commission resolutions are included in the attached documents.*

Since a number of the entitlements would require approval by the City Council, all actions taken by the Planning Commission were adopted as recommendations to the City Council.

#### **STAFF RECOMMENDATION:**

As recommended by the Planning Commission, the project included Condition of Approval #14 related to development milestones. To eliminate the possibility of the residential portion of the project being built without completion of the hotel (i.e., to help ensure the City's benefit of the hotel's transient occupancy tax revenues), the condition of approval stipulated that no residential building permits would be issued until the City issued a building permit for the hotel, and that no more than 25% of the total residential building permits would be issued until the City decided that construction of the hotel had been initiated.

In subsequent discussions between the applicant and the City Manager regarding phasing and financial feasibility of the entire project, the City Manager and the applicant agreed to modify the development milestone requirement as follows (also reflected in the revised Conditions of Approval recommended for Council's consideration—see Attachment 3, Exhibit A):

*“No residential building permits shall be issued until (i) the hotel developer has submitted a complete set of detailed site improvement plans and building plans required by the City for construction of the hotel project, with plan check completed and building permits ready to be pulled, and (ii) commenced actual grading of the hotel site pursuant to such site improvement and building plans, or (iii) the City has (in its sole discretion) otherwise provided a written determination that substantial progress toward construction of the hotel has occurred such that this condition would be deemed satisfied.”*

#### **CEQA INITIAL STUDY AND DETERMINATION:**

An Initial Study (#IS 17-02, dated June 2019) was prepared for the currently proposed Sycamore Crossing project based on the determination, pursuant to Sections 15063 and 15618 of the CEQA Guidelines, that the proposed Project is within the scope of a development program evaluated previously and would not require further environmental review as no new or more severe impacts would occur as a result of the proposed project.

The programmatic environmental document that serves as the basis for the determination pertaining to the project site and current proposal is the *2009 Updated Redevelopment Plan Draft Environmental Impact Report* (Redevelopment Plan EIR) (SCH #200112049) certified by the City Council on April 20, 2009. That EIR identified and analyzed the potential environmental effects from development of approximately 58 acres, including the Hill Town site and the Sycamore Crossing site, and was used as the basis for consideration of the previous (2014) Sycamore Crossing project, a mixed-use project site described as a combination of approximately 140,000 square feet of retail commercial (including a grocery supermarket), 170,000 square feet of office space, a 180-room hotel, 170 residential apartment units, and structured parking. The environmental documents included mitigation measures that will continued to be applicable as appropriate to the Sycamore Crossing project currently proposed.

Technical reports prepared in support of the Initial Study have been peer reviewed and updated with respect to the Sycamore Crossing project currently proposed. The Technical Reports addressed in the Initial Study include:

1. Air Quality and Greenhouse Gas Assessments;
2. Health Risk Assessment;
3. Biological Resources;
4. Wetland Delineation;
5. Phase I Hazardous Materials Assessments;
6. Environmental Noise Assessments (construction and operational noise); and
7. Traffic Analysis due to the change in the mix of uses and current approvals for surrounding development.

#### **PUBLIC NOTIFICATION:**

Public hearing notices for both the Planning Commission and City Council meetings included a description of the project application, location, time and place of the public hearing, and a phone number to call at City Hall for additional information. Notification for the Planning Commission public hearing of July 15, 2019 involved mailing at least 10 days in advance of the meeting notification to property owners and current residents within at least a 300-foot radius of the project boundaries, including all owners and residents of the Aventine apartments and the Belle Terre (Riverview Terrace, Rocky Point Court, and Crestridge Court) and Bayside neighborhoods. Additionally, public hearing notices were then posted at various City sites, on the City's website, and published in the West County Times.

For the September 10, 2019 City Council public hearing, the same property owners and residents were again notified by mail. Notices were posted at the various city sites 10 days prior to the meeting, and also published in the West County Times on August 30, 2019.

#### **ATTACHMENTS / DRAFT RESOLUTIONS & ORDINANCES**

(Resolution and Ordinance numbers to be determined)

Attachment 1. Draft Resolution approving General Plan Amendment #GPA 17-02 with revised diagram and Statements of Consistency contained therein.

Attachment 2. Draft Ordinance approving Re-Zone #RZ 17-02 with revised diagram and Findings with Facts contained therein.

Attachment 3. Draft Resolution approving Initial/Final Planned Development Plan #FPDP #17-02, Design Review Permit #DRP 17-04 with Master Sign Program, Conditional Use Permit #CUP 17-04, Vesting Tentative Map #VTM 9477, Minor Exception #ME 19-01, with Exhibits listed below, including Findings with Facts and subject to approved conditions and drawings contained therein.

Exhibit A. Project Conditions of Approval.

Exhibit B. Mitigation Monitoring and Reporting Program adopted with 2009  
*Updated Redevelopment Plan Environmental Impact Report.*

Exhibit C. Sycamore Crossing Development Plans (DRP/PDP), including site plan, floor plans, elevations, and color and materials palette, landscape plans, Vesting Tentative Map #9477, and Master Sign Program.

Exhibit D. Findings with Facts.

Attachment 4. Sycamore Crossing Initial Study (IS #17-02) / Environmental Checklist (dated June 2019 – 614 pages)

Attachment 5. Approved/Signed Planning Commission Resolution #19-05 recommending Council approval of General Plan Amendment #GPA 17-02.

Attachment 6. Approved/Signed Planning Commission Resolution #19-06 recommending Council adopt an Ordinance approving Zone Amendment #ZA 17-02 (aka Re-Zone #RZ 17-02).

Attachment 7. Approved/Signed Planning Commission Resolution #19-07 recommending Council approve Initial/Final Planned Development Plan #FPDP 17-02, Design Review Permit #DRP 17-04 including Master Sign Program, Conditional Use Permit #CUP 17-04, Vesting Tentative Map #VTM 9477, Minor Modification #ME 19-02, subject to Conditions of Approval and Exhibit contained therein.

Attachment 8. Staff Report for the July 15, 2019, Planning Commission hearing.

Attachment 9. Staff Report for the August 5, 2019, Planning Commission hearing.



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** David Biggs, City Manager  
Mike Roberts, Public Works Director

**SUBJECT:** Memorandum of Understanding with Hercules Bayfront for Expanded Use of an Existing Public Access Easement to Facilitate Interim Bus Service to the Waterfront.

**RECOMMENDED ACTION:** Adopt a Resolution Approving a Memorandum of Understanding (MOU) with Hercules Bayfront for Expanded Use of an Existing Public Access Easement to Facilitate Interim Bus Service to the Waterfront.

**FISCAL IMPACT OF RECOMMENDATION:** Under the terms of the proposed MOU, the City will undertake the annual weed abatement on the two encumbered Bayfront Boulevard parcels owned by Hercules Bayfront, an entity controlled by David Cury. The cost to make the roadway and alley improvements permitted under the terms of the MOU have been included in the FY 2019/20 budget using Measure J funds.

**DISCUSSION:** The City's Path to Transit project—which included extending John Muir Parkway (JMP) and constructing the Bayfront Bridge to connect JMP with Bayfront Boulevard—was completed in early 2017 and was funded from a variety of Federal, State, and local grant sources. The Path to Transit grant funding required independent utility, meaning that bus service must be implemented shortly after project completion to introduce transit services to the Waterfront. Staff has explored a variety of ways to facilitate interim bus service, which will operate until the variety of future components of the Hercules Regional Intermodal Transportation Center (RITC), including the planned Transit Plaza, can be completed.

Because of physical constraints on Railroad Avenue and Sycamore Avenue, buses must use John Muir Parkway to both enter and depart the Waterfront District. While other options were explored, the City's best and most timely option available for establishing bus service to the Waterfront District is to utilize the existing alley on the block bounded by Railroad Avenue, Bayfront Boulevard, and Ernest Street. Buses will travel down John Muir Parkway to an interim bus stop at the future RITC site, then continue to Railroad Avenue and circulate back down the alley to Ernest Street and back out Bayfront Boulevard. The City has completed a conceptual design for this option which will also allow for a safe interim pedestrian connection between the two existing Bay Trail segments. Recently,

staff approved a contract to take the conceptual design of these improvements to the construction and bid-ready point.

Concurrently with the conceptual design, City staff worked with David Cury, who owns the two blocks along Bayfront Boulevard with the connecting alley, on a Memorandum of Understanding (MOU) which will allow for the expanded use of the existing public access easement that encumbers the alleys. This MOU will allow the City to make improvements necessary for interim bus services, including modifying the driveway aprons and some curb returns and enhancing the alley paved surfaces. The MOU also provides both parties a notification process for terminating the expanded use. As noted above, the City will provide the annual weed abatement for the impacted parcels and will assume increased alley maintenance costs (if any) caused by bus use.

Completion of the interim improvements and the introduction of interim bus service demonstrates the City's good-faith efforts to meet the requirements of the grants which funded the Path to Transit project. Establishing Waterfront bus service also will be of assistance as the City seeks new grant sources to complete the next phases of the RITC and to get passenger trains to stop in Hercules. Plus, the interim improvements will allow WestCAT to expand bus services to the Waterfront and nearby neighborhoods, and will create a safer, more pedestrian-friendly connection between the two existing Bay Trail segments.

#### **ATTACHMENTS:**

1. Resolution
2. Memorandum of Understanding

<i>Financial Impact</i>			
<b>Description:</b>			
<b>Funding Source:</b>			
<b>Budget Recap:</b>			
Total Estimated cost:	\$	New Revenue:	\$
Amount Budgeted:	\$	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>			

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING A MEMORANDUM OF UNDERSTANDING WITH HERCULES BAYFRONT FOR EXPANDED USE OF AN EXISTING PUBLIC ACCESS EASEMENT TO FACILITATE INTERIM BUS SERVICE TO THE BAYFRONT**

**WHEREAS**, the City of Hercules completed the grant funded Path to Transit Phase of the Hercules Regional Intermodal Transportation Center in 2017; and

**WHEREAS**, a requirement of project funding was that there be independent utility upon completion with the introduction initial transit services in the form of bus service; and

**WHEREAS**, in order to achieve that requirement the City has identified a feasible option for the initiation of interim bus service utilizing Bayfront Boulevard, Railroad Avenue, Ernest Avenue, and the connecting alley; and

**WHEREAS**, the owner of the property upon which the alleys lie and for which there is a public access easement is willing to enter into a Memorandum of Understanding to facilitate the use of the alley and the interim bus service.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hercules that

Section 1. The foregoing recitals are true, correct, and incorporated herein by reference.

Section 2. The City Council does hereby approve and authorize the City Manager to execute the Memorandum of Understanding with Hercules Bayfront and to take any other action consistent with the intent of this Resolution.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 24th day of September, 2019 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Dan Romero, Mayor

ATTEST:

\_\_\_\_\_  
Lori Martin, Administrative Services Director &  
City Clerk



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF HERCULES AND BAYFRONT HERCULES PARTNERS**

This Memorandum of Understanding (MOU) is between the City of Hercules (CITY) and Hercules Bayfront (OWNER); individually a “party,” and collectively the “parties.” This MOU identifies the responsibilities and understanding between both parties for enabling temporary public transit use of an existing easement on OWNER’s properties on Bayfront Boulevard.

**1. RECITALS**

OWNER, a California General Partnership, owns two parcels of land adjacent to Bayfront Boulevard in Hercules, identified as Assessor’s Parcel Numbers 404-490-102-5 and 404-490-101-7 (PROPERTIES). The PROPERTIES are encumbered by an existing public use easement recorded on the Final Map for Subdivision 8407 (Hercules Village, recorded December 12, 2001) which provides that “areas marked ‘a.e.’ or ‘access easement’ are dedicated to the City of Hercules and to the homeowners of Subdivision 8407 for ingress and egress purposes including emergency vehicle access, construction, maintenance of works, improvements and structures, whether covered or open, or the clearing of obstructions and vegetation.”

The CITY owns and maintains Bayfront Boulevard and has previously established and affirmed the CITY’s commitment to constructing the Regional Intermodal Transportation Center (RICT) project, a publicly-sponsored project to be located on Bayfront Boulevard and serving the Hercules Waterfront District. The RITC will provide the community and region as a whole significantly enhanced transit options, including a train station, bus service, and connection to potential future ferry service.

The first phase of the Bayfront Transit Village Project is under construction and anticipated to be complete in the second quarter of 2020, precipitating increased demand for local bus service, which is provided by the West Contra Costa Transit Authority (WestCAT). Currently—and until the RITC is constructed—there is insufficient public roadway in the Waterfront to facilitate bus turn-arounds on Bayfront Boulevard as part of WestCAT’s preferred route of service, whereby buses would drive to and from the Waterfront District via John Muir Parkway and Bayfront Boulevard. However, with minor improvements, existing private roadways with public access easements on the OWNER’s two parcels on Bayfront Boulevard could enable buses to turn around at Bayfront Boulevard and Railroad Avenue and thus provide bus service to the Waterfront District on an interim basis until either (a) the RITC is completed or (b) the OWNER is prepared to begin developing the PROPERTIES, whichever occurs first.

## **2. RESPONSIBILITIES AND UNDERSTANDING OF THE CITY**

1. The CITY shall establish a staff liaison to serve as the main point of contact to OWNER. The CITY agrees to respond to OWNER within two CITY business days to correspondence or contact.
2.
  - a) The CITY shall be responsible for installing and maintaining alleys, driveways, and curbs and other improvements needed for interim bus service on PROPERTIES and adjacent public right-of-ways for the duration of the MOU, per the civil engineering plan in Attachment A.
  - b) The CITY shall be responsible for removing temporary improvements needed for interim bus service within six (6) months of either the expiration of the term, or termination of this MOU.
3. The CITY shall clear the PROPERTIES of weeds and overgrowth for the duration of the MOU as needed to:
  - Meet Rodeo-Hercules Fire District's fire prevention standards; and
  - Maintain the property free of weeds and plant growth in excess of twelve (12) inches in height (per Chapter 18 of the Hercules Municipal Code, "Property Maintenance Code").

## **3. RESPONSIBILITIES AND UNDERSTANDING OF OWNER**

1. OWNER shall allow expanded public use of alleys and roadways for interim bus service for the duration of this MOU.
2. OWNER shall establish a liaison to serve as the main point of contact to the CITY. OWNER agree to respond to the CITY within two CITY business days to correspondence or contact.
3. Except for CITY-provided weed and plant abatement (as provided above), OWNER shall be responsible for maintaining the PROPERTIES free of trash, debris, and any other materials or activities constituting a nuisance or posing a threat to public safety, welfare, and nearby properties.

## **4. UNDERSTANDING OF BOTH PARTIES**

1. Each Party shall indemnify and hold the other harmless from and against any and all claims, demands, actions, rights of action, damages, costs and expenses which shall or may arise by virtue of anything done or omitted to be done by the indemnifying Party (or through or

by its Agents) in breach of the terms of this MOU. The indemnifying Party shall be notified promptly of the existence of the claims, demands, actions, or rights of action and shall be given reasonable opportunity to defend same in which defense the Party to be indemnified shall cooperate. If the indemnifying Party fails forthwith upon notice to assume such defense, then the Party to be indemnified may proceed with the defense thereof including settlement, in which case the indemnifying Party shall bear the costs of defense including attorneys' fees and shall pay the amount of any judgment or settlement.

2. Nothing in this MOU shall limit OWNER's right to develop the PROPERTIES consistent with the Waterfront District Master Plan, the CITY'S Zoning Ordinance, and other regulatory documents, as applicable.
3. Amendments. Both parties agree to meet, review, and update if needed this MOU each calendar year by January 31. This MOU may be amended only in writing, signed by the CITY and OWNER. Proposed major amendments to this MOU are subject to City Council approval.
4. Disputes. Both parties agree if any issue arises outside of responsibilities outlined in this MOU, that both parties will meet and discuss such issue within ten business days of receipt of notice of request to meet.
5. Term. This MOU is for a term of three (3) years, and may be extended on an annual basis until either (a) the RITC is completed, or (b) the OWNER is prepared to begin developing the PROPERTIES, or (c) if terminated pursuant to Section 4.5 below.
6. Termination. At any time, either party may for any reason, including but not limited to WestCAT suspension of service, give six months (180 days) written notice to the other party if it desires to terminate the expanded use for interim bus service of the existing public easement on the PROPERTIES as specified in this MOU between the CITY and OWNER. Such written notice shall be provided to WestCAT at the same time any such notice to the other party is given.

The CITY and OWNER have executed this MOU as of the dates set forth with the signatures below. The effective date of this MOU shall be the date it is signed by the CITY.

**CITY OF HERCULES**

\_\_\_\_\_  
CITY MANAGER SIGNATURE

\_\_\_\_\_  
DATE

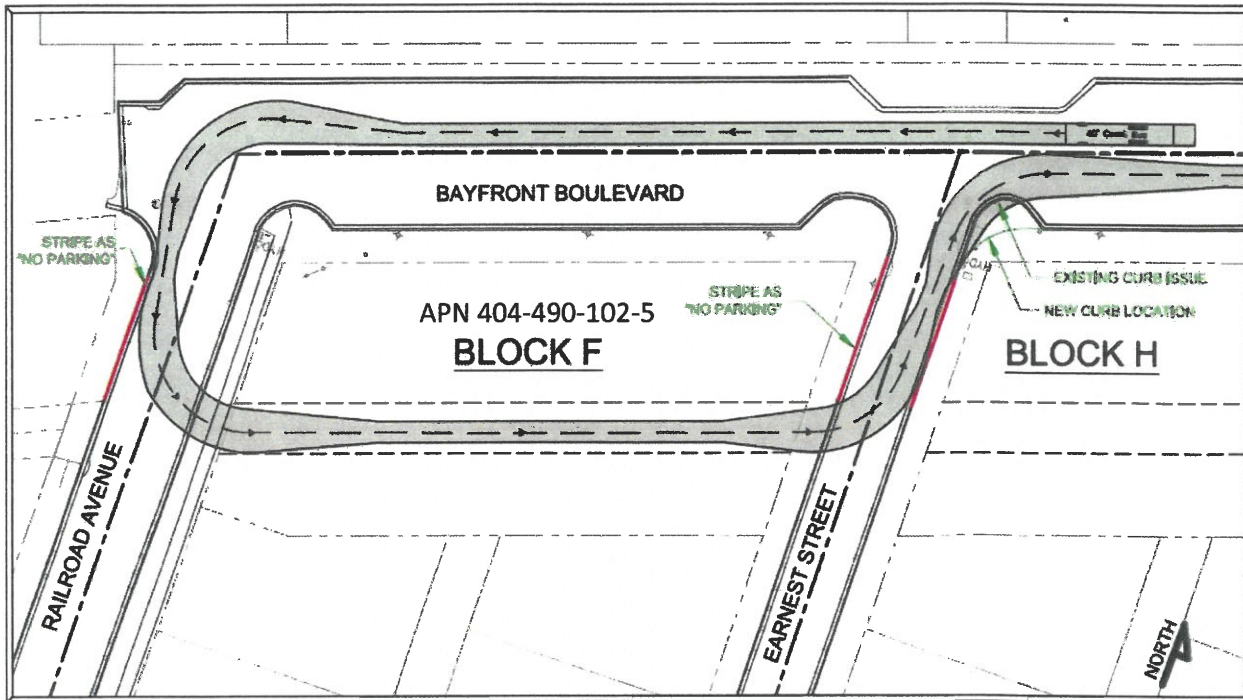
**OWNER**

  
\_\_\_\_\_  
**OWNER REPRESENTATIVE SIGNATURE**

9/12/19  
**DATE**

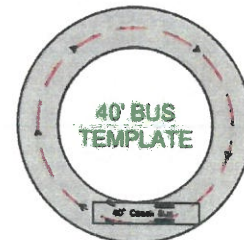
# ATTACHMENT A

## OWNER SITE PLAN



**CITY OF HERCULES**  
BAYFRONT BOULEVARD

OPTION 1: "BLOCK F"- BUS TURN AROUND



SEPTEMBER-17-2018

**Parisi**  
CSW & DESIGN GROUP

1936 University Ave, Suite 250  
Berkeley, CA 94704  
510 343 6400  
www.parisi-associates.com



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** Michael Roberts, Public Works Director/City Engineer

**SUBJECT:** Streetlight Purchase for Landscaping and Lighting Citywide District 83-2 Zone 1 “Hercules By The Bay” and Zone 7 “The Heights”

### **RECOMMENDED ACTION:**

Adopt a resolution authorizing the City Manager to sole source purchase 160 streetlights from Holophane in the amount of \$317,578 including sales tax.

### **FISCAL IMPACT OF RECOMMENDATION:**

The cost of the streetlight purchase was included in the adopted FY 19-20 Budget and is funded through increased lighting and landscaping assessments in Zones 1 & 7 over 10 years. The increase was approved by vote of the property owners in those zones earlier this year. The upfront cost is being paid from the fund balance in Landscaping and Lighting Assessment District 83-2 and will be reimbursed over the 10 year period.

### **DISCUSSION:**

As in previous purchases since the streetlight replacement program began, identical streetlights are proposed to be purchased sole source from Holophane to ensure uniformity and cost-effective maintenance. Holophane was able to keep the purchase price the same as prior years, primarily due to the larger order. The 156 single-lamp streetlights (63 in Zone 1 and 93 in Zone 7) cost \$1,796 each and the 4 twin-lamp streetlights (4 in Zone 1) cost \$2,974 each.

Recently a total of 25 streetlights were purchased and installed in Zones 1 & 7 under the City manager’s purchasing authority to be responsive to the property owners in these zones, who approved the increases in July. Once the 160 streetlights proposed in this purchase are installed (the installation contract is a separate agenda item in this packet), all of the dilapidated wood-pole, inefficient high pressure sodium lights in these 2 zones will have been replaced with the long lasting, low maintenance steel poles with energy efficient LED lighting. The new streetlights are also outfitted with optic shields to prevent light from shining upwards and side shields, as needed, to block light from shining into homes.

**ATTACHMENTS:**

1. Resolution
2. Holophane Proposal
3. Holophane Specifications
4. Location Map
5. Sole Source Form

***Financial Impact*****Description:** Expenditure amount not to exceed \$317,578.**Funding Source:**

Hercules By The Bay – Zone 1	\$135,965
Heights – Zone 7	<u>\$181,613</u>
Total Expenditures	\$317,578

**Budget Recap:**

Total Estimated cost:	\$317,578	New Revenue:	\$
Amount Budgeted:	\$317,578	Lost Revenue:	\$
New funding required:		New Personnel:	\$
Council Policy Change:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES HEREBY AUTHORIZING THE CITY MANAGER TO SOLE SOURCE PURCHASE 160 STREETLIGHTS FROM HOLOPHANE IN THE AMOUNT OF \$317,578 INCLUDING SALES TAX**

**WHEREAS**, Holophane has provided a proposal for this next phase of the Streetlight Replacement Project which includes a total of 160 streetlights with energy efficient LED, acorn style light fixtures with black aluminum poles at a cost of \$317,578 including sales tax; and

**WHEREAS**, Holophane's streetlights match the streetlights PG&E installed approximately 4 years ago in prior phases of the City's Streetlight Replacement Project which will ensure uniformity in appearance, the purchase price of the streetlights remains cost effective and has not increased, and Holophane continues to provide responsive service; and

**WHEREAS**, purchasing the streetlights will allow this phase of the Streetlight Replacement Project to advance and is recommended by the City Engineer.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hercules that the City Council hereby authorizes the City Manager to sole source purchase 160 streetlights from Holophane in the amount of \$317,578 including sales tax.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 24<sup>th</sup> day of September, 2019 by the following vote of the Council:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
Dan Romero, Mayor

ATTEST:

\_\_\_\_\_  
Lori Martin, MMC, City Clerk





An Acuity Brands Company

Quoted To: CITY OF HERCULES  
111 CIVIC DRIVE  
HERCULES, CA 94547-1771

Job Name: City of Hercules  
Quote #: 2165-19-11327-6  
Job Location: Hercules, California  
Issue Date: 8/12/2019  
Bid Date: 5/21/2019

Quoted By: Philip Heinz  
925/968-9151  
Philip.Heinz@Holophane.com

Type	Qty	Catalog #	Unit \$	Ext \$
SINGLES	156	CHA 14 F4J 12 P07 DBB BK GVD2 P20 30K AS MBK 6 N N U H NL1X1 AO PCLL GVDHSL12 Charleston Aluminum Pole (CHA): Charleston, Aluminum Pole, 14 feet, F4J 4 inch diameter Fluted, .25 wall, 12 inch Round Base, 3 X 3 Tenon, Direct Burial Base, Powder Coat Paint Finish, Black GranVille II LED 2 (GVD2): GranVille&# 174; II LED 2 (GVD2), LED Performance Package 20, 3000 Series CCT, Auto-Sensing Voltage (120-277), Modern Style - Swing Open Design, Black, Asymmetric Lunar Optic Type III, No Trim, No Finial, No Trim and Clear or No Finial, NEMA Twistlock Photocontrol Receptacle, NEMA Label 1 x 1 (in), Field Adjustable Output, Extended life option with AS (120-277V only), House Side Shield for Lunar Optic, Solid 120 Degree	\$1,795.71	\$280,130.76
TWINS	4	CHA 14 F5J 12 P08 DBB BK GVD2 P20 30K AS MBK 6 N N U H NL1X1 AO PCLL PCP48 CA BKH Charleston Aluminum Pole (CHA): Charleston, Aluminum Pole, 14 feet, F5J 5 inch diameter Fluted, .25 wall, 12 inch Round Base, 3 X 5 Tenon, Direct Burial Base, Powder Coat Paint Finish, Black GranVille II LED 2 (GVD2): GranVille&# 174; II LED 2 (GVD2), LED Performance Package 20, 3000 Series CCT, Auto-Sensing Voltage (120-277), Modern Style - Swing Open Design, Black, Asymmetric Lunar Optic Type III, No Trim, No Finial, No Trim and Clear or No Finial, NEMA Twistlock Photocontrol Receptacle, NEMA Label 1 x 1 (in), Field Adjustable Output, Extended life option with AS (120-277V only) Philadelphia Series Crossarm (PCP48): PCP48 (Two at 180), CA, Black	\$2,973.82	\$11,895.28
TAX	1	TAX 8.75%	\$25,552.23	\$25,552.23

Estimated Lead Time: 20 days

Grand Total: \$317,578.27

#### Notes

#### Terms

HOLOPHANE: This quote is valid for 60 calendar days from date of quote. After 60 days pricing on certain product families may be adjusted based on enacted and proposed tariff increases detailed by the Office of the United States Trade Representative (USTR). Shipment lead times begin the day after the order is released and are based on working days only. Shipments are FOB Shipping Point on all orders. Holophane shall pay freight on orders of \$3,000 or more (\$750 for replacement ballast kits) to all points in the continental United States and Canada. Upon release of your order, poles and non-standard material cannot be cancelled or returned. Terms are subject to revision. Items with "Hold" status have not been allocated any labor, material, or scheduled production time. The lead time to shipment will begin when Holophane receives your clarification or approval to release your purchase order item(s) from "Hold" status. Prices in this acknowledgement are firm for release within a period of six months from the date of order. At the end of six months, Holophane, at its option, shall either increase prices by 3% or renegotiate pricing. Thereafter, escalation of 1-1/2% per three month period will be added. In the event of an extraordinary change in raw material costs, Holophane reserves the right to renegotiate pricing. Pricing will be reevaluated and confirmed upon receipt of your clarification or approval to release the purchase order item(s) from "Hold" status.



## Charleston Aluminum Pole Philadelphia 48" Crossarm Granville® II LED 2 (GVD2)

### POLE ATTRIBUTES:

**Description** The lighting post shall be all aluminum, one-piece construction, with a classic tapered and fluted base design.

**Materials** The base and fluted tapered cast shaft shall be heavy wall, cast aluminum produced from certified ASTM 356.1 Ingot per ASTM B-179-95a or ASTM B26-95. The straight shaft shall be extruded from aluminum, ASTM 6061 alloy, heat treated to a T6 temper. The tapered shaft shall be extruded from aluminum ASTM 6063 alloy, spun to a tapered shape, then heat treated to a T6 temper. All hardware shall be tamper resistant stainless steel.

**Construction** The shaft shall be double welded to the base casting and shipped as one piece for maximum structural integrity. The shaft shall be welded inside the base casting at the top of the access door, and externally where the shaft exits the base. All welding shall be per ANSI/AWS.

**Dimensions** The post shall be X'-XX" in height with a 12" or 16" diameter base. At the top of the post, an integral tenon with a transitional donut shall be provided for luminaire mounting.

**Installation** The post has an option to have four L-Type hot dip galvanized anchor bolts shipped with it. A door shall be provided in the base for anchorage and wiring access. A grounding screw shall be provided inside the base opposite the door.

### CROSSARM ATTRIBUTES:

**CONSTRUCTION** The crossarms and wall brackets shall be one-piece construction. The arms shall be welded to a center spool. For wall brackets, the arms shall be welded to a flat wall plate. All welding shall be per ANSI/AWS D1.2-90. All welders shall be certified per ANSI/AWS D1.2-90 Section 5.

**MATERIALS** The arms, finials, and center spool tenons, shall be heavy wall, cast aluminum produced from certified ASTM 356.1 ingot per ASTM B-179-95a or ASTM B26-95. The center spool and wall bracket mounting plate shall be aluminum, ASTM 6061 alloy, heat-treated to a T6 temper. All hardware shall be stainless steel. All exterior hardware shall be tamper resistant.

**INSTALLATION** The crossarms shall slip-fit a post top tenon and attach with socket screws. The center finial shall be removable. The wall bracket shall have four 9/16" diameter holes for mounting to the wall. (Bracket mounting hardware furnished by others.) Both crossarms and wall bracket shall have 3" O.D. tenons for Luminaire mounting. **Requires P08 Tenon**

### FIXTURE ATTRIBUTES:

**General** The GranVille® II Classic LED 2 is designed for ease of maintenance with the electrical module common to Holophane's original GranVille Series. A precision optical system that maximizes post spacing while maintaining uniform illumination.

#### **Features and Benefits**

- Engineered LED system for maximum performance and reliability

- Designed for use with original globes and housings maintaining familiar appearance
- Optimized to meet existing lighting standards
- Asymmetric and Symmetric distributions offer application design flexibility
- Simple access to electronic driver and components for ease of maintenance

**Typical Applications**

- City Streets
- Parks
- Residential Areas
- Campuses
- Walkways
- Parking Lots

**Finish/Material** The luminaire is finished with polyester powder paint, and, the luminaire housing is cast of aluminum. Luminaire Mounts to P07 (3X3) Tenon  
**Configure Entire Pole Package Assembly For Pole and Arm Combinations**

## SPECIFICATIONS

### FIXTURE

Granville® II LED 2 (GVD2)  
•[GVD2 P20 30K AS M BK 6 N N U H NL1X1 AO PCLL]  
Prefix: Granville® II LED 2 (GVD2)  
Performance Package: LED Performance Package 20  
Color Temperature: 3000 Series CCT  
Voltage: Auto-Sensing Voltage (120-277)  
Housing: Modern Style - Swing Open Design  
Finish: Black  
Optics: Asymmetric Lunar Optic Type III  
Trim: No Trim  
Finial: No Finial  
Trim Finish: No Trim and Clear or No Finial  
Covers: None  
Photocontrol Receptacle: NEMA Twistlock Photocontrol Receptacle  
Prewired Leads: None  
NEMA Label: NEMA Label 1 x 1 (in)  
Adjustable Output: Field Adjustable Output  
Factory Programmed Driver: None  
Photocontrol: Extended life option with AS (120-277V only)  
Dimming: None  
ROAM Dimming Control: None  
Photocontrol Kit Accessory: None  
Decorative Band Accessory: None  
House Side Shield Accessory: None  
Post Capital Accessory: None  
Luminaire EPA: 1.88  
Luminaire Weight: 59

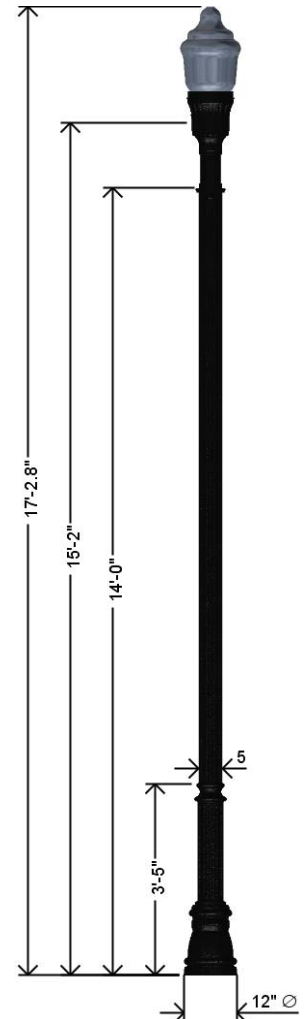
### ARM / MOUNTING BRACKET

Philadelphia 48" Series Crossarm; Oriented at 90 degrees.  
•[PCP48 CA BKH]  
Series: PCP48 (Two at 180)  
Material Type: CA  
Finish: Black  
Arm EPA: 2.76  
Arm Weight: 45

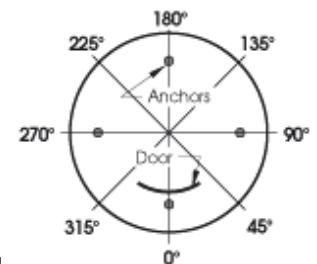
### POLE

Charleston Aluminum Pole  
•[CHA 14 F5J 12 P08 DBB BK]  
Prefix: Charleston, Aluminum Pole  
Height: 14 feet (Actual Height: 14'-0")  
Shaft Style: F5J 5 inch diameter Fluted, .25 wall  
Base: 12 inch Round Base  
Tenon: 3 X 5 Tenon  
Pole Mounting: Direct Burial Base  
Finish: Powder Coat Paint Finish, Black  
Breakaway Kit: None  
Breakaway Kit Finish: None  
Base EPA: 3.075  
Base Weight: 50

## Charleston Aluminum Pole Philadelphia 48" Crossarm Granville® II LED 2 (GVD2)



**Anchorage/Orientation Plan**



Hand Hole is at 0 deg.

Customer Approval:

Job Name: Product Basket

Client Name: City of Hercules

Created By: Philip Heinz

Date: 24-Jul-19

signature

date

# PG&E Codes for Decorative Streetlight, Pole and Direct Burial Base

### Glass Acorn Streetlight with Cutoff Optics and Internal Twistlock Photocontrol Receptacle

Wattage	Light Pattern	Color	PG&E Code
70	Narrow Asymmetric	Black	350385
70	Symmetric	Black	350387
100	Narrow Asymmetric	Black	350389
100	Symmetric	Black	350391
150	Narrow Asymmetric	Black	350393
150	Symmetric	Black	350395

Symmetric Light Pattern

Narrow Asymmetric Light Pattern

**Fixture Notes:**

1. All fixtures are High Pressure Sodium, 120V.
2. Lamp, twist lock photo control, and extra wire in pole are not included and must be ordered separately.
3. Appropriate field lighting pattern must be ordered as shown in the above diagrams.

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### Charleston Style 4" Extruded Aluminum Pole

Height	Style	Color	PG&E Code
14'	Fluted	Black	350409

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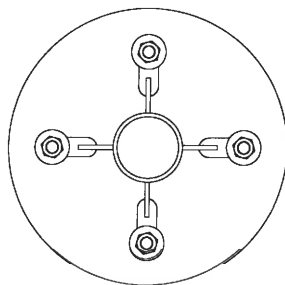
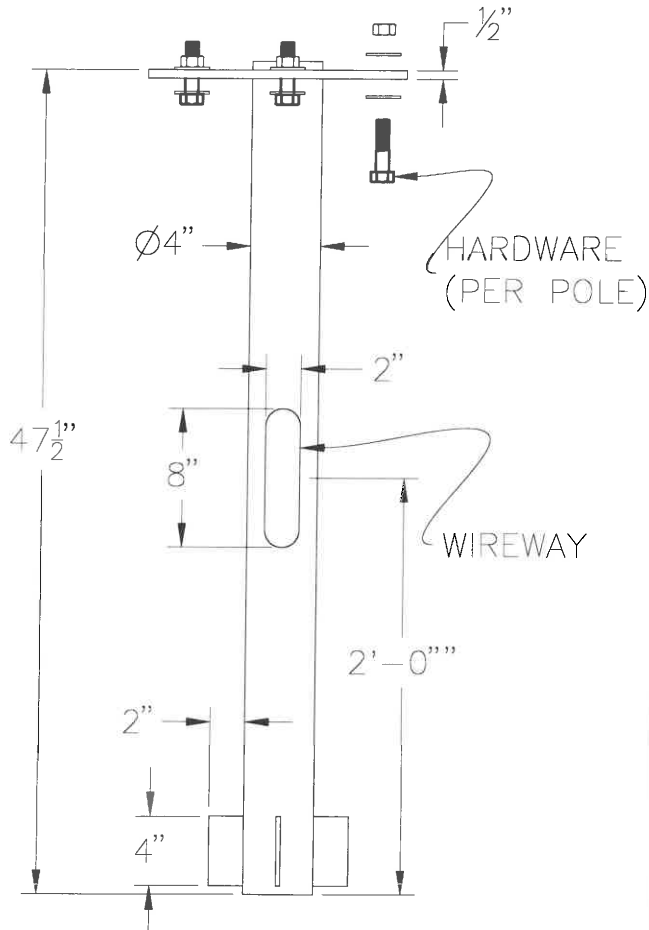
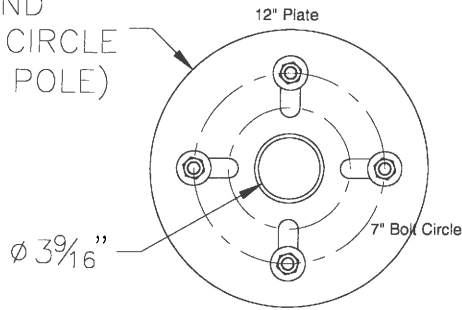
### Galvanized Steel Direct Burial Base

PG&E Code
350445

Note: Pole base should be embedded in concrete during installation. 2-3 bags of quick drying concrete are usually sufficient.

**Pacific Gas and Electric Company™**

SIZE, SHAPE,  
AND  
BOLT CIRCLE  
(PER POLE)



## Specifications

### DESCRIPTION

The assembly is a bolt on direct burial base that is designed to mount to specific poles, and to be used instead of a concrete base and anchor bolts.

### MATERIALS

The direct burial base shall be all steel construction consisting of a welded plate with a steel pipe and anti-rotational wings. Pole attachment hardware shall be hot-dip galvanized steel.

### DIMENSIONS

The associated pole base and bolt circle will determine the shape, size, and bolt circle of the mounting plate. A wireway is machined into the pipe. The direct burial base shall be approximately 4'-0" in height with a 1/2" thick mounting plate and 3-1/2" schedule 40 pipe.

### INSTALLATION

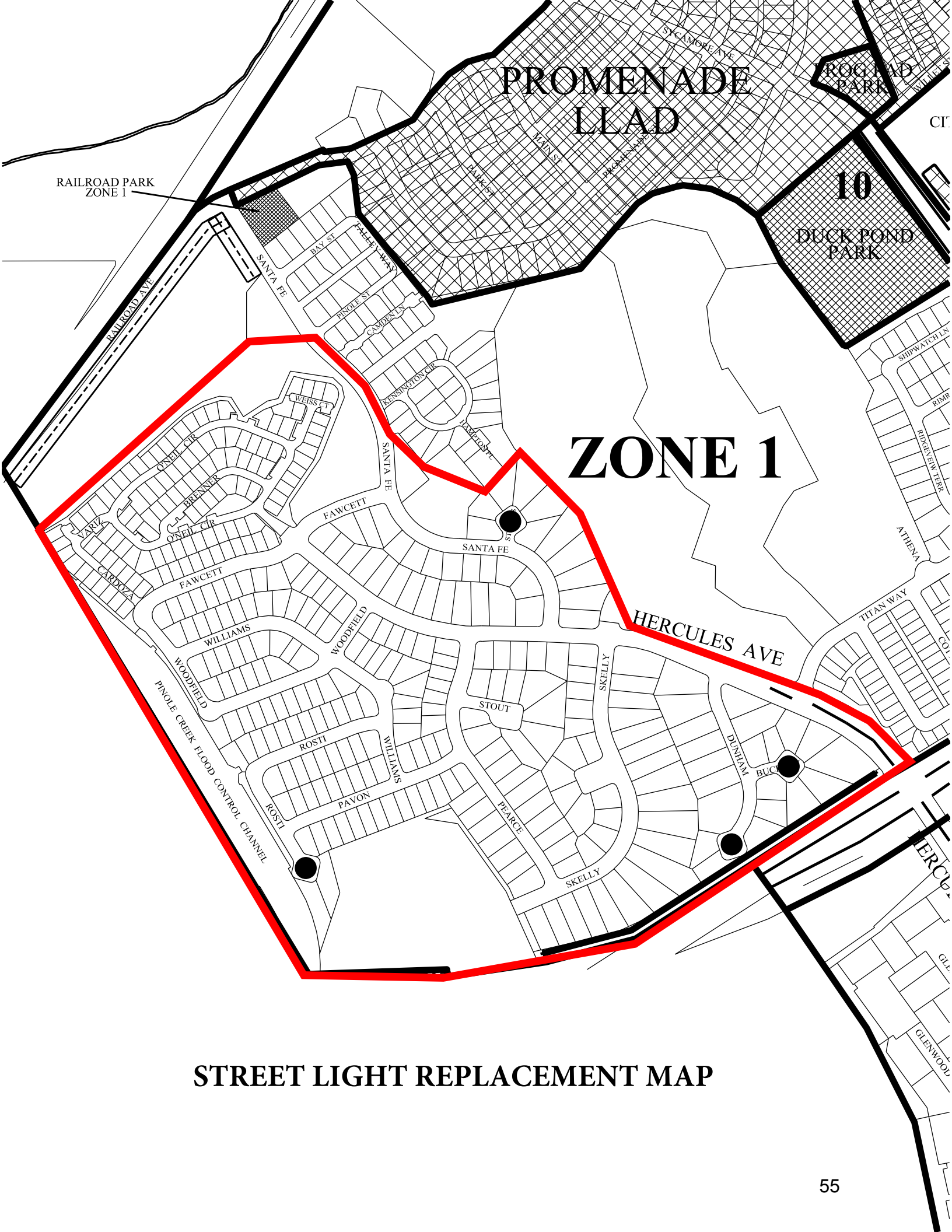
The direct burial base is designed to mount directly to the pole base in the place of anchor bolts.

### FINISH

The direct burial base assembly shall be shipped with a hot dip galvanized finish.

### DBB (Direct Burial Base) Basic Details of Bolt-on Direct Burial Base

ORDER #:	TYPE:	DRAWING #:
REVISION: -	REVISION DATE:	<b>TSG-000668</b>
DRAWN: RAF	ORIGIN DATE: 09-29-05	PAGE: 1 of 1



PROMENADE  
BLVD

RAILROAD  
PARK

10  
DUCK POND  
PARK

ZONE 1

HERCULES AVE

STREET LIGHT REPLACEMENT MAP



**STREET LIGHT REPLACEMENT MAP**

**ZONE 7**

Refugio Valley Linear Park (Zone 10)

Refugio Valley Rd Median

Refugio Valley Road

Hanna Ranch Elementary School

Streets shown include: Coronado St, Grissom St, Coronado St, Refugio Valley Rd, Refugio Valley Rd Median, Refugio Valley Road, Hanna Ranch Elementary School, Refugio Valley Rd, Grenadine Way, Montego Dr, Bonaire Ave, Catalina Dr, Caprice Cir, Vierra Way, Mandalay Ave, Haviture Way, Coronado St, Grissom St, Coronado St, Refugio Valley Rd, Refugio Valley Rd Median, Refugio Valley Road, Hanna Ranch Elementary School, Refugio Valley Rd, Grenadine Way, Montego Dr, Bonaire Ave, Catalina Dr, Caprice Cir, Vierra Way, Mandalay Ave, Haviture Way.

**STREET LIGHT REPLACEMENT MAP**

**ZONE 7**

Refugio Valley Linear Park (Zone 10)

Refugio Valley Rd Median

Refugio Valley Road

Hanna Ranch Elementary School

Streets shown include: Coronado St, Grissom St, Coronado St, Refugio Valley Rd, Refugio Valley Rd Median, Refugio Valley Road, Hanna Ranch Elementary School, Refugio Valley Rd, Grenadine Way, Montego Dr, Bonaire Ave, Catalina Dr, Caprice Cir, Vierra Way, Mandalay Ave, Haviture Way, and others.

**STREET LIGHT REPLACEMENT MAP**

**ZONE 7**

Refugio Valley Linear Park (Zone 10)

Refugio Valley Rd Median

Refugio Valley Road

Hanna Ranch Elementary School

Streets shown include: Coronado St, Grissom St, Coronado St, Refugio Valley Rd, Refugio Valley Rd Median, Refugio Valley Road, Hanna Ranch Elementary School, Refugio Valley Rd, Grenadine Way, Montego Dr, Bonaire Ave, Catalina Dr, Caprice Cir, Vierra Way, Mandalay Ave, Haviture Way, and others.



## CITY OF HERCULES SOLE SOURCE/BRAND REQUEST

**THIS FORM MUST BE COMPLETED AND APPROVED PRIOR TO ANY SOLE SOURCE PURCHASE**

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When a request is made for a non-competitive purchase of goods or services and the specification or special circumstances limit the bidding to one source and/or one brand or trade name, the requesting department must complete this form for City Manager approval. Please answer in the space provided, or in an attachment address by specific reference, each question listed below (1-5) in your justification. ***Be sure to answer each part of each question.*** Failure to respond fully to any of the questions could result in delay or rejection of your request due to inadequate justification.

---

1. Using appropriate detail, such as brand name, model number etc., briefly describe the product you wish to purchase. In the case of a service use enough detail to clearly describe to someone not familiar with the process what you are purchasing.
2. Please check one:
  - a. ☒ **SOLE SOURCE:** Item is available from one source only. Item is one-of-a kind and is not sold through distributors. Manufacturer is exclusive distributor. Special circumstances merit consideration of sole source to save money and/or time.
  - b. ☐ **SOLE BRAND:** Various sources can supply the specified model and brand; competitive bids will be solicited for the requested brand only. Meets form, fit and function - nothing else will do.
  - c. ☐ **STANDARDIZATION REQUEST:** The Department requires the item to standardize parts, design, quality etc. (This requires a detailed memo with analysis and justification.)
3. What are the unique performance features of the product, brand or service requested that are not available in any other product, brand or service? (For services: What unique qualifications, rights, and/or licenses does this vendor possess?) *The streetlights are the same model and manufacturer installed by PG&E and the City on prior phases of the Streetlight Replacement Project. This allows for uniformity in appearance and efficiency in repairs. Additionally, they have direct burial bases, which saves considerable installation cost.*
4. (a) Why are the unique performance features REQUIRED (not merely preferred), and how would your requirement be inhibited without this particular service/item? OR (b) What are the unique circumstances that COMPEL (not merely make easier) the recommendation of this service/item at this particular time? *The streetlights are the same model and manufacturer installed by PG&E and the City on prior phases of the Streetlight Replacement Project. This allows for uniformity in appearance and efficiency in repairs. Additionally, they have direct burial bases, which saves considerable installation cost.*

5. What other products/services have been examined and rejected, and why? (Please provide a specific meaningful explanation, one vendor one feature at a time. For products be sure to clearly identify the product by name and model number and include the name, address, and telephone number of the company representative who's product you tested.) *Other streetlights will not match, streetlight parts should be interchangeable.*
6. If justification is based on matching and/or intermixing with existing equipment (refer to 1.c.), list the quantity, manufacturer, brand, and model of the existing equipment, and why the matching is required not simply preferred. *There are an estimated 600 streetlights that are the same manufacturer/model to match in neighborhoods.*

I HEREBY CERTIFY THAT:

1. I am an approved department representative, and am aware of the City's requirements for competitive bidding, as well as the criteria for justification for sole source/brand purchasing.
2. I have gathered the required technical information and have made a concentrated effort to review comparable and/or equal equipment/service.
3. The information contained herein justifying my request for sole source/brand purchasing and is valid in regard to meeting the City's criteria.
4. I believe that a sole source/brand purchase in this case would withstand a possible audit or a vendor's protest.

REQUESTOR \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

DEPT. HEAD/ DIRECTOR:  DATE: 9/16/19

FINANCE DIRECTOR:

APPROVED: \_\_\_\_\_

NOT APPROVED: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

COMMENTS:

BY: \_\_\_\_\_

FINAL APPROVAL

\_\_\_\_\_  
City Manager  
(Up to \$20,000.00)

\_\_\_\_\_  
City Council  
(Over \$20,000.00)



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** Michael Roberts, Public Works Director/City Engineer

**SUBJECT:** 2019 Streetlight Replacement Project Construction Contract with NEMA Construction

### **RECOMMENDED ACTION:**

Adopt a resolution authorizing the City Manager to execute a contract with NEMA Construction for the 2019 Streetlight Replacement Project in the amount of \$168,400 and up to a 5% contingency of \$8,420 for a not to exceed amount of \$176,820 to replace a total of 160 streetlights in Landscaping & Lighting District (LLAD) No. 83-2 Zones 1 “Hercules By The Bay” and Zone 7 “Heights.”

### **FISCAL IMPACT OF RECOMMENDATION:**

The proposed budget for the 2019 Streetlight Replacement Project for Landscaping & Lighting District (LLAD) No. 83-2 is as follows:

#### Expenditures:

Zone 1 Remove & Replace 67 Streetlights (63 single lamp, 4 doubles)	\$66,330
Zone 7 Remove & Replace 93 Streetlights (all single lamp)	\$92,070
Site Restoration (on an as-needed basis only)	\$10,000
Contingency (5%)	\$8,420
<b>Total</b>	<b>\$176,820</b>

#### Revenue:

Funding for the streetlight replacement was included in the adopted FY 19-20 Budget and is being paid for through increased lighting and landscaping assessments in Zones 1 & 7 over 10 years. The increase was approved by vote of the property owners in those zones earlier this year. The upfront cost is being paid from the fund balance in Landscaping and Lighting Assessment District 83-2 and will be reimbursed over the 10 year period.

NEMA’s low bid to remove and dispose of the old streetlights and install the new streetlights, which is being purchased under a separate contract, is \$990 per streetlight, regardless if they are single lamp or double lamp. The last large scale streetlight replacement project was awarded to NEMA back in April 2018. At that time NEMA’s bid was for \$1,290 per streetlight. This current bid is for \$300 less per streetlight.

Based upon lessons learned from the April 2018 contract work, a set amount of \$10,000 was included in each bid for site restoration, should it be needed. This funding will be used on an as-needed basis to restore concrete flatwork, landscaping and irrigation, decorative walls and the like which are damaged by the work.

#### **DISCUSSION:**

This 2019 Streetlight Replacement Project will replace 160 hollow core wood pole, high vapor sodium bulb streetlights which have exceeded their useful life with durable steel pole, energy efficient LED streetlights. The new streetlights will match the replacement streetlights PG&E installed approximately 6 years ago and the streetlights the City replaced in recent years.

More detailed information, such as the streetlight locations and specifications, is included in the separate agenda item for Streetlight Purchase in this agenda packet.

This project was advertised for bids in the West County Times on August 22 & 29, 2019 and in 4 regional plan rooms. A total of 7 bids were received at the bid opening deadline of 2 pm on Thursday, September 12.

<b>No.</b>	<b>Bidder Name</b>	<b>Bid Amount</b>
1	NEMA Construction	\$168,400
2	Mike Brown Electric	\$207,000
3	Gremelli Industries	\$209,840
4	DC Electric Group	\$214,320
5	W. Bradley Electric	\$302,000
6	Ray's Electric	\$410,000
7	St. Francis Electric	\$410,000

NEMA Construction, located in Albany, submitted the low bid in the amount of \$168,400. NEMA has replaced streetlights for the City in the recent past and did an excellent job.

#### **ATTACHMENTS:**

1. Resolution

***Financial Impact***

**Description:** Expenditure amount not to exceed \$176,820.

**Funding Source:**

Hercules By The Bay – Zone 1	\$75,540
Heights – Zone 7	<u>\$101,280</u>
Total Expenditures	\$176,820

**Budget Recap:**

Total Estimated cost:	\$176,820	New Revenue:	\$
Amount Budgeted:	\$176,820	Lost Revenue:	\$
New funding required:		New Personnel:	\$
Council Policy Change:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH NEMA CONSTRUCTION FOR THE 2019 STREETLIGHT REPLACEMENT PROJECT IN THE AMOUNT OF \$168,400 AND UP TO A 5% CONTINGENCY OF \$8,420 FOR A NOT TO EXCEED AMOUNT OF \$176,820 TO REPLACE A TOTAL OF 160 STREETLIGHTS IN LANDSCAPING & LIGHTING DISTRICT (LLAD) NO. 83-2 ZONES 1 “HERCULES BY THE BAY” AND ZONE 7 “HEIGHTS”**

**WHEREAS**, the 2019 Streetlight Replacement Project was advertised for bids in the West County Times on August 22 & 29, 2019 and in 4 regional plan rooms; and

**WHEREAS**, a total of 7 bids were received at the bid opening deadline of 2 pm on Thursday, September 12 and upon opening and reviewing the 7 bids received, NEMA Construction submitted the low bid in the amount of \$168,400; and

**WHEREAS**, NEMA Construction has completed streetlight replacements in the past and performed at a high level; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hercules that the City Council hereby authorizes the City Manager to execute a contract with NEMA Construction for the 2019 Streetlight Replacement Project in the amount of \$168,400 and up to a 5% contingency of \$8,420 for a not to exceed amount of \$176,820 to replace a total of 160 streetlights in Landscaping & Lighting District (LLAD) No. 83-2 Zones 1 “Hercules By The Bay” and Zone 7 “Heights.”

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 24<sup>th</sup> day of September, 2019 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Dan Romero, Mayor

ATTEST:

\_\_\_\_\_  
Lori Martin, MMC  
Administrative Services Director/City Clerk



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** Mike Roberts, Public Works Directory/City Engineer

**SUBJECT:** Engie Service Company's Feasibility Assessment for Energy Conservation Facilities and Associated Program Development Agreement

**RECOMMENDED ACTION:** Receive report and presentation from staff on the feasibility assessment findings from Engie, discuss, provide direction to staff if any, approve Program Development Agreement if desired by adopting a Resolution Approving a Program Development Agreement with Engie.

**FISCAL IMPACT OF RECOMMENDATION:** There is no out of pocket cost for the completed feasibility assessment. Should the City elect to proceed to the next step with Engie by entering into a Program Development Agreement (PDA), the associated \$12,800 fee could be incorporated into the subsequent Energy Services Contract (ESC) that would construct the energy conservation facilities (such as solar arrays, LED lighting retrofits, more efficient HVAC, etc). The fee would then be funded from the projected future savings from the energy conservation facilities. Alternatively, if the City elected not to proceed with the ESC after the PDA was completed, the \$12,800 would become due and could be paid for from the Facilities Fund. If instead Engie determines the energy conservation project is not financially viable per California Government Code 4217, the \$12,800 fee will be waived.

**DISCUSSION:** Staff has been working with Engie on a possible energy savings project since early 2019. On July 23<sup>rd</sup>, Engie made a presentation to the City Council on their efforts at the request of Mayor Romero. Following that presentation, staff has been working collaboratively with Engie to further evaluate the potential benefits of constructing energy conservation facilities on City-owned land and buildings and undertaking our due diligence.

Through this effort, Engie has refined their feasibility assessment (Attachment 2) and is prepared to present their updated findings tonight. They are proposing installing solar photovoltaic canopies in parking lots and interior/exterior LED lighting retrofits at City-owned facilities including City Hall, Library, Community Center, Teen Center, and Refugio Valley Park.

Engie's pro forma estimates these facilities will cost at total of \$2M and realize \$9K in savings the first year and a net \$1.98M (in present value) cumulatively after 25 years. An escalation of 4.5%/year is assumed for PG&E's electricity rate which is partially offset by a construction loan rate of 1% per

year, O&M costs of 3% per year, a solar panel degradation rate of 0.5%, plus other costs. The \$1.98M cumulative savings is primarily achieved through the generation of solar energy versus paying PG&E's compounding rates.

Engie has indicated their pro forma is very conservative and they would complete a more thorough analysis under their proposed PDA (Attachment 3), which would provide the data they need to provide a guaranteed level of savings. Engie would also look at other energy saving options such as converting the remaining 500+ metal pole City-owned streetlights to LED, City Hall Boiler and HVAC upgrades, and Library building management system (computerized controller for HVAC). The financial commitment associated with the PDA is discussed in the "Fiscal Impact" section above.

Should the City elect to proceed at this time with a PDA, Engie would be selected as a sole source vendor, which is authorized under Government Code 4217. This legislation was passed to facilitate energy conservation in public agencies by allowing public agencies to sole source design-build contracts in one step, rather than going through an RFP for a design contract and public bid for a construction contract. Staff has spoken with six (6) of Engie's references and they were for the most part very favorable. Their key staff members have sufficient experience (Attachment 4) and their fee structure appears reasonable (See below). The actual fees would be negotiated during the PDA and be incorporated into the ESC, where Engie as the design/build contractor would construct the energy conservation facilities.

Typical Cost Breakdown for ENGIE Energy Project \$2M Project Example		
Category	Cost* **	Percentage
Design	\$160,000	8.00%
PM/CM	\$90,000	4.50%
General Requirements/Training	\$20,000	1.00%
Construction	\$1,400,000	70.00%
Construction Contingency	\$50,000	2.50%
Commissioning & Metering	\$26,000	1.30%
Bonds	\$34,000	1.70%
Overhead	\$140,000	7.00%
Profit	\$80,000	4.00%
Total:	\$2,000,000	100.00%
* Open Book Pricing on work package bids and all project components		
** Actual values to be negotiated		

Following are additional considerations that could be considered in determining the next steps to take:

- Staff spoke with another energy contractor associated with a private development project who expressed interest in working with the City. If an RFP was solicited instead in accordance with the City's purchasing guidelines and sole source policy, it is anticipated there would be interest from other vendors.
- Solar arrays, interior and exterior LED retrofits of facilities, and LED retrofits of park lights and streetlights would provide a highly visible example of the City leading the way in embracing innovative technology to increase sustainability and decrease the City's carbon footprint.



- Should the project proceed, staff resources will be needed to oversee this effort which will detract from the current work plan developed in coordination with the approved FY 19-20 Budget. Staff could look into which programs or projects will be affected. In addition, the staff time to develop and implement the proposed project is not factored in to the financial feasibility analysis done by Engie and as such represents a “hidden cost.”
- Given the current status of PG&E (i.e. bankruptcy filings and failing infrastructure) and their historical rate increases, it would be beneficial to reduce reliance on them for electricity. As currently envisioned, this project will tie into PG&E’s power grid and the City can bank electricity in the day for night use. However, the City cannot use the power generated during the day if PG&E were to have rolling blackouts or other service interruptions.
- At this time the commitment would be for the PDA only. Once that is completed, the Energy Services Contract (ESC) can be evaluated in light of the new information developed under the PDA.

At this time staff is prepared to proceed with direction from Council, if any.

#### **ATTACHMENTS:**

1. Resolution Approving the Program Development Agreement
2. Program Development Agreement
3. Feasibility Assessment Findings
4. Resumes of Key Engie Staff

<i>Financial Impact</i>			
<b>Description:</b>			
<b>Funding Source:</b>			
<b>Budget Recap:</b>			
Total Estimated cost:	\$	New Revenue:	\$
Amount Budgeted:	\$	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>			

**RESOLUTION NO. 19-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES  
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROGRAM  
DEVELOPMENT AGREEMENT WITH ENGIE SERVICE COMPANY FOR \$12,500 TO  
ASSESS AND PROVIDE RECOMMENDATIONS ON ENERGY CONSERVATION AND  
GENERATION IMPROVEMENTS**

**WHEREAS**, Engie recently completed their Feasibility Assessment which indicates that installing solar photovoltaic canopies in parking lots and interior/exterior LED lighting retrofits at City-owned facilities including City Hall, Library, Community Center, Teen Center, and Refugio Valley Park may cut energy costs to the City and reduce the City's carbon footprint; and

**WHEREAS**, Engie is proposing to enter into a Program Development Agreement to better analyze these potential improvements as well as evaluate the feasibility of other energy saving alternatives such as converting the remaining 500+ metal pole City-owned streetlights to LED, City Hall Boiler and HVAC upgrades, and Library building management system (computerized controller for HVAC); and

**WHEREAS**, the \$12,500 cost of the study could be rolled into the savings realized from the construction of an energy conservation project Engie is proposing under a subsequent energy services contract, or alternatively could be paid for from the Facilities Fund.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Hercules that the City Council hereby authorizes the City Manager to execute a program development agreement with Engie Service Company for \$12,500 to assess and provide recommendations on energy conservation and generation improvements.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the twenty-fourth day of September, 2019 by the following vote of the Council:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Dan Romero, Mayor

ATTEST:

---

Lori Martin, MMC  
Administrative Services Director/City Clerk



ENGIE Services Project #: \_\_\_\_\_  
ENGIE Services Contract # R \_\_\_\_\_

## PROGRAM DEVELOPMENT AGREEMENT

This PROGRAM DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of \_\_\_\_\_, 2019, between ENGIE Services U.S. Inc. ("ENGIE Services U.S."), having its principal offices at 500 Twelfth Street, Suite 300, Oakland, CA 94607, and City of Hercules, with offices located at 111 Civic Drive, Hercules, CA 94547 ("Hercules") and together with ENGIE Services U.S. the "Parties" and each of Hercules and ENGIE Services U.S. a "Party").

WHEREAS, ENGIE Services U.S. is an energy services and solutions company with the technical and management capabilities and experience to perform an integrated energy assessment (an "Assessment") and to identify supply-side and/or demand-side energy conservation measures ("ECMs");

WHEREAS, Hercules desires to enter into an agreement to have ENGIE Services U.S. perform an Assessment in accordance with the scope of work set forth in Attachment A (the "Scope of Work") for the sites listed on Part I of Attachment B (the "Sites"), and to deliver recommendations, described in the Scope of Work, identifying energy improvements and operational changes to be installed or implemented at the Sites (the "Recommendations"); and

WHEREAS, the primary purpose of the Assessment and the Recommendations is to provide an engineering and economic basis for the implementation of the ECMs identified in the Recommendations, in furtherance of which the Parties intend to negotiate and execute a contract providing for, among other things, engineering, procurement, installation, construction and training services (an "Energy Services Contract");

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

### 1. ASSESSMENT AND RECOMMENDATIONS

ENGIE Services U.S. agrees to complete the Assessment and to present Recommendations to Hercules within ninety (90) calendar days after the date on which ENGIE Services U.S. receives the information listed in Part I of Attachment A (the "Required Information"). Hercules agrees to deliver the Required Information to ENGIE Services U.S. no later than thirty (30) calendar days after the date hereof.

Hercules agrees to assist ENGIE Services U.S. in performing the Assessment by (i) providing ENGIE Services U.S. with access to key decision makers and stakeholders of the City of Hercules, (ii) providing ENGIE Services U.S. its employees and agents, such access to the Sites and other relevant facilities of Hercules as ENGIE Services U.S. deems necessary and (iii) providing, or causing Hercules's energy suppliers to provide, complete and accurate data concerning energy usage and costs related to the Sites and other relevant facilities. ENGIE Services U.S. will be entitled to rely upon the accuracy and completeness of all information provided to ENGIE Services U.S. by Hercules and Hercules's energy suppliers. ENGIE Services U.S. will promptly provide written notice to Hercules if ENGIE Services U.S. determines there is any incorrect data included in the information provided by Hercules or Hercules's energy suppliers, but ENGIE Services U.S. will have no obligation to correct or confirm any such information unless otherwise specified in the Scope of Work. Any change(s) in the Scope of Work will be set forth in a writing executed by the Parties.

### 2. COMPENSATION TO ENGIE SERVICES U.S.

Hercules will compensate ENGIE Services U.S. for the Assessment and the Recommendations by payment to ENGIE Services U.S. of a fee (the "Assessment Fee") in the amount of twelve thousand, eight hundred Dollars (\$12,800).

The Assessment Fee will be due and payable thirty (30) calendar days after ENGIE Services U.S.'s submission of the Recommendations; *provided* that if on such thirtieth (30<sup>th</sup>) calendar day ENGIE Services U.S. and Hercules are negotiating an Energy Services Contract in good faith, the Assessment Fee will be due ninety (90) calendar days after ENGIE Services U.S.'s submission of the Recommendations; *provided further*, that if ENGIE Services U.S. and Hercules execute an Energy Services Contract within ninety (90) calendar days after ENGIE Services U.S.'s submission of the Recommendations, the Assessment Fee, and other fees, costs, expenses, disbursements and overhead of ENGIE Services U.S. incurred during the Assessment, will be incorporated into the total contract amount payable under such Energy Services Contract.

Each of Hercules and ENGIE Services U.S. reserves the right to terminate this Agreement at any time during the course of the Assessment, by delivery of written notice to the other. If this Agreement is terminated by Hercules, the Assessment Fee will be payable by Hercules to ENGIE Services U.S. within thirty (30) calendar days of termination. If this Agreement is terminated by ENGIE Services U.S., Hercules will have no obligation to pay any portion of the Assessment Fee to ENGIE Services U.S. If ENGIE Services U.S. determines that the projected savings from implementation of the ECMs identified during the Assessment cannot result in a paid-from-savings project which complies with California Government Code Sections 4217.10 through 4217.18, the Assessment and this Agreement will be terminated by ENGIE Services U.S.

Any amount not paid when due will, from and after the due date, bear interest at a fluctuating rate equal to the sum of (a) The United States Prime Rate as listed from time to time in the Eastern print edition of the Wall Street Journal® *plus* (b) 2% per annum. Accrued and unpaid interest on past due amounts (including interest on past due interest) will be due and payable upon demand.

### 3. INSURANCE

ENGIE Services U.S. will maintain, or cause to be maintained, for the duration of this Agreement, the insurance coverage outlined in (A) through (F) below, and all such other insurance as required by applicable law. Evidence of coverage will be provided to Hercules via an insurance certificate.

A. Workers' Compensation/Employers Liability for states in which ENGIE Services U.S. is not a qualified self-insured. Limits as follows:

- \* Workers' Compensation: Statutory
- \* Employers Liability: Bodily Injury by accident \$1,000,000 each accident  
Bodily Injury by disease \$1,000,000 each employee  
Bodily Injury by disease \$1,000,000 policy limit

B. Commercial General Liability insurance with limits of:

- \* \$2,000,000 each occurrence for Bodily Injury and Property Damage
- \* \$4,000,000 General Aggregate - other than Products/Completed Operations
- \* \$2,000,000 Products/Completed Operations Aggregate
- \* \$2,000,000 Personal & Advertising Injury
- \* \$100,000 Damage to premises rented to ENGIE Services U.S.

Coverage to be written on an occurrence form. Coverage to be at least as broad as ISO form CG 0001 (04/13) or its equivalent forms, without endorsements that limit the policy terms with respect to: (1) provisions for severability of interest or (2) explosion, collapse, underground hazard.

C. Auto Liability insurance for owned, hired and non-owned vehicles with limits of \$1,000,000 per accident. Coverage to be written on an occurrence form.

D. Professional Liability insurance with limits of:

- \* \$1,000,000 per occurrence
- \* \$1,000,000 aggregate

Coverage to be written on a claims-made form.

E. Umbrella/Excess Liability Insurance. Limits as follows:

- \* \$1,000,000 each occurrence
- \* \$1,000,000 aggregate

Coverage terms and limits to apply excess of the per occurrence and/or aggregate limits provided for Commercial General Liability and Professional Liability written on a claims made form. Coverage terms and limits also to apply in excess of those required for Employers Liability and Auto Liability written on an occurrence form.

F. Policy Endorsements.

- \* The insurance provided for Workers Compensation and Employers Liability above will contain waivers of subrogation rights against Hercules, but only to the extent of the indemnity obligations contained in this Agreement.
- \* The insurance provided for Commercial General Liability and Auto Liability above will:

- (1) include Hercules as an additional insured with respect to Work performed under this Agreement, but only to the extent of the indemnity obligations contained in this Agreement, and
- (2) provide that the insurance is primary coverage with respect to all insureds, but only to the extent of the indemnity obligations contained in this Agreement.

#### **4. INDEPENDENT CONTRACTOR**

ENGIE Services U.S., and the agents and employees of ENGIE Services U.S., its subcontractors and/or consultants, are acting in an independent capacity in the performance of this Agreement, and not as public officials, officers, employees, consultants, or agents of Hercules for purposes of conflict of interest laws or any other applicable law. This Agreement may not be construed to represent the creation of an employer/employee or principal/agent relationship. ENGIE Services U.S. will act in an independent capacity and retain sole discretion in the manner and means of carrying out its activities under this Agreement. ENGIE Services U.S. is free to work for other entities while under contract with Hercules.

#### **5. ENERGY SERVICES CONTRACT**

As it is the intent of Hercules and ENGIE Services U.S. to pursue cost effective energy retrofits and ECMs at the Sites pursuant to an Energy Services Contract, both Parties agree to enter into good faith negotiations of an Energy Services Contract immediately following completion of the Assessment.

#### **6. WORK PRODUCT**

Hercules will not, by virtue of this Agreement, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the Assessment or the Recommendations. The Recommendations, and all data, proposals, plans, specifications, flow sheets, drawings, and other work product prepared or produced by ENGIE Services U.S. hereunder ("Work Product") and furnished directly or indirectly, in writing or otherwise, to Hercules under this Agreement will remain ENGIE Services U.S.' property and will be used only in connection with work performed by ENGIE Services U.S. ENGIE Services U.S. will be deemed the author and owner of such Work Product and will retain all common law, statutory and other reserved rights, including copyrights. The Work Product may not be used by Hercules as a basis for facility construction or implementation of ECMs developed herein by any entity other than ENGIE Services U.S., without the prior written agreement of ENGIE Services U.S. If ENGIE Services U.S. determines that Hercules has violated this prohibition, ENGIE Services U.S. may, in its sole discretion, and in addition to injunctive relief or any other legal or equitable remedies ENGIE Services U.S. may have, require that Hercules pay, in addition to the Assessment Fee, liquidated damages in an amount equal to five (5) times the Assessment Fee. This liquidated damages amount is not a penalty but a reasonable estimate of the amount of losses ENGIE Services U.S. will suffer, and will survive the termination of this Agreement. Any unauthorized use of the Work Product will be at Hercules's sole risk and without liability to ENGIE Services U.S., and Hercules agrees to defend, indemnify and hold harmless, ENGIE Services U.S., its subcontractors, and their directors, employees, subcontractors, and agents from any and all actions, claims, demands, damages, disabilities, fines, penalties, losses, costs, expenses (including consultants' and attorneys' fees and other defense expenses) and liabilities of any nature (collectively, "Losses") associated with or resulting from such use.

#### **7. LIMITATION OF LIABILITY**

The liability of a defaulting Party, in connection with this Agreement or any analysis, report, recommendations, or other deliverables provided hereunder, will be limited to direct, actual damages. Neither Party shall be liable to the other Party for any special, indirect, incidental or consequential damages whatsoever, whether in contract, tort (including negligence) or strict liability, including, but not limited to, operational losses in the performance of business such as lost profits or revenues or any increase in operating expense. Additionally, each Party waives any claims for negligence against the other Party to the greatest extent permitted by law. In no event will ENGIE Services U.S. be liable to Hercules for any Losses which collectively exceed the amount of the Assessment Fee, regardless of whether such amounts arise out of breach of contract, guarantee or warranty, tort, product liability, contribution, strict liability or any other legal theory.

#### **8. NONDISCRIMINATION; COMPLIANCE WITH LAWS**

ENGIE Services U.S. will comply with all applicable laws, rules, regulations and policies, including, but not limited to, those relating to nondiscrimination, accessibility and civil rights.

The Parties acknowledge and agree that ENGIE Services U.S. is not a municipal advisor and cannot give advice to Hercules with respect to municipal securities or municipal financial products absent Hercules being represented by, and relying upon the advice of, an independent registered municipal advisor. ENGIE Services U.S. is not subject to a fiduciary duty with regard to Hercules or the provision of information to Hercules. Hercules will consult with an independent registered municipal advisor about the financing option(s) appropriate for Hercules's situation.

ENGIE Services U.S. cannot guarantee that Hercules will receive funding from any energy efficiency rebate, incentive, and/or loan program(s) (collectively, "Incentive Funds"); ENGIE Services U.S. expressly disclaims any liability for Hercules's failure to receive any portion of the Incentive Funds, and Hercules acknowledges and agrees that ENGIE Services U.S. will have no liability for any failure to receive all or any portion of the Incentive Funds.

## **9. FORCE MAJEURE**

Neither Party will be considered to be in default in the performance of any material obligation under this Agreement (other than the obligation to make payments) when a failure of performance will be due to an event of Force Majeure. The term "Force Majeure" will mean any cause beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which, despite using commercially reasonable efforts, it has been unable to overcome. Neither Party will be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an event of Force Majeure will give prompt written notice of such fact to the other Party.

## **10. INTEGRATION; AMENDMENT; COUNTERPARTS**

This Agreement constitutes the entire contract among the Parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement may not be amended except by a writing executed by both Parties. No oral amendment shall be enforceable, even if supported by new consideration. Except as otherwise provided herein, the terms and provisions of this Agreement will apply to, be binding upon, and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by email shall be effective as delivery of a manually executed counterpart of this Agreement.

## **11. DISPUTE RESOLUTION; APPLICABLE LAW; VENUE; SEVERABILITY**

If a dispute arises out of or relates to this Agreement, or the transaction contemplated by this Agreement (a "Dispute"), either Party may initiate the dispute resolution process set forth in this Section 11 by giving notice to the other Party. Senior executives for the Parties will meet, within thirty (30) calendar days after notice of the Dispute, in an attempt to resolve the Dispute and any other identified disputes or any unresolved issues that may lead to a dispute. If the senior executives are unable to resolve a Dispute or if a senior management conference is not held within the time provided herein, either Party may submit the Dispute to mediation.

If the Dispute is not settled by senior management conference, the Parties will endeavor to settle the Dispute by mediation under the Commercial Mediation Procedures of the American Arbitration Association ("AAA"). Mediation is a condition precedent to arbitration or the institution of legal or equitable proceedings by either Party. Once one Party files a request for mediation with the other Party and with the American Arbitration Association, the Parties agree to conclude the mediation within sixty (60) calendar days after filing the request. Either Party may terminate the mediation at any time after the first session, but the decision to terminate must be delivered in person by the Party's representative to the other Party's representative and the mediator.

If the Dispute is not resolved by mediation within sixty (60) calendar days after the date of filing of the request for mediation, then the exclusive means to resolve the Dispute is final and binding arbitration. Either Party may initiate arbitration proceedings by notice to the other Party and the American Arbitration Association. The following provisions apply to all arbitration proceedings pursuant to this Article: (i) The place of arbitration will be the American Arbitration Association office closest to where the Assessment was performed; (ii) one arbitrator will conduct the arbitral proceedings in accordance with the Commercial Arbitration Rules and Mediation Procedures (excluding the Procedures for Large, Complex Commercial Disputes) of the American Arbitration Association currently in effect ("Arbitration Rules") (to the extent of any conflicts between the Arbitration Rules and the provisions of this Agreement,

the provisions of this Agreement prevail); (iii) the Parties will submit true copies of all documents considered relevant with their respective statement of claim or defense, and any counterclaim or reply (in the discretion of the arbitrator, the production of additional documents that are relevant and material to the determination of the Dispute may be required); (iv) the arbitrator does not have the power to award, and may not award, any punitive, indirect or consequential damages (however denominated); all arbitration fees and costs are to be shared equally by the parties, regardless of which Party prevails, and each Party will pay its own costs of legal representation and witness expenses; (v) the award must be in the form of a reasoned award; (vi) the Dispute will be resolved as quickly as possible, and the arbitrator will endeavor to issue the arbitration award within six (6) months after the date on which the arbitration proceedings were commenced; and (vii) the award will be final and binding and subject to confirmation and enforcement proceedings in any court of competent jurisdiction.

If any term of this Agreement is declared by a court to be illegal, invalid or unenforceable, the legality, validity and enforceability of the other terms of this Agreement will not be affected or impaired thereby, and the rights and obligations of the Parties will be enforced as if the illegal, invalid or unenforceable term were revised to the minimum extent necessary to make such term legal, valid and enforceable.

*[the Parties' signatures appear on the following page]*

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this Agreement.

**ENGIE SERVICES U.S.:**

**ENGIE Services U.S. Inc.**

**HERCULES:**

**City of Hercules**

**By:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

DRAFT



## ATTACHMENT A

### SCOPE OF WORK

#### I. Required Documents (Needed to Proceed).

A. Hercules will provide the following detailed documentation:

1. Most recent two (2) years of audited financial statements.
2. Actual utility company invoices for all utilities serving the Sites, for a minimum of three (3) years, and preferably five (5) years, immediately prior to the date hereof, with, beginning with the most recently completed month.
3. Permission to obtain utility company demand interval recordings of 15/30-minute electrical demand for characteristic months of the year, where available.
4. Any available record drawings (AutoCAD or hard copy) for the Sites:
  - a. mechanical
  - b. plumbing
  - c. electrical
  - d. building automation and temperature controls
  - e. structural
  - f. architectural
  - g. modifications and remodels
  - h. site landscaping
5. Any available hard copy (8 ½" x 11" or 11" x 17") floor and roof plans of all Sites, as well as information on the age, type and condition of buildings and roofs. It is understood the City has no AutoCAD drawings.
6. A list of key contacts at each Site, including Hercules personnel knowledgeable of the electrical, HVAC, lighting and controls systems.
7. Energy management system and HVAC equipment operating schedules, point lists and sequences of operation.
8. Original construction submittals and factory data (specifications, pump curves, etc.), where available.
9. Test and balance reports for water and air systems, where available.

#### II. Scope of Work.

The Integrated Energy Assessment (the "Assessment") will be performed as described below:

- A. Perform detailed review of documents delivered above.
- B. Perform an inspection survey to:
  1. Identify potential energy conservation measures ("ECMs") and opportunities for distributed and renewable generation technologies.
  2. Identify the potential locations and type of application for solar photovoltaics (PV) and other ECM installations.
  3. Interview the facility manager, chief engineer, or others as needed.
  4. Identify comfort or system-function problems which may impact the performance of the recommended measures.
  5. Obtain the hours of operation for building systems and equipment, and expected occupancy and use.

6. Survey major energy using equipment, and record (to extent available) the pertinent information for the following:
  - a. Lighting
  - b. City Hall Boiler
  - c. City Hall Cooling Tower and approx. 17 package units
  - d. Approx. 500 Street Lights, many of which are decorative
7. Perform Site survey, consisting of:
  - a. Site walk
  - b. Shading analysis
- C. Perform Utility Analysis and Solar Photovoltaic Production Analysis:
  1. Identify current rate schedule, analyze electrical usage and model load profile for each Site
  2. Determine historical Site-specific rate escalation
  3. Determine expected solar photovoltaic production curve for proposed Sites
  4. Overlay electrical load profile with expected solar photovoltaic production curve, to right-size the solar photovoltaic system(s) and identify rate restructuring opportunities
- D. ENGIE Services U.S. will provide to Hercules Recommendations which will include:
  1. A draft Energy Services Contract which will include the contract amount, scope of work, and payment schedule
  2. A scope of work for each ECM per Site which is compatible with Hercules' investment and infrastructure improvement goals
  3. Presentation material, documentation, and pro forma for Public Works and City Council.

### **III. Technologies to be Considered:**

- A. The technologies listed below will be considered during the performance of assessments:
  1. Interior/Exterior Lighting
    - a. Lighting fixture retrofit
    - b. Lighting controls
    - c. LED parking lot lighting
  2. LED retrofit of approximately 500 streetlights, as well as decorative pathway lights at Refugio Valley Park
  3. Plant/equipment modifications:
    - a. Boiler upgrade
  4. Solar photovoltaic electric generation

## ATTACHMENT B

### SITE INVENTORY

#### PART I: SITES INCLUDED IN ASSESSMENT

Site	Address	Approx. Building Sq. Ft.
City Hall	111 Civic Drive, Hercules, CA 94547	22,960
Public Library	109 Civic Drive, Hercules, CA 94547	21,500
Community Center	2001 Refugio Valley Road, Hercules, CA 94547	22,300
Hercules Teen Center	2007 Refugio Valley Road, Hercules, CA 94547	3,000
Refugio Valley Park	1360 Refugio Valley Road, Hercules, CA 94547 (note: park address is approximate)	n/a
City streetlights	Various	n/a

#### PART II: SITES NOT INCLUDED IN ASSESSMENT

Any site not included above.

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# City of Hercules

## Feasibility Assessment Findings *Partnership to Achieve Savings*

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*City Council Presentation  
September 24, 2019*



## Beyond Energy - 3 Dimensions of Impact



**3** DIMENSIONS  
**OF IMPACT**

### Environmental Impact

- Transition Hercules to more sustainable forms of energy to decrease its carbon footprint.

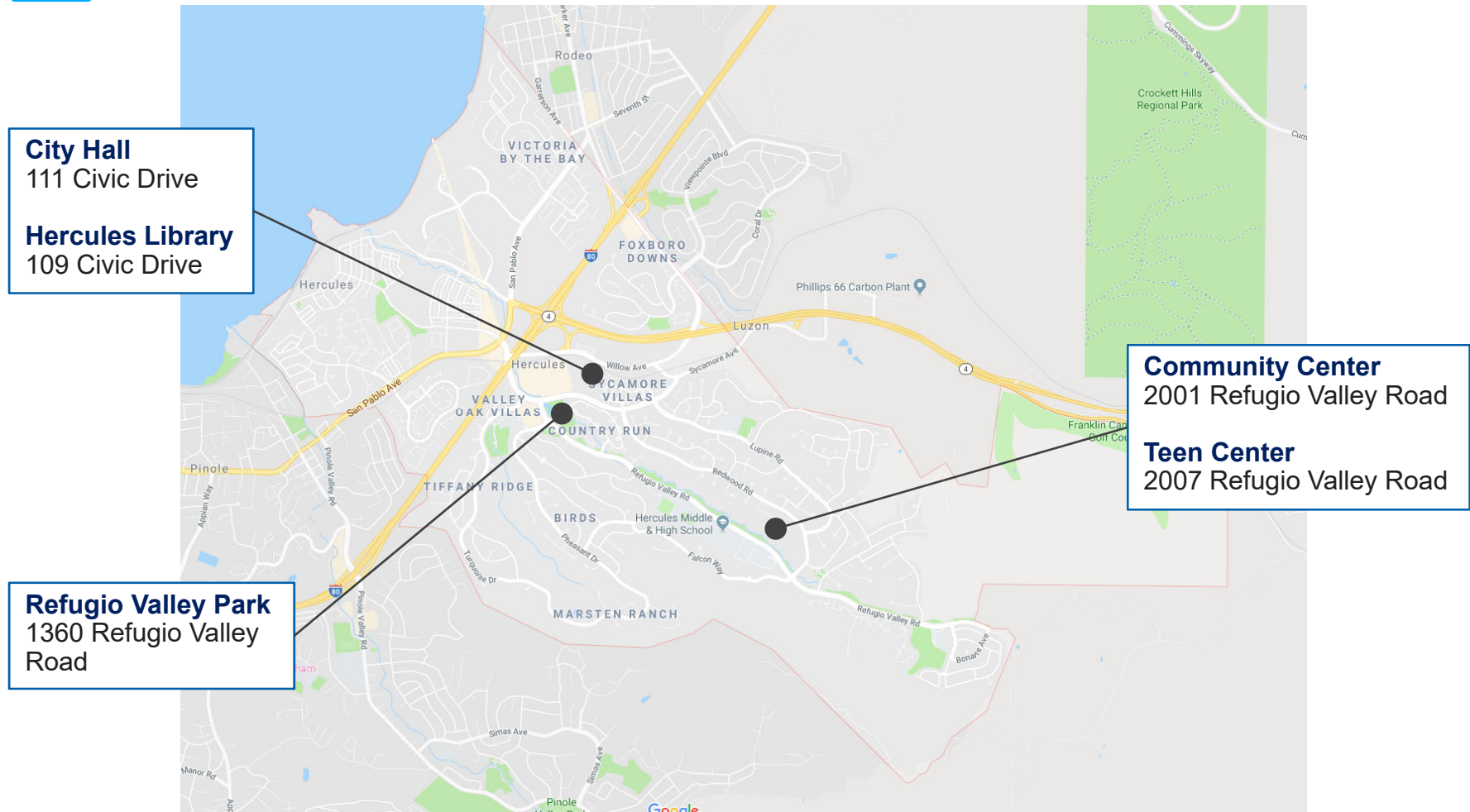
### Economic Impact

- Save taxpayer money, improve cash flow and reduce City's exposure to risk.

### Community Impact

- Change lives with educational programs.
- Modernize Hercules' streets, neighborhoods, and civic facilities.

# Feasibility Assessment Locations



# Preliminary Energy Conservation Summary Matrix

## Scope for upcoming Energy Program Development activities

Site	Total Annual Electric Bill	Solar PV	Interior LED Lighting Retrofits	Exterior LED Lighting Retrofits	Streetlight Conversion to LED	Boiler & HVAC Upgrades	BMS
City Hall	\$69,384	X <sup>1</sup>	X	X		X	
Public Library	\$32,269	X	X	X			X
Community Center & City Pool	\$44,012	X <sup>1</sup>	X	X			
Teen Center	\$4,868	X	X	X			
Refugio Valley Park	\$14,234			X			
City-wide streetlights (545)	TBD				X		
<b>TOTAL</b>	<b>\$164,766</b>						

### Guide to Acronyms:

Solar PV = Solar Photovoltaic System

BMS = Building Management System (controls)

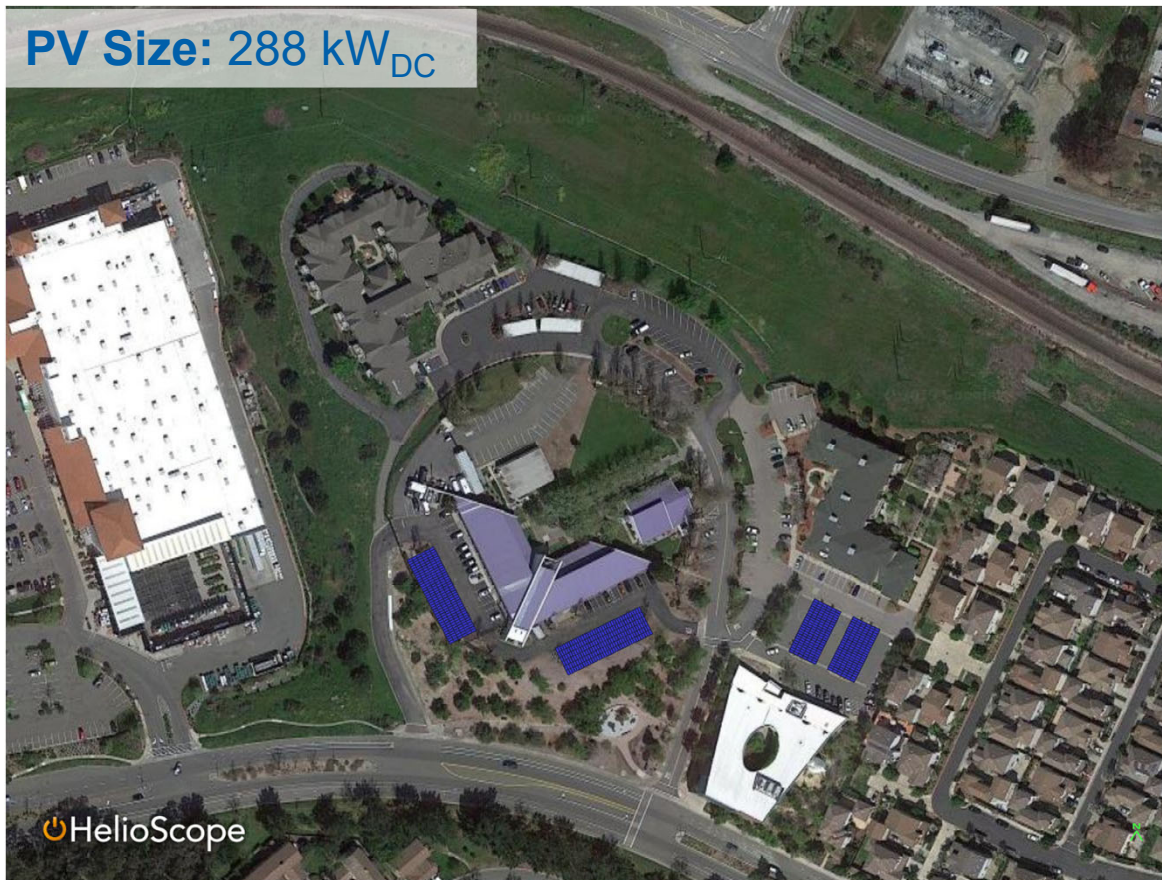
NEM-A = Net Metering Aggregate PG&E tariff

Measures included in  
budgetary proforma (pg 7)

Additional  
recommendations

<sup>1</sup>Under a NEM-A (Net Metering Aggregate) arrangement with PG&E, one solar PV system can be used to offset the total electric load for all facilities on adjacent land parcels. For example, a PV system located at the City Hall parking lot could be used to offset the electric use of the Library facility across the street.

# City Hall & Library Solar PV System



■ = Potential locations of solar PV parking shade canopies



# Community Center Solar PV System



■ = Potential locations of solar PV parking shade canopies

# Budgetary Pro Forma

Year	Solar Electricity Produced (kWh)	Solar Avoided Electric Rate (\$/kWh)	Solar Electricity Savings	Solar O&M and M&V Costs	Net Solar Project Savings	Energy Conservation Savings	O&M Savings	Total Program Savings	CEC Loan	Project Net Benefit	Cumulative Program Savings
	A	B	C = A * B	D	E = C - D	F	G	H = E + F + G	I	J = H - I	K
1	616,698	\$0.164	\$101,138	\$7,669	\$93,469	\$22,049	\$5,000	\$120,518	\$111,266	\$9,253	\$9,253
2	613,615	\$0.171	\$105,161	\$7,899	\$97,262	\$23,041	\$5,150	\$125,453	\$111,266	\$14,188	\$23,440
3	610,546	\$0.179	\$109,344	\$8,136	\$101,208	\$24,078	\$5,305	\$130,591	\$111,266	\$19,325	\$42,765
4	607,494	\$0.187	\$113,693	\$8,380	\$105,313	\$25,162	\$5,464	\$135,938	\$111,266	\$24,673	\$67,438
5	604,456	\$0.196	\$118,215	\$8,632	\$109,584	\$26,294	\$5,628	\$141,505	\$111,266	\$30,240	\$97,677
6	601,434	\$0.204	\$122,917	\$17,995	\$104,922	\$27,477	\$5,796	\$138,196	\$111,266	\$26,930	\$124,608
7	598,427	\$0.214	\$127,806	\$18,535	\$109,272	\$28,714	\$5,970	\$143,955	\$111,266	\$32,690	\$157,297
8	595,435	\$0.223	\$132,890	\$19,091	\$113,799	\$30,006	\$6,149	\$149,954	\$111,266	\$38,688	\$195,986
9	592,457	\$0.233	\$138,176	\$19,664	\$118,512	\$31,356	\$6,334	\$156,202	\$111,266	\$44,936	\$240,922
10	589,495	\$0.244	\$143,672	\$20,254	\$123,418	\$32,767	\$6,524	\$162,709	\$111,266	\$51,443	\$292,365
11	586,548	\$0.255	\$149,386	\$20,861	\$128,525	\$34,241	\$6,720	\$169,486	\$111,266	\$58,220	\$350,585
12	583,615	\$0.266	\$155,328	\$21,487	\$133,841	\$35,782	\$6,921	\$176,544	\$111,266	\$65,279	\$415,864
13	580,697	\$0.278	\$161,506	\$22,132	\$139,374	\$37,392	\$7,129	\$183,896	\$111,266	\$72,630	\$488,494
14	577,793	\$0.291	\$167,930	\$22,796	\$145,134	\$39,075	\$7,343	\$191,552	\$111,266	\$80,287	\$568,780
15	574,904	\$0.304	\$174,609	\$23,479	\$151,130	\$40,834	\$7,563	\$199,526	\$111,266	\$88,261	\$657,041
16	572,030	\$0.317	\$181,554	\$24,184	\$157,371	\$42,671	\$7,790	\$207,832	\$111,266	\$96,566	\$753,607
17	569,170	\$0.332	\$188,776	\$24,909	\$163,867	\$44,591	\$8,024	\$216,481	\$111,266	\$105,216	\$858,823
18	566,324	\$0.347	\$196,284	\$25,657	\$170,628	\$46,598	\$8,264	\$225,490	\$111,266	\$114,224	\$973,047
19	563,492	\$0.362	\$204,092	\$26,426	\$177,665	\$48,695	\$8,512	\$234,872	\$111,266	\$123,607	\$1,096,653
20	560,675	\$0.378	\$212,209	\$27,219	\$184,990	\$50,886	\$8,768	\$244,644	\$111,266	\$133,378	\$1,230,031
21	557,871	\$0.396	\$220,650	\$28,036	\$192,614	\$53,176		\$245,790		\$245,790	\$1,475,822
22	555,082	\$0.413	\$229,426	\$28,877	\$200,550	\$55,569		\$256,118		\$256,118	\$1,731,940
23	552,307	\$0.432	\$238,552	\$29,743	\$208,809	\$58,069		\$266,878		\$266,878	\$1,998,818
24	549,545	\$0.451	\$248,040	\$30,635	\$217,405	\$60,683		\$278,087		\$278,087	\$2,276,906
25	546,797	\$0.472	\$257,906	\$31,554	\$226,352	\$63,413		\$289,765		\$289,765	\$2,566,670
<b>Total</b>	<b>17,220,158</b>		<b>\$4,199,262</b>	<b>\$524,248</b>	<b>\$3,675,014</b>	<b>\$982,618</b>	<b>\$134,352</b>	<b>\$4,791,984</b>	<b>\$2,225,314</b>	<b>\$2,566,670</b>	

## Budgetary Pro Forma Assumptions

NPV: \$1,978,818

- \$2.0 million project cost for turnkey design-build-guarantee equipment and services
- 4.5% annual utility escalation rate
- 3.0% annual escalation for O&M and M&V services
- 1.0% California Energy Commission (CEC) loan (20 year)
- 0.5% annual solar panel degradation rate
- Typical solar electric avoided rate for small city
- Cost for County plan check and inspection services

ENGIE SERVICES, U.S. IS NOT A MUNICIPAL ADVISOR AND CANNOT GIVE ADVICE WITH RESPECT TO MUNICIPAL SECURITIES OR MUNICIPAL FINANCIAL PRODUCTS. THIS INFORMATION IS PROVIDED FOR EDUCATIONAL PURPOSES ABOUT POSSIBLE FINANCING OPTIONS AND IS NOT THE PROVISION OF ADVICE, OR A RECOMMENDATION TO PURSUE, ANY PARTICULAR FINANCING OPTION. CONSULT WITH YOUR MUNICIPAL ADVISOR OR FINANCIAL ADVISOR ABOUT THE FINANCING OPTION APPROPRIATE FOR YOUR SITUATION. ENGIE SERVICES, U.S. CAN PROVIDE INFORMATION TO YOUR MUNICIPAL ADVISOR OR FINANCIAL ADVISOR ABOUT THE HYPOTHETICAL ASSUMPTIONS AND EDUCATIONAL SCENARIOS USED IN THESE MATERIALS.

## Budgetary Pro Forma Definitions

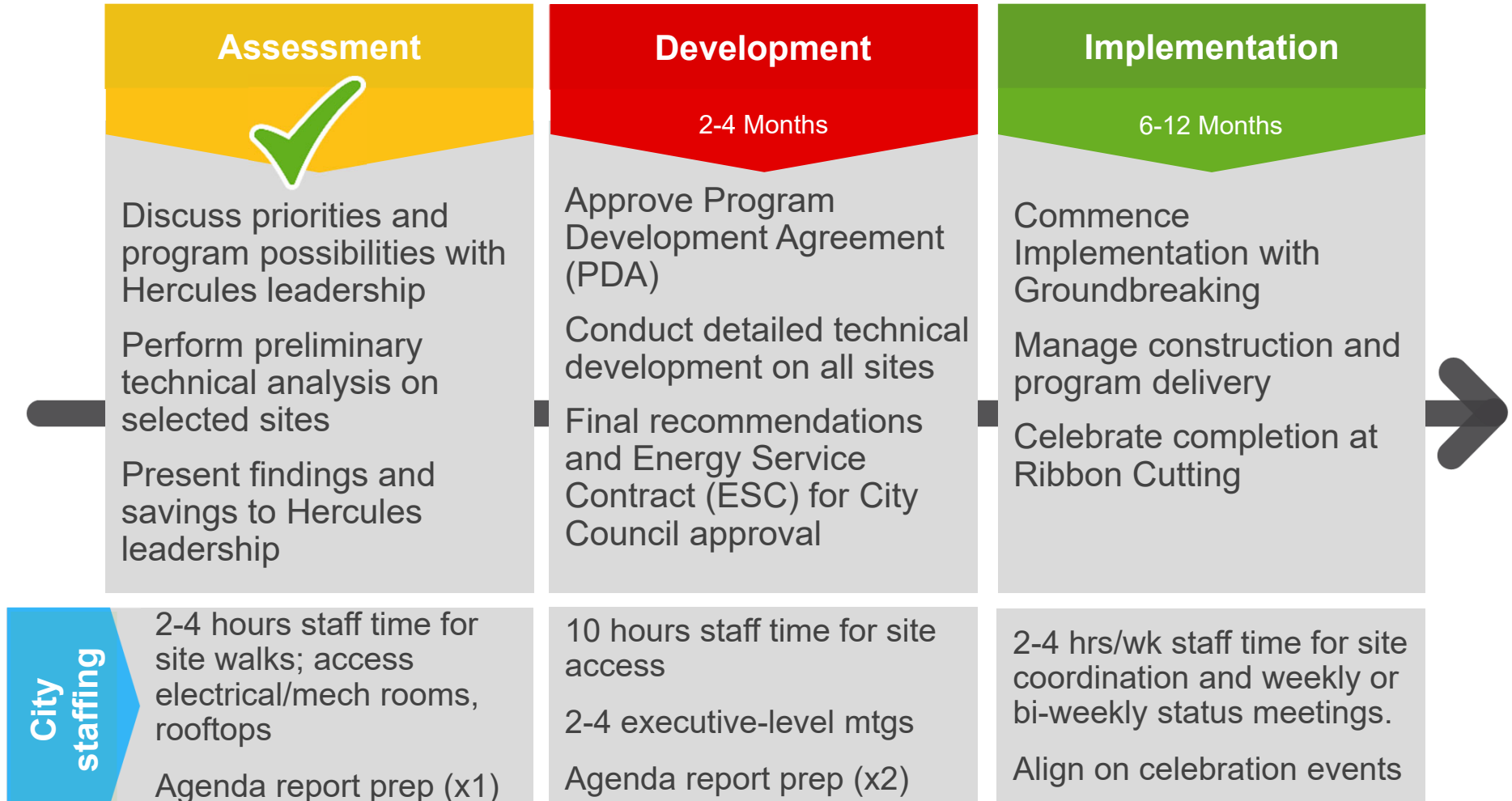
- A. **Solar Electricity Produced:** actual generation expected by installed system and guaranteed by ENGIE
- B. **Solar Avoided Electric Rate:** weighted average of each building site's expected solar generation electric rate, based on the ratio of that building sites's electrical usage of site to the total combined electrical usage at the four building sites. Each building site's expected rate is based on current rate tariff.
- C. **Solar Electricity Savings:** savings accrued based on offsetting ongoing behind-the-meter PG&E charges; based on multiplying electricity produced and the Solar Avoided Electric Rate.
- D. **Solar O&M Costs:** annual cost of providing O&M services (preventative maintenance, reports, and panel washing)  
**Solar M&V Costs:** annual cost of providing M&V services for performance guarantee, monthly and annual reports, and managing UtilityVision for guarantees and 24/7 monitoring
- E. **Net Solar Project Savings:** Solar savings minus solar service costs
- F. **Energy Conservation Savings:** energy savings due to installing LED lights (and other conservation measures).
- G. **O&M Savings:** savings due to installing lighting that requires less maintenance
- H. **Total Program Savings:** net solar project savings plus savings due to LED lighting and reduced O&M
- I. **Loan:** annual repayment of the loan that financed the project
- J. **Net Program Savings:** total program savings minus the loan payment
- K. **Cumulative Savings:** current year savings plus accumulated savings from prior years.

## Program Benefits

- Expedited delivery of scopes saves staff time and resources
  - Allows completion of projects that staff otherwise has limited bandwidth to complete (for example boiler, HVAC, streetlights)
- Modernize Hercules civic facilities and infrastructure
- Hedge against rising PG&E rates
- Phase-in reliability & resiliency to address grid de-energization risk at city facilities
  - Solar PV installations are building blocks for future fully-islanding microgrids
- Achieve Operation & Maintenance savings from HVAC upgrades and LED lighting retrofits
- Low risk: development effort is no-cost to Hercules if a satisfactory scope and financial profile cannot be achieved
- Be a community leader and example for renewable energy and sustainability



# Program Development Process / Next Steps



## Roadmap to Savings

Task	Date	Complete
City Manager / PW Director First Meeting	August 2018	X
Access to PG&E data	February 2019	X
Site Walks	April 11 2019	X
Review of Preliminary Findings	June 28 / July 11 / July 17	X
City Council Presentation of Preliminary Findings	July 23	X
Approval of Program Development Agreement	today	
Detailed Program Development	Q4 2019	
Board Presentation / Approval of Implementation Contract	Late Q4 2019	
Groundbreaking and Construction	Q1-Q2 2020	

# Project Contacts

## **Kelly Fergusson, PE**

Senior Business Development Manager

415-405-6673

kelly.fergusson@engie.com

## **Amar Tiwari**

Energy Performance Guarantee Oversight

(205) 447-2627

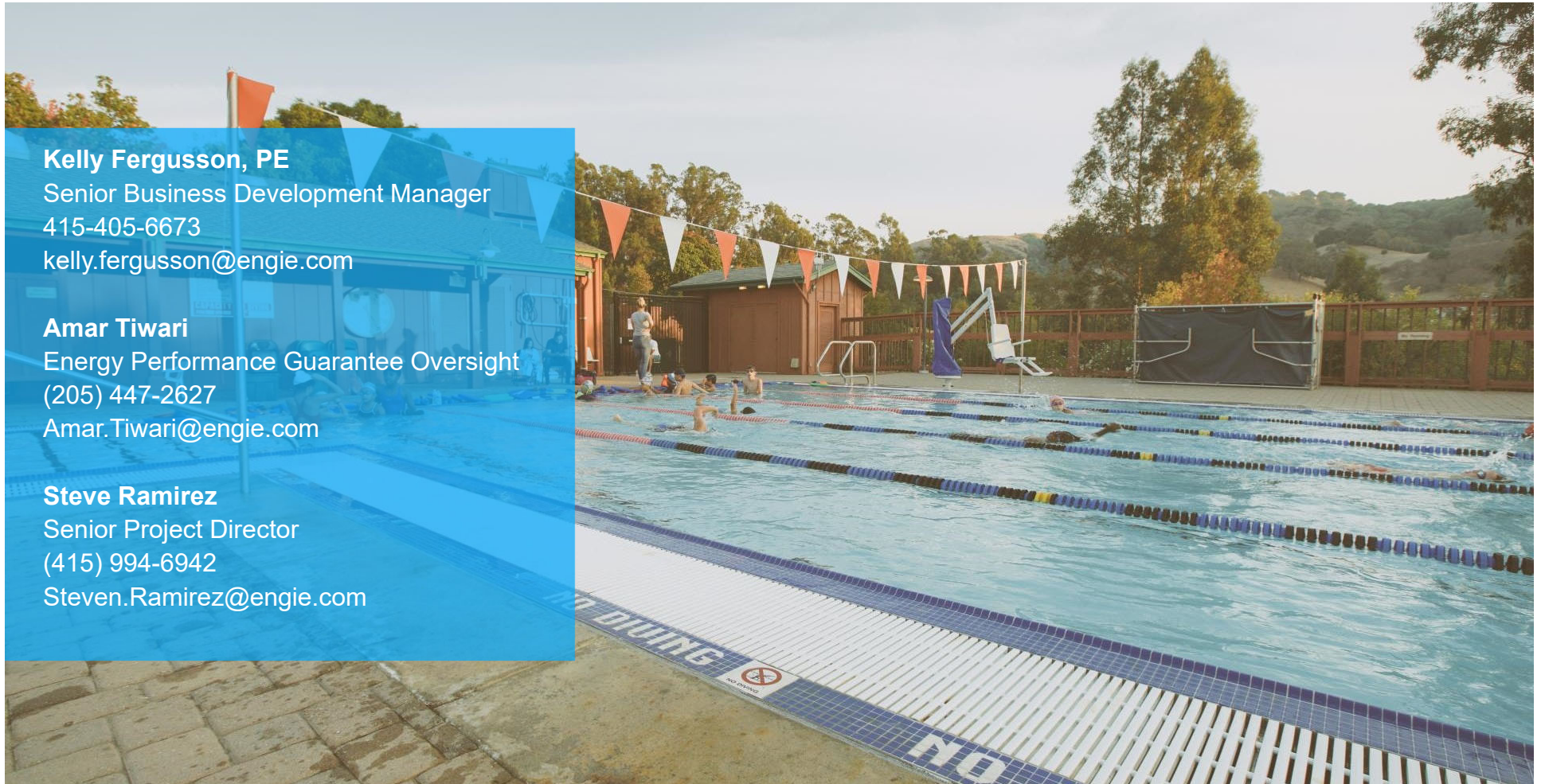
Amar.Tiwari@engie.com

## **Steve Ramirez**

Senior Project Director

(415) 994-6942

Steven.Ramirez@engie.com



# Hercules Project Team Resumes



**Kelly Fergusson, PhD, PE, LEED AP**

Senior Business Development Manager

Kelly assists public sector clients in Northern California in identifying energy efficiency infrastructure improvements and facility modernization built upon savings generated from the improvements. She works with clients to assess their goals, review various financing structures, and coordinates project financing activities to move the project forward.

**Years of Experience:** 32 years

## Education:

PhD, Civil Engineering, Stanford University, Palo Alto, CA  
MS, Civil Engineering, Stanford University, Palo Alto, CA  
BS, Applied Earth Sciences, Stanford University, Palo Alto, CA

## License(s)/Registration(s):

Registered Professional Civil Engineer – California  
Leadership in Energy and Environmental Design Accredited Professional (LEED AP) – U.S. Green Building Council

## Relevant Experience:

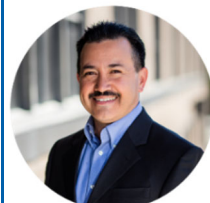
**Contra Costa County: Phase One:** Evaluated over 30 sites for solar potential. Developing and presenting financial analysis to staff and Contra Costa County Board of Supervisors. Developing financing solution to meet financial criteria of both executive staff and Board Members.

**Contra Costa County: Phase Two:** Evaluated site adjacent to new administration building sites for solar and new building's net zero energy potential. Developed and presented financial analysis. Contact for post-construction services and guarantee.

**Alameda County Fairgrounds:** Guided development of comprehensive energy program for Fairgrounds site in Pleasanton.

**City of Suisun City:** Guided development of comprehensive energy program including city-wide streetlights, sports field lighting, and five solar sites.

**Oakland Unified School District:** Guided development of comprehensive energy program for 20 school sites resulting in design/build project scope.



**Steven Ramirez, LEED AP**

Operations Manager

Steve oversees a team of project engineers, project managers, and construction managers. Under his direction, project engineers perform energy conservation measure (ECM) surveys and feasibility studies, including lighting, HVAC, water resource management, and solar PV, which are then used to prepare detailed comprehensive reports for customers.

**Years of Experience:** 20+ years

## Education:

BS, Electrical Engineering, California Polytechnic State University

## License(s)/Registration(s):

Leadership in Energy and Environmental Design Accredited Professional (LEED AP) – US Green Building Council

## Relevant Experience:

**City of Yuba City – Phases I & II:** Operations Manager. Energy management system installation, interior/Exterior lighting retrofits, HVAC retrofits, solar thermal system, WWTP pump replacement, DAS monitoring, 3+ MW of solar PV, and 750 kW battery storage

**City of Fremont:** Operations Manager. Comprehensive energy efficiency and water savings audit program, including retrofitting city-wide streetlights and park lights to LED, interior/exterior lighting upgrades at various city buildings, city-wide restroom fixture upgrades, city-wide irrigation control upgrades, and solar thermal heating and pump VFDs installation at the Water Park

**City of Grass Valley, CA:** \$4.9M ground mount and canopy PV system installation, City Hall roof replacement, streetlight and traffic signal upgrades, mechanical upgrades, solar thermal system, and pool cover

**Sutter County:** Operations Manager. \$10M Comprehensive energy efficiency and solar PV project that included energy management systems, HVAC, water conservation measures; and lighting





**Paul Johnson, PE, LEED AP**  
Vice President of Operations, West

Paul is responsible for all engineering and project management construction management personnel in California. He manages project teams that perform evaluation, development, design, and implementation of energy projects. His extensive experience includes governmental, commercial, and educational facilities. Paul also creates innovative yet economically sound opportunities for customers.

**Years of Experience:** 30+ years

**Education:**

MBA, Golden Gate University, San Francisco, CA  
BS, Mechanical Engineering, University of Minnesota, MN

**License(s)/Registration(s):**

Registered Professional Engineer – California  
Leadership in Energy and Environmental Design Accredited Professional (LEED AP) – US Green Building Council

**Relevant Experience:**

**City of Livermore:** Operations Manager: Auditing, design, and implementation of efficiency and 1.22 MW solar generation projects at multiple facilities city-wide

**City of Salinas:** Operations Manager: Auditing, design, and implementation of efficiency and solar generation projects at multiple facilities city-wide

**City of Benicia:** Operations Manager: Auditing, design, and implementation of efficiency and 1.65 MW solar generation projects at multiple facilities city-wide

**City of Patterson:** Operations Manager: Auditing, design, and implementation of efficiency and 1.12 MW solar generation projects at multiple facilities city-wide

**Santa Clara County:** Project Manager: Auditing, design, and implementation of efficiency and generation projects at multiple facilities county-wide



**Stanley Wong, PE, CEM, LEED AP**  
Lead Mechanical Engineer

Stanley performs energy audits, and identifies ECMs related to HVAC, plumbing, lighting, and solar design. He calculates utility cost savings; assists in construction management activities, utility rate structure analysis, and incentive analysis and documentation; surveys PV arrays; and locates, designs, and calculates production. He also analyzes system design and equipment specification alternatives to optimize output, project cost, and scheduling.

**Years of Experience:** 18 years

**Education:**

BS, University of California at Berkeley, Berkeley, CA

**License(s)/Registration(s):**

Registered Professional Mechanical Engineer – California  
Registered Certified Energy Manager  
LEED Professional Accreditation

**Relevant Experience:**

**City of Yuba City:** Reviewed mechanical design drawings and control drawings from contractors and provided assists and recommendations during commissioning process

**Merced County:** Lead Project Engineer. Installation of 1.88 MW of solar PV at two (2) sites, LED retrofits of 2,828 county-owned streetlights, interior/exterior LED lighting retrofits at nine sites, HVAC upgrades at six (6) sites, and plumbing efficiency/controls at two (2) sites

**Alameda County Fairgrounds:** Lead Project Engineer: performed energy analysis and design of 1.06 MW solar PV parking canopies and roof solar for the County. Provided energy modeling and HVAC re-design on for the Exhibition/Convention Building.



**Caren Perlmutter**  
Community Impact Manager

Caren has 12 years of experience in Community Impact program design and development. Caren works with partner cities, counties, and special districts to design and implement community engagement and workforce development programs that educate residents about the importance of sustainability and provide real-world, hands-on STEM opportunities for local youth.

**Years of Experience:** 12 years

**Education:**

MPA, Environmental Science and Policy, Columbia University, New York, NY

MBA, Environmental Management, Yale University, New Haven, CT

BA, History, Yale University, New Haven, CT

**Relevant Experience:**

**City of Salinas, CA:** Created Internship program in conjunction with Hartnell College

**City of Gonzales, CA:** Designed and facilitated hands-on solar-themed classroom visit to Gonzales High School

**City of King City, CA:** Created and facilitated customized hands-on experiences for the City's annual Pool Opening Celebration that connected sun safety with solar energy concepts

**City of Waterford, CA:** Designed and facilitated a hands-on activity center for the City's Annual Heritage Festival and accompanying Parade that engaged hundreds of residents

**Hartnell College, CA:** Guided Hartnell students through construction of their own STEM-focused hands-on activities as part of project's education program

**Oak Grove School District, CA:** Design professional development workshops and community engagement activities for district teachers



**Angela Seitz**  
Director of Project Finance

Angie assists public sector clients across the country in identifying funding for renewable energy and energy efficiency infrastructure improvements and facility modernization built upon savings generated from the improvements. She works with clients to assess their goals, review various financing structures, and coordinate project financing activities to move the project forward.

**Years of Experience:** 20 years

**Education:**

MPP, University of Chicago, Chicago, IL (concentration in Public Finance)

BA with Honors, University of Nebraska, Lincoln, NE

**Relevant Project Experience:**

**Northern California Municipalities:**

- City of Fremont
- City of Greenfield
- City of Gonzales
- City of King City
- City of Yuba City
- City of Marysville
- County of Merced
- South San Francisco Unified School District
- Contra Costa County Fire Protection District
- Monterey Peninsula Airport Solar Project
- Escalon Unified School District
- Monterey Peninsula Regional Airport
- Cosumnes Community Service District



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** David Biggs, City Manager  
Edwin Gato, Director of Finance

**SUBJECT:** Approve a Debt Issuance and Management Policy in accordance with Senate Bill 1029

### **RECOMMENDED ACTION:**

Adopt a Resolution approving the Debt Issuance and Management Policy.

### **FISCAL IMPACT OF RECOMMENDATION:**

There is no financial impact as a result of this action, beyond the cost of paying debt service on the bonds successfully issued.

### **DISCUSSION:**

On September 12, 2016, the Governor signed into law Senate Bill 1029 (SB 1029), the California Debt and Investment Advisory Commission (CDIAC): Accountability Reports. This bill intended to facilitate improved financial transparency and public accessibility to information regarding public debt.

SB 1029 requires that state and local agencies adopt comprehensive debt management policies that reflect local, state, and federal laws and regulations. Also, it requires agencies to adopt debt management policies at least 30 days before the issuance of any new debt, beginning on or after January 21, 2017. The bill advises that public agency debt management policies reflect the recommendations of the Government Finance Officers Association (GFOA). Finally, the legislation requires all state and local debt issuance to be published in a single, transparent online database for public access. The City has not issued any debt since this requirement became effective and is now contemplating the refinancing of existing debt. As such it is timely to approve an SB 1029 compliant Debt Issuance and Management Policy.

SB 1029 specifically requires that local debt management policies shall include five key components. The recommendations set forth by the GFOA also address these components:

- a. The purposes for which the debt proceeds may be used;
- b. The types of debt that may be issued;
- c. The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable;
- d. Policy goals related to the issuer's planning goals and objectives; and
- e. The internal control procedures that the issuer has implemented, or will apply, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The proposed Debt Management Policy complies with the requirements outlined in SB 1029 and the State Debt and Investment Advisory Commission and aligns with GFOA recommendations.

#### **ATTACHMENTS:**

1. Resolution
2. Debt Issuance and Management Policy
3. Disclosure Procedures

<i><b>Financial Impact</b></i>			
<b>Description:</b>			
<b>Funding Source:</b>			
<b>Budget Recap:</b>			
Total Estimated cost:	\$	New Revenue:	\$
Amount Budgeted:	\$	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>			

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
HERCULES APPROVING A DEBT ISSUANCE AND  
MANAGEMENT POLICY IN ACCORDANCE WITH SENATE  
BILL 1029**

WHEREAS, the State legislature has enacted Senate Bill 1029, amending, in part, Government Code Section 8855, which requires all public agencies to certify 30 days prior to the time bonds or other debt are sold, that it has adopted local debt policies addressing the topics set forth in Government Code Section 8855(i); and

WHEREAS, the City Council (the “City Council”) of the City of Hercules (the “City”) expects to issue forms of debt from time-to-time; and

WHEREAS, the City Council desires to adopt a Debt Issuance and Management Policy in compliance with Government Code Section 8855(i).

NOW, THEREFORE, the City Council of the City of Hercules does hereby resolve as follows:

Section 1. The City Council finds and determines that the foregoing recitals are true and correct.

Section 2. The City Council approves and adopts the Debt Issuance and Management Policy attached hereto as Exhibit A.

Section 3. The Mayor, the City Manager or the Finance Director of the City, or the designee thereof, is each hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers, officials and staff are hereby ratified, confirmed and approved.

Section 4. This Resolution shall take effect immediately upon its passage.

**PASSED AND ADOPTED** by this \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

---

Dan Romero  
Mayor

Attest:

---

Lori Martin  
City Clerk

# **Debt Issuance and Management Policy**

## **City of Hercules**

### **1. Introduction**

On \_\_\_\_\_, 2019 the City Council of the City of Hercules (“City Council”) reviewed and considered this Debt Issuance and Management Policy (“Debt Policy”) of the City of Hercules and this Debt Policy was approved by action of the City Council on \_\_\_\_\_, 2019. This Debt Policy provides guidelines for debt issuance, management and post-issuance related policies and procedures for the City. This Debt Policy may be amended by the City Council as it deems appropriate from time-to-time in the prudent management of the debt and financing needs of the City of Hercules.

### **2. Purpose**

The purpose of this Debt Policy is to establish guidelines and parameters for the effective governance, management and administration of debt and other financing obligations issued by the City of Hercules and its related entities (such as, but not exclusive to, the City-formed Community Facilities Districts, Assessment Districts, and any entities for which the City Council serves as the governing board or legislative body). This Debt Policy is intended to improve and direct decision making, assist with the structure of debt issuance, identify policy goals, and demonstrate a commitment to long-term financial planning, including the City of Hercules five-year Capital Improvement Program (the “Capital Improvement Program”). Adherence to a debt policy helps to ensure the City of Hercules’ debt is issued and managed prudently in order to maintain a sound financial position and credit worthiness. When used in this Debt Policy, “debt” refers to all indebtedness and financing obligations of the City of Hercules and its related entities (together referred to as “City”).

### **3. Debt Policy Objective**

This Debt Policy is intended to comply with the requirements of Senate Bill 1029 (SB 1029), codified as part of California Government Code Section 8855(i), effective on January 1, 2017 and shall govern all debt undertaken by the City. The primary objectives of the City’s debt and financing related activities are to:

- A. Maintain the City’s sound financial position;
- B. Ensure the City has the flexibility to respond to possible changes in future service obligations, revenues, and operating expenses;
- C. Ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City;
- D. Minimize debt service commitments through efficient planning and cash management;
- E. Protect the City’s credit worthiness and achieve the highest practical credit ratings, when applicable; and

F. Ensure the City is in compliance with all relevant State and Federal securities laws and other applicable laws and regulations.

#### **4. Acceptable Uses of Debt Proceeds**

The City will consider the use of debt financing primarily for assets and capital projects only if the term of debt shall not exceed the asset(s) or project's useful life or will otherwise comply with Federal tax law requirements. An exception to this long-term driven focus is the issuance of short-term instruments, such as tax and revenue anticipation notes, which are to be used for reasonable cash management purposes, as described below. With a few exceptions, bonded debt should not be issued to finance normal operating expenses. General Fund debt will not be issued to support ongoing operational costs unless such debt issuance achieves net operating cost savings and such savings are verified by independent analysis.

##### *A. Long-Term Debt.*

i. Long-term debt may be issued to finance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment, and land to be owned and/or operated by the City. Long-term debt financings are appropriate when any of the following conditions exist:

- (1) When the project to be financed is necessary to provide basic municipal services;
- (2) When the project to be financed will provide benefit to the City's constituents over a duration of more than one year;
- (3) When the total debt financing would not impose an unreasonable burden on the City and its taxpayers and/or ratepayers, as applicable; or
- (4) When the debt is used to refinance outstanding debt in order to produce debt service savings or to benefit from debt restructuring.

ii. The City may use long-term debt financings subject to each of the following conditions:

- (1) The project to be financed has been or will be considered and approved by the City Council;
- (2) The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project to be financed by more than 20%;
- (3) The City estimates that sufficient revenues will be available to service the debt through its maturity; and
- (4) The City determines that the issuance of the debt will comply with the applicable requirements of State and Federal law.



B. *Short-term Debt.* Short-term debt may be issued to provide financing for the City's operational cash flows in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance the City's short-lived capital projects, such as undertaking lease-purchase financing for equipment.

C. *Financings on Behalf of Other Entities.* The City may also issue debt on behalf of other governmental agencies or private third parties in order to further the public purposes of the City. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed, the financial solvency of any borrower, and that the issuance of such debt is consistent with the policies set forth herein. In such cases, the City may charge reasonable issuance fees payable from bond proceeds and ongoing administrative fees payable by the third party obligor.

D. *Miscellaneous.* Debt proceeds may be used to pay the premiums for bond insurance and/or debt service reserve insurance policies, fund reserve accounts, and pay costs of issuance, including reasonable reimbursement for costs incurred by the City in connection with the issuance of the debt.

## **5. Standards for Use of Debt Financing**

The City recognizes that there are numerous types of financing structures and funding sources available, each with specific benefits, costs, and risks. The City will consider debt issuance only in those cases where public policy, equity and economic efficiency favor debt financing over cash funding. Prior to the issuance of debt or other financing obligations, the City will carefully consider the overall long-term affordability of the proposed debt issuance by conducting an objective analysis of the City's ability to support additional debt service payments. The City will consider its long-term revenue and expenditure trends, the impact on operational flexibility and the overall debt burden on the taxpayers/ratepayers. The evaluation process shall include a review of generally accepted measures of affordability and will strive to achieve and/or maintain debt levels consistent with its current operating and capital needs.

## **6. Types of Debt**

In order to maximize the financial options available to benefit the public, it is the City's policy to allow the consideration of issuing all generally accepted types of debt, including, but not exclusively, to the following:

A. *Revenue Bonds/Certificates of Participation (COPs)/Leases/Installment Sale Agreements.* Revenue Bonds, COPs, financing leases and Installment Sale Agreements are limited-liability obligations tied to a specific enterprise or special fund revenue stream where the projects financed clearly benefit or relate to the enterprise or are otherwise permissible uses of the special revenue. Generally, no voter approval is required to issue this type of obligation but in some cases, the City must comply with proposition 218 regarding rate adjustments.

B. *Joint Powers Authority (JPA) Lease Revenue Bonds.* As an alternative to COPs, the City may obtain financing through the issuance of debt by a joint exercise of powers agency with such debt payable from amounts paid by the City under a lease, installment sale agreement, or contract of indebtedness.

C. *General Obligation (GO) Bonds.* GO Bonds are suitable for use in the construction or acquisition of improvements to real property that benefit the public at large. The California Government Code, Division 4, Chapter 4, Article 1 commencing with section 43600 authorizes cities to finance certain municipal improvements through GO bonds when a city determines the public interest and necessity demands the acquisition, construction or completion of such municipal improvements, including property or structures necessary or convenient to carry out the objects, purposes, and powers of a city. Examples of projects include but are not limited to libraries, parks, and public safety facilities. All GO bonds shall be authorized by the requisite number of voters in order to pass.

D. *Loans.* The City is authorized to enter into loans, installment payment obligations, or other similar funding structures secured by a prudent source or sources of repayment.

E. *Special Assessment/Special Tax Debt.* The City will consider requests from developers for the use of debt financing secured by property-based assessments or special taxes in order to provide for necessary infrastructure for new development under guidelines adopted by City Council, which may include minimum value-to-lien ratios and maximum tax burdens. Examples of this type of debt are Assessment Districts (ADs) and Community Facilities Districts (CFDs), also known as Mello-Roos Districts. In order to protect bondholders as well as the City's credit rating, the City will also comply with all State guidelines regarding the issuance of special tax or special assessment debt.

F. *Tax Allocation Bonds.* Tax Allocation Bonds are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes in the designated (now former) redevelopment project areas. Tax Allocation Bonds are not debt of the City. California Health and Safety Code, Division 24, Parts 1.8 and 1.85 limit the authority to issuance of tax allocation bonds only as to refunding of bonds properly and timely issued prior to January 1, 2011; such laws are referred to as the "Dissolution Law" and govern successor agencies to now dissolved redevelopment agencies.

G. *Short-Term Debt.* Short-term borrowing, such as commercial paper, Tax and Revenue Anticipation Notes (TRANS), and lines of credit, may be considered as an interim source of funding in anticipation of long-term borrowing and may be issued to generate funding for cash flow needs. The final maturity of the debt issued to finance the project shall be consistent with the useful life of the project. Short-term debt may also be used to finance short-lived capital projects such as lease-purchase financing for equipment.

H. *Refunding Bonds and other types of Refunding Debt.* The City shall refinance debt pursuant to the authorization that is provided under California law, including but not limited to Articles 9, 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, as market opportunities arise. Refundings may be undertaken in order:

- (1) To take advantage of lower interest rates and achieve debt service costs savings;
- (2) To eliminate restrictive or burdensome bond covenants; or
- (3) To restructure debt to lengthen the duration of repayment, relieve debt service spikes, reduce volatility in interest rates or free up reserve funds.

Generally, the City shall strive to achieve a minimum of 3% net present value savings. The net present value assessment shall factor in all costs, including issuance, escrow, and foregone interest earnings of any contributed funds on hand. Refundings which produce a net present value savings of less than 3% will be considered on a case-by-case basis. Upon the advice of the City Manager or the Finance Director and with the assistance of a financial advisor and bond counsel, the City will consider undertaking refundings for other than economic purposes based upon a finding that such a restructuring is in the City's overall best financial interest.

The City may from time to time find that other forms of debt would be beneficial to further its public purposes and may approve such debt without an amendment of this Debt Policy.

Debt shall be issued as fixed rate debt unless the City makes a specific determination as to why a variable rate issue would be beneficial to the City in that circumstance.

## **7. Relationship to Capital Improvement Program and Operating Budget**

The City intends to issue debt for the purposes stated in this Debt Policy and the decision to incur new indebtedness should be integrated with the City Council-adopted annual Operating Budget and Capital Improvement Program Budget. Prior to issuance of debt, a reliable revenue source shall be identified to secure repayment of the debt and the annual debt service payments shall be included in the Operating Budget.

The City shall integrate its debt issuances with the goals of its Capital Improvement Program by timing the issuance of debt to ensure that projects are available when needed in furtherance of the City's public purposes.

## **8. Policy Goals Related to Planning Goals and Objectives**

This Debt Policy has been adopted to assist with the City's goal of financial sustainability and financial prudence. In following this Debt Policy, the City shall pursue the following policy goals:

- i. The City is committed to financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The City intends to issue debt for the purposes stated in this Debt Policy and to implement policy decisions incorporated in the City's annual Operating Budget;
- ii. It is a policy goal of the City to protect taxpayers, ratepayers and constituents by utilizing conservative financing methods and techniques so as to obtain the highest practical credit ratings, if applicable, and the lowest practical borrowing costs;
- iii. It is a policy goal of the City to reduce the unfunded liabilities for employee pension and other post-employment benefits (OPEB);
- iv. The City will comply with applicable state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges; and
- v. When refinancing debt, it shall be the policy goal of the City to achieve, whenever possible and subject to any overriding non-financial policy, minimum aggregate net present value debt service savings of at least 3% of the refunded principal amount.

## **9. Internal Control Procedures**

When issuing debt, in addition to complying with the terms of this Debt Policy, the City shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The City will periodically review the requirements of and will remain in compliance with the following:

- i. Federal securities law, including any continuing disclosure undertakings under SEC Rule 15c2-12;
- ii. Any federal tax compliance requirements including without limitation arbitrage and rebate compliance, related to any prior bond issues;
- iii. The City's investment policies as they relate to the investment of bond proceeds; and
- iv. Government Code section 8855(k) and the annual reporting requirements therein.

The City shall be vigilant in using bond proceeds in accordance with the stated purpose at the time that such debt was issued. The City Manager, the Finance Director or designee will monitor the expenditure of bond proceeds to ensure they are used only for the purpose and authority for which the bonds were issued. Whenever reasonably possible, proceeds of debt will be held by a third-party trustee and the City will submit written requisitions for such proceeds. The City will submit a requisition only after obtaining the signature of the City Manager or the Finance Director.

## **10. Conflicts of Interest.**

The City and its appointed and elected officials, officers, employees, contractors, and consultants shall comply with the City's Conflicts of Interest Code and all applicable state and federal laws relating to conflicts of interest, including without limitation the Political Reform Act of 1974, the regulations of the Fair Political Practices Commission promulgated thereunder (Title 2, Division 6 (commencing with Section 18109) of the California Code of Regulations, and Government Code Section 1090, et seq.

## **11. Amendment and Waivers of Debt Policy**

This Debt Policy will be reviewed and updated periodically as needed. Any amendments to this Debt Policy are subject to specific City Council approval.

While adherence to this Debt Policy is required in all applicable circumstances, on rare occasions there might be circumstances when strict adherence to a provision of this Debt Policy is not possible or not in the best interest of the City. If the City staff has determined that a waiver of one or more provisions of this Debt Policy should be considered by the City Council, it will prepare an analysis for the City Council describing the rationale for the waiver and the impact of the waiver on the proposed debt issuance and on taxpayers, if applicable. Upon a majority vote of the City Council, one or more provisions of this Debt Policy may be waived for a debt financing.

The failure of a debt financing to comply with one or more provisions of this Debt Policy shall in no way affect the validity of any debt issued by the City in accordance with applicable laws.

## **12. SB 1029 Compliance**

SB 1029, signed by Governor Brown on September 12, 2016, and enacted as Chapter 307, Statutes of 2016, requires issuers to adopt debt policies addressing each of the five items below:

A. *The purposes for which the debt proceeds may be used.* Section 4 (Acceptable Uses of Debt Proceeds) addresses the purposes for which debt proceeds may be used.

B. *The types of debt that may be issued.* Section 6 (Types of Debt) provides information regarding the types of debt that may be issued.

C. *The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.* Section 7 (Relationship to Capital Improvement Program and Operating Budget) provides information regarding the relationship between the City's debt and Capital Improvement Program and annual Operating Budget.

D. *Policy goals related to the issuer's planning goals and objectives.* Section 3 (Debt Policy Objective) and Section 8 (Policy Goals Related to Planning Goals and Objectives) address some of the City's policy goals and how this Debt Policy has implemented them.

E. *The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.* Section 9 (Internal Control Procedures) provides information regarding the City's internal control procedures designed to ensure that the proceeds of its debt issues are spent as intended.

This Debt Policy, as written, complies with and meets the requirements of SB 1029.

## **CITY OF HERCULES**

### **DISCLOSURE PROCEDURES**

#### **PURPOSE**

The purpose of these Disclosure Procedures (the “Procedures”) is to memorialize various procedures to be followed in connection with the public offering of obligations, including notes, bonds and certificates of participation, by the City of Hercules (the “City”) so as to ensure that the City continues to comply with all applicable disclosure obligations and requirements under the federal securities laws.

#### **BACKGROUND**

The City from time to time causes bonds, notes or other obligations to be issued and certificates of participation to be executed and delivered (collectively, “Obligations”) in order to finance or refinance capital improvements, other long-term programs and working capital needs. In offering Obligations to the public, and at other times when the City makes certain reports, the City must comply with the “anti-fraud rules” of federal securities laws. (“Anti-fraud rules” refers to Section 17 of the Securities Act of 1933 and Section 10(b) of the Securities and Exchange Act of 1934, and regulations adopted by the Securities and Exchange Commission under those Acts, particularly “Rule 10b-5” under the 1934 Act.)

The core requirement of these rules is that potential investors in Obligations must be provided with all “material” information relating to the offered Obligations. The information provided to investors must not contain any material misstatements, and the City must not omit material information which would be necessary to provide to investors a complete and transparent description of the Obligations and the City’s financial condition. In the context of the sale of securities, a fact is considered to be “material” if there is a substantial likelihood that a reasonable investor would consider it to be important in determining whether or not to purchase the securities being offered.

When the City offers Obligations for sale to the public, the two central disclosure documents which are prepared are a preliminary official statement (“POS”) and a final official statement (“OS”, and collectively with the POS, the “Official Statement”). The Official Statement generally consists of (i) a section describing the specifics of the Obligations (including maturity dates, interest rates, redemption provisions, the specific type of financing, the security and source of repayment for the Obligations and other matters particular to the financing), (ii) a section which provides information on the City, including its financial condition (both historical and budgetary) as well as certain operating information (which may be ad valorem tax collections, the State funding process, enrollment, employee counts, material litigation and other post-employment benefit and pension plan descriptions, depending on the type of Obligations being issued) (“City Section”), and (iii) various other appendices, including the City’s audited financial report, form of the proposed legal opinion, and form of continuing disclosure undertaking. Investors use the Official Statement as one of their primary resources for making informed investment decisions regarding a purchase of the Obligations.

#### **DISCLOSURE PROCESS**

When the City determines to issue Obligations, the City Manager and/or Finance Director has a discussion with Bond Counsel, Disclosure Counsel and the lead underwriter and any City financial advisor to determine the type of Obligations to be sold and the information required to be gathered by the City for inclusion in the Official Statement. The Finance Director will involve other members of the City staff who are knowledgeable with City operations to assist in the review and updating of the City Section. The Finance Director then requests the relevant City employees to gather the information necessary for the

preparation of the portions of the Official Statement (including particularly the City Section) for which they are responsible. Any major financial or operational changes since the date of the last issue of Obligations should be analyzed and included in the City Section if material. The Finance Director is responsible for reviewing and preparing or updating the portions of the City Section which are within his or her particular area of knowledge. Once the Official Statement has been substantially updated, the entire Official Statement is shared with the City Manager for review and input. Additionally, all participants in the disclosure process are separately responsible for reviewing the entire Official Statement.

Members of the financing team, including the Bond Counsel and Disclosure Counsel, assist staff in determining the materiality of any particular item, and in the development of specific language to be included in the City Section. Members of the financing team also assist the City in the development of a “big picture” overview of the City’s financial condition, to be included in the City Section. This overview highlights the City’s current financial condition and any developing trends in City budgets or operations, including potential areas of financial stress or concern. Bond Counsel and Disclosure counsel have a confidential, attorney-client relationship with officials and staff of the City, so all matters may initially be shared confidentially before decisions are reached as to required disclosures.

The City Manager, Finance Director, or a member of the financing team at the direction of either of such officials, schedules one or more meetings or conference calls of the financing team (which includes City officials, Bond Counsel, Disclosure Counsel, the underwriter of the Obligations and any underwriter’s counsel, and any City financial advisor), and new drafts of the forepart of the Official Statement and the City Section are circulated and discussed. Such communications may occur via electronic means rather than by meetings or conference calls. During this part of the process, there is substantial contact among City staff and other members of the financing team to discuss issues which may arise, determine the materiality of particular items and ascertain the prominence in which the items should be disclosed.

Prior to distributing a POS to potential investors, there is typically a formal conference call which includes City officials involved in the preparation of the POS, members of the financing team, including Bond Counsel, Disclosure Counsel, the underwriter or underwriters and any underwriter’s counsel, during which due diligence questions are asked regarding the Official Statement to allow the underwriter or underwriters to obtain information from the City’s senior officials and to discharge their obligation under federal securities laws to determine that they may reasonably rely on the statements in the POS. This is referred to as a “due diligence” meeting.

A substantially final form of the POS is provided to the City Council in advance of approval to afford the City Council an opportunity to review the POS, ask questions and make comments. The substantially final form of the POS is approved by the City Council which generally authorizes certain senior staff to make additional corrections, changes and updates to the POS in consultation with the City’s Bond Counsel and Disclosure Counsel.

At the time the POS is posted for review by potential investors, a senior City official executes a certificate deeming the POS complete (except for certain pricing terms) as required by Securities and Exchange Commission Rule 15c2-12.

Between the posting of the POS for review by potential investors and delivery of the final OS to the underwriter for redelivery to actual investors in the Obligations, any material changes and developments will be incorporated into the POS, including particularly the City Section, if required. If necessary to reflect developments following publication of the POS or OS, as applicable, supplements will be prepared and published if needed to ensure that the POS or OS, as applicable, does not contain any material misstatement of facts or omit to state a material fact.

In connection with the closing of the transaction, a senior City official executes a certificate stating that the OS (excluding certain limited portions), as of its date did not, and as of the date of closing does not, contain any untrue statement of material fact or omit to state any material fact necessary to make the statements contained in the OS in light of the circumstances under which they were made, not misleading.

## **CITY SECTION**

The information contained in the City Section is developed by personnel under the direction of the Finance Director with the assistance of the financing team. In certain circumstances, additional officials will be involved, as necessary. The following principles govern the work of the respective staff members that contribute information to the City Section:

- City staff involved in the disclosure process is responsible for being familiar with the City's responsibilities under federal securities laws as described above.
- City staff involved in the disclosure process should err on the side of raising issues when preparing or reviewing information for disclosure. Officials and staff are encouraged to consult the City's Bond Counsel, Disclosure Counsel, other legal counsel retained by the City and other members of the financing team if there are questions regarding whether an issue is material or not.
- Care should be taken not to shortcut or eliminate any steps outlined in the Procedures on an ad hoc basis. However, the Procedures are not necessarily intended to be a rigid list of procedural requirements, but instead to provide guidelines for disclosure review. If warranted, based on experience during financings or because of additional SEC pronouncements or other reasons, the City should consider revisions to the Procedures.
- The process of updating the City Section from transaction to transaction should not be viewed as being limited to updating tables and numerical information. While it is not anticipated that there will be major changes in the form and content of the City Section at the time of each update, everyone involved in the process should consider the need for revisions in the form, content and tone of the sections for which they are responsible at the time of each update.
- The City must make sure to involve staff with sufficient seniority and knowledge to ensure that, collectively, they are in possession of all material information relating to the City, its operations and its finances.

## **TRAINING**

Periodic training for the staff involved in the preparation of the Official Statement (including the City Section) is coordinated by the finance team and the City Manager. These training sessions are provided to assist staff members involved in identifying relevant disclosure information to be included in the City Section. The training sessions also provide an overview of federal laws relating to disclosure, situations in which disclosure rules apply, the purpose of the Official Statement and the City Section, a description of relevant SEC enforcement actions and a discussion of recent developments in the area of municipal disclosure. Attendees at the training sessions are provided the opportunity to ask questions of finance team members, including Bond Counsel and Disclosure Counsel, concerning disclosure obligations and are encouraged to contact members of the finance team at any time if they have questions.



## CONTINUING DISCLOSURE REQUIREMENTS

In connection with the issuance of Obligations, the City has entered into a number of contractual agreements (“Continuing Disclosure Agreements”) to provide annual reports related to its financial condition (including its audited financial statements) as well as notice of certain events relating to the Obligations specified in the Continuing Disclosure Agreements. These Continuing Disclosure Agreements are entered into in order to allow the underwriters of the Obligations sold to the public to comply with SEC Rule 15c2-12. Each new offering of Obligations to the public will require an additional Continuing Disclosure Agreement. The City must comply with the specific requirements of each Continuing Disclosure Agreement.

Additionally, each Official Statement must contain disclosure as to whether, during the previous five years, the City has complied in all material respects with its Continuing Disclosure Agreements. If the City has not complied with its previous undertakings in all material respects within the last five years, then the Official Statement must describe the instances in which the City has not complied. Prior to finalizing a POS, the City staff should take steps to review the status of compliance and discuss with Disclosure Counsel, the underwriter and any underwriter’s counsel what steps it has taken to review the City’s compliance and whether any noncompliance has been noted. This review may be done by reviewing a report from a third party consultant engaged by the City to assist it in complying with its continuing disclosure obligations or a report from the underwriter or a third party engaged by the underwriter. If noncompliance is found, steps should be taken to disclose in the POS the instances of material noncompliance within the last five years and cure the noncompliance before the issuance of the Obligations.

The City’s Continuing Disclosure Agreements generally require that the annual report for a fiscal year be filed by the February 1 following the end of such fiscal year. Event notices are generally required to be filed within 10 business days of their occurrence. Specific events which require event notices are set forth in each Continuing Disclosure Agreement. Particular care shall be paid to the timely filing of any changes in credit ratings on Obligations (including changes resulting from changes in the credit ratings of insurers of particular Obligations) and to timely filing of defeasance notices. Additionally, all Continuing Disclosure Agreements entered into after February 27, 2019 will include two new event notices related to financial obligations of the City in order to comply with amendments to Rule 15c2-12 which took effect on such date. These amendments define “financial obligation” as a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii); however, the term “financial obligation” does not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with Rule 15c2-12. To ensure compliance with these amendments the Finance Director will identify the City’s financial obligations and provide any required event notice related to the City’s financial obligations.

The Finance Director is the official responsible for ensuring compliance by the City with its Continuing Disclosure Agreements, and will assign trained City personnel to oversee the preparation of the annual reports and will determine whether to retain the services of one or more consultants to assist in the preparation of the annual reports and event notices. The Finance Director will either assign trained City personnel to file the annual reports and event notices with the Electronic Municipal Market Access (“EMMA”) system of the Municipal Securities Rulemaking Board ([emma.msrb.org](http://emma.msrb.org)) or will engage the services of one or more dissemination agents to file the annual reports and material event notices required pursuant to the Continuing Disclosure Agreements. Third party dissemination agents shall be contractually obligated to provide written confirmation to the City of the date of filing of the annual reports with EMMA.



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** David Biggs, City Manager

**SUBJECT:** Update on Parking Considerations & Issues

**RECOMMENDED ACTION:** Receive Report, Discuss, and provide Direction, if any.

**FISCAL IMPACT OF RECOMMENDATION:** None as a result of this item. Future actions regarding parking and parking enforcement may have a fiscal impact.

**DISCUSSION:** Parking issues have been on the radar screen here in Hercules with the City Council having invested time in exploring neighborhood parking issues. On June 11, the City Council had a report on parking issues and what had come out of a meeting of the Council's Public Safety & Traffic Committee which was tasked with undertaking some outreach. Since that time, two additional outreach efforts have been undertaken.

The Public Safety & Traffic Committee was tasked with initiating additional outreach with the Victoria by the Bay neighborhood. That has primarily been in the form of consultations with the Homeowners Association Board. In addition the City undertook a survey in the Promenade Neighborhood on parking issues with that survey having "closed" on September 9<sup>th</sup>.

In addition, the 2017/18 Budget included Decision Package 17-15 which funded a 20 hour per week Parking Enforcement Officer. As parking issues in neighborhoods have been explored, some questions have arisen about how parking enforcement is done.

As such, there are three pending parking issues on the horizon:

- Council Member Chris Kelley will provide an update on her outreach as a member of the Council's Public Safety & Traffic Committee to the Victoria by the Bay HOA and next steps there.
- With the Promenade Neighborhood Parking Survey having been completed, the City Council needs to determine next steps and whether survey results should be referred to the Public Safety & Traffic Committee, or if the results should be discussed at the City Council level initially.

- Staff is working on a presentation for the October 22<sup>nd</sup> City Council meeting on the status of parking enforcement, the priorities for the City's part-time Parking Enforcement Officer, and the general outcomes of the program implemented by Decision Package 17-15.

**ATTACHMENTS:**

None

<i>Financial Impact</i>			
<b>Description:</b>			
<b>Funding Source:</b>			
<b>Budget Recap:</b>			
Total Estimated cost:	\$	New Revenue:	\$
Amount Budgeted:	\$	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>			



## **STAFF REPORT TO THE CITY COUNCIL**

**DATE:** Regular Meeting of September 24, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** Lori Martin, Administrative Services Director/City Clerk

**SUBJECT:** Resolutions at League of California Cities Conference

### **RECOMMENDED ACTION:**

Discuss and consider two (2) Resolutions introduced by the League of California Cities and determine a City position so that the voting delegate can represent the City at the Annual Business Meeting.

### **DISCUSSION:**

At the annual conference, the League will consider the following Resolutions:

**Resolution 1** is a Resolution of the League of California Cities Calling on the California Public Utilities Commission to Amend Rule 20A to Add Projects in Very High Fire Hazard Severity Zones to the List of Eligibility Criteria and to Increase Funding Allocations for Rule 20A Projects.

**Resolution 2** is a Resolution Calling upon the Federal and State Governments to Address the Devastating Impacts of International Transboundary Pollution Flows into the Southernmost Regions of California and the Pacific Ocean.

The complete Annual Conference Resolutions Packet is attached which includes information and procedures for resolutions, guidelines for annual conference resolutions, the draft resolutions and letters of concurrence for the resolutions.

### **ATTACHMENTS:**

Attachment 1 – League Resolutions packet



# *Annual Conference Resolutions Packet*

## *2019 Annual Conference Resolutions*



*Long Beach, California  
October 16 – 18, 2019*

## INFORMATION AND PROCEDURES

**RESOLUTIONS CONTAINED IN THIS PACKET:** The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, two resolutions have been introduced for consideration at the Annual Conference and referred to League policy committees.

**POLICY COMMITTEES:** Two policy committees will meet at the Annual Conference to consider and take action on the resolutions referred to them. The committees are: Environmental Quality and Transportation, Communication & Public Works. The committees will meet from 9:00 – 11:00 a.m. on Wednesday, October 16, at the Hyatt Regency Long Beach. The sponsors of the resolutions have been notified of the time and location of the meeting.

**GENERAL RESOLUTIONS COMMITTEE:** This committee will meet at 1:00 p.m. on Thursday, October 17, at the Hyatt Regency Long Beach, to consider the reports of the policy committees regarding the resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president. Please check in at the registration desk for room location.

**ANNUAL LUNCHEON/BUSINESS MEETING/GENERAL ASSEMBLY:** This meeting will be held at 12:30 p.m. on Friday, October 18, at the Long Beach Convention Center.

**PETITIONED RESOLUTIONS:** For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Meeting of the General Assembly. This year, that deadline is 12:30 p.m., Thursday, October 17. Resolutions can be viewed on the League's Web site: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

Any questions concerning the resolutions procedures may be directed to Carly Shelby [cshelby@cacities.org](mailto:cshelby@cacities.org) 916-658-8279 or Nick Romo [nromo@cacities.org](mailto:nromo@cacities.org) 916-658-8232 at the League office.

## **GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS**

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities is through the League's seven standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

### **Guidelines for Annual Conference Resolutions**

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
  - (a) Focus public or media attention on an issue of major importance to cities.
  - (b) Establish a new direction for League policy by establishing general principles around which more detailed policies may be developed by policy committees and the board of directors.
  - (c) Consider important issues not adequately addressed by the policy committees and board of directors.
  - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

## **LOCATION OF MEETINGS**

### **Policy Committee Meetings**

Wednesday, October 16, 9:00 – 11:00 a.m.

Hyatt Regency Long Beach

200 South Pine Avenue, Long Beach

### **The following committees will be meeting:**

1. Environmental Quality 10:00 - 11:00 a.m.
2. Transportation, Communication & Public Works 9:00 - 10:00 a.m.

### **General Resolutions Committee**

Thursday, October 17, 1:00 p.m.

Hyatt Regency Long Beach

200 South Pine Avenue, Long Beach

### **Annual Business Meeting and General Assembly Luncheon**

Friday, October 18, 12:30 p.m.

Long Beach Convention Center

300 East Ocean Boulevard, Long Beach



## KEY TO ACTIONS TAKEN ON RESOLUTIONS

Resolutions have been grouped by policy committees to which they have been assigned.

Number	Key Word Index	Reviewing Body Action		
		1	2	3
		1 - Policy Committee Recommendation to General Resolutions Committee		
		2 – General Resolutions Committee		
		3 - General Assembly		

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### ENVIRONMENTAL QUALITY POLICY COMMITTEE

		1	2	3
1	Amendment to Rule 20A			
2	International Transboundary Pollution Flows			

### TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
1	Amendment to Rule 20A			

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet is posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

## KEY TO ACTIONS TAKEN ON RESOLUTIONS (*Continued*)

Resolutions have been grouped by policy committees to which they have been assigned.

### **KEY TO REVIEWING BODIES**

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

### **KEY TO ACTIONS TAKEN**

- |     |   |
|-----|---|
| A   | Approve   |
| D   | Disapprove  |
| N   | No Action   |
| R   | Refer to appropriate policy committee for study             |
| a   | Amend+  |
| Aa  | Approve as amended+   |
| Aaa | Approve with additional amendment(s)+                       |
| Ra  | Refer as amended to appropriate policy committee for study+ |
| Raa | Additional amendments and refer+                            |
| Da  | Amend (for clarity or brevity) and Disapprove+              |
| Na  | Amend (for clarity or brevity) and take No Action+          |
| W   | Withdrawn by Sponsor  |

### **ACTION FOOTNOTES**

- \* Subject matter covered in another resolution
- \*\* Existing League policy
- \*\*\* Local authority presently exists

### **Procedural Note:**

The League of California Cities resolution process at the Annual Conference is guided by League Bylaws. A helpful explanation of this process can be found on the League's website by clicking on this link: [Guidelines for the Annual Conference Resolutions Process](#).

## League of California Cities Resolution Process

### REGULAR RESOLUTIONS

Policy Committee Action	General Resolutions Committee Action	Calendar
Approve	Approve	Consent Calendar <sup>1</sup>
Approve	Disapprove or Refer	Regular Calendar <sup>2</sup>
Disapprove or Refer	Approve	Regular Calendar
Disapprove or Refer	Disapprove or Refer	Does not proceed to General Assembly

### PETITION RESOLUTIONS

Policy Committee Action	General Resolutions Committee Action	Calendar
Not Heard in Policy Committee	Approve	Consent Calendar
Not Heard in Policy Committee	Disapprove or Refer	Regular Calendar
Not Heard in Policy Committee	Disqualified per Bylaws Art. VI	Does not proceed to General Assembly

### Resolutions

- Submitted 60 days prior to conference *Bylaws Article VI, Sec. 4(a)*
- Signatures of at least 5 supporting cities or city officials submitted with the proposed resolution *Bylaws Article VI, Sec. 2*
- Assigned to policy committee(s) by League president *Bylaws Article VI, Sec. 4(b)(i)*
- Heard in policy committee(s) and report recommendation, if any, to GRC *Bylaws Article VI, Sec. 4(b)(ii)*
- Heard in GRC
  - Approved by policy committee(s) and GRC, goes on to General Assembly on consent calendar *2006 General Assembly Resolution Sec. 2(C)*
  - If amended/approved by all policy committee(s) to which it has been referred and disapproved by GRC, then goes on to General Assembly on the regular calendar. If not all policy committees to which it has been referred recommend amendment or approval, and the GRC disapproves or refers the resolution, the resolution does not move to the General Assembly *2006 General Assembly Resolution Sec. 2(A),(C); 1998 General Assembly Resolution, 1<sup>st</sup> Resolved Clause*
  - If disapproved by all policy committees to which it has been referred and disapproved by the GRC, resolution does not move to the General Assembly *2006 General Assembly Resolution Sec. 2(C)*
- Heard in General Assembly

<sup>1</sup> The consent calendar should only be used for resolutions where there is unanimity between the policy committees and the GRC that a resolution should be approved by the General Assembly, and therefore, it can be concluded that there will be less desire to debate the resolution on the floor.

<sup>2</sup> The regular calendar is for resolutions for which there is a difference in recommendations between the policy committees and the GRC.

### **Petitioned Resolutions**

- Submitted by voting delegate *Bylaws Article VI, Sec. 5 (a)*
- Must be signed by voting delegates representing 10% of the member cities *Bylaws Article VI, Sec. 5 (c)*
- Signatures confirmed by League staff
- Submitted to the League president for confirmation 24 hours before the beginning of the General Assembly. *Bylaws Article VI, Sec. 5 (d)*
- Petition to be reviewed by Parliamentarian for required signatures of voting delegates and for form and substance *Bylaws Article VI, Sec. 5(e)*
- Parliamentarian's report is presented to chair of GRC
- Will be heard at GRC for action (GRC cannot amend but may recommend by a majority vote to the GA technical or clarifying amendments) *2006 General Assembly Resolution sec. 6(A), (B)*
- GRC may disqualify if:
  - Non-germane to city issues
  - Identical or substantially similar in substance to a resolution already under consideration *Bylaws Article VI, Sec. 5(e), (f)*
- Heard in General Assembly
  - General Assembly will consider the resolution following the other resolutions<sup>3</sup> *Bylaws Article VI, Sec. 5(g)*
  - Substantive amendments that change the intent of the petitioned resolution may only be adopted by the GA *2006 General Assembly Resolution sec. 6(C)*

### **Voting Procedure in the General Assembly**

**Consent Calendar:** Resolution approved by Policy Committee(s) and GRC. Petitioned resolution approved by GRC)

- GRC Chair will be asked to give the report from the GRC and will ask for adoption of the GRC's recommendations
- Ask delegates if there is a desire to call out a resolution for discussion
- A voting delegate may make a motion to remove a resolution from the consent calendar for discussion
- If a motion is made to pull a resolution, the General Assembly votes on whether to pull the resolution from the consent calendar.
- If a majority of the General Assembly votes to pull the resolution, set "called out" reso(s) aside. If the motion fails, the resolution remains on the consent calendar.
- If reso(s) not called out, or after 'called out' reso is set aside, then ask for vote on remaining resos left on consent
- Move on to debate on reso(s) called out
- After debate, a vote is taken
- Voting delegates vote on resolutions by raising their voting cards.<sup>4</sup>

<sup>3</sup> Petitioned Resolutions on the Consent Calendar will be placed after all General Resolutions on the Consent Calendar. Petitioned Resolutions on the Regular Calendar will be placed after all General Resolutions on the Regular Calendar.

<sup>4</sup> Amendments to League bylaws require 2/3 vote

**Regular Calendar:** Regular resolutions approved by Policy Committee(s)<sup>5</sup>, and GRC recommends disapproval or referral; Regular resolutions disapproved or referred by Policy Committee(s)<sup>6</sup> and GRC approves; Petitioned resolutions disapproved or referred by the GRC.

- Open the floor to determine if a voting delegate wishes to debate a resolution on the regular calendar.
- If no voting delegate requests a debate on the resolution, a vote to ratify the recommendation of the GRC on the resolution is taken.
- Upon a motion by a voting delegate to debate a resolution, a debate shall be held if approved by a majority vote of the General Assembly. If a majority of the General Assembly to debate the resolution is not achieved, then a vote shall be taken on whether to ratify the GRC's recommendation. If a majority of the General Assembly approves of the motion to debate the resolution, debate will occur. After debate on the resolution, a vote is taken based upon the substitute motion that was made, if any, or on the question of ratifying the GRC's recommendation.
- Voting delegates vote by raising their voting cards.

<sup>5</sup> Applies in the instance where the GRC recommendation of disapproval or refer is counter to the recommendations of the policy committees.

<sup>6</sup> Applies in the instance where the GRC recommendation to approve is counter to the recommendations of the policy committees.

**1. RESOLUTION OF THE LEAGUE OF CALIFORNIA CITIES CALLING ON THE CALIFORNIA PUBLIC UTILITIES COMMISSION TO AMEND RULE 20A TO ADD PROJECTS IN VERY HIGH FIRE HAZARD SEVERITY ZONES TO THE LIST OF ELIGIBILITY CRITERIA AND TO INCREASE FUNDING ALLOCATIONS FOR RULE 20A PROJECTS**

Source: City of Rancho Palos Verdes

Concurrence of five or more cities/city officials

Cities: City of Hidden Hills, City of La Cañada Flintridge, City of Laguna Beach, City of Lakeport, City of Malibu, City of Moorpark, City of Nevada City, City of Palos Verdes Estates, City of Rolling Hills Estates, City of Rolling Hills, City of Ventura

Referred to: Environmental Quality Policy Committee; Transportation, Communications, and Public Works Policy Committee

**WHEREAS**, the California Public Utilities Commission regulates the undergrounding conversion of overhead utilities under Electric Tariff Rule 20 and;

**WHEREAS**, conversion projects deemed to have a public benefit are eligible to be funded by ratepayers under Rule 20A; and

**WHEREAS**, the criteria under Rule 20A largely restricts eligible projects to those along streets with high volumes of public traffic; and

**WHEREAS**, the cost of undergrounding projects that do not meet Rule 20A criteria is left mostly or entirely to property owners under other parts of Rule 20; and

**WHEREAS**, California is experiencing fire seasons of worsening severity; and

**WHEREAS**, undergrounding overhead utilities that can spark brush fires is an important tool in preventing them and offers a public benefit; and

**WHEREAS**, brush fires are not restricted to starting near streets with high volumes of public traffic; and

**WHEREAS**, expanding Rule 20A criteria to include Very High Fire Hazard Severity Zones would facilitate undergrounding projects that would help prevent fires; and

**WHEREAS**, expanding Rule 20A criteria as described above and increasing funding allocations for Rule 20A projects would lead to more undergrounding in Very High Fire Hazard Severity Zones; and now therefore let it be,

**RESOLVED** that the League of California Cities calls on the California Public Utilities Commission to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility and to increase funding allocations for Rule 20A projects.

## **Background Information on Resolution No. 1**

**Source:** City of Rancho Palos Verdes

### **Background:**

Rancho Palos Verdes is the most populated California city to have 90 percent or more of residents living in a Cal Fire-designated Very High Fire Hazard Severity Zone. Over the years, the Palos Verdes Peninsula has seen numerous brush fires that were determined to be caused by electrical utility equipment.

Across the state, some of the most destructive and deadly wildfires were sparked by power equipment. But when it comes to undergrounding overhead utilities, fire safety is not taken into account when considering using ratepayer funds to pay for these projects under California's Electric Tariff Rule 20 program. The program was largely intended to address visual blight when it was implemented in 1967. Under Rule 20A, utilities must allocate ratepayer funds to undergrounding conversion projects chosen by local governments that have a public benefit and meet one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest; and,
- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

As we know, brush fires are not restricted to erupting in these limited areas. California's fire season has worsened in severity in recent years, claiming dozens of lives and destroying tens of thousands of structures in 2018 alone.

Excluding fire safety from Rule 20A eligibility criteria puts the task of undergrounding power lines in Very High Fire Hazard Severity Zones squarely on property owners who are proactive, willing and able to foot the bill.

The proposed resolution calls on the California Public Utilities Commission to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the proposed resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

If adopted, utilities will be incentivized to prioritize undergrounding projects that could potentially save millions of dollars and many lives.

## **League of California Cities Staff Analysis on Resolution No. 1**

Staff: Rony Berdugo, Legislative Representative, Derek Dolfie, Legislative Representative, Caroline Cirrincione, Legislative Policy Analyst  
Committees: Environmental Quality; Transportation, Communications, and Public Works

### **Summary:**

This Resolution, in response to intensifying fire seasons and hazards associated with exposed energized utility lines, proposes that the League of California Cities (League) call upon the California Public Utilities Commission (CPUC) to amend the Rule 20A program by expanding the criteria for undergrounding overhead utilities to include projects in Very High Fire Hazard Severity Zones (VHFHSZ). This Resolution also proposes that the League call upon the CPUC to increase utilities' funding allocations for Rule 20A projects.

### **Background**

#### **California Wildfires and Utilities**

Over the last several years, the increasing severity and frequency of California's wildfires have prompted state and local governments to seek urgent prevention and mitigation actions. Record breaking wildfires in Northern and Southern California in both 2017 and 2018 have caused destruction and loss of life. This severe fire trend has local officials seeking solutions to combat what is now a year-round fire season exacerbated by years of drought, intense weather patterns, untamed vegetation and global warming.

These conditions create a dangerous catalyst for wildfires caused by utilities as extreme wind and weather events make downed power lines more of a risk. In response to recent catastrophic wildfires, Governor Newsom established a Strike Force tasked with developing a "comprehensive roadmap" to address issues related to wildfires, climate change, and utilities. [The Strike Force report](#) acknowledges that measures to harden the electrical grid are critical to wildfire risk management. A key utility hardening strategy: undergrounding lines in extreme high-fire areas.

Governor Newsom's Wildfire Strike Force program report concludes, "It's not a question of "if" wildfire will strike, but "when."

#### **Very High Fire Hazard Severity Zones**

This Resolution seeks to expand the undergrounding of overhead utility lines in VHFHSZ. California [Government Code Section 51178](#) requires the Director of the California Department of Forestry and Fire Protection (CalFIRE) to identify areas in the state as VHFHSZ based on the potential fire hazard in those areas. VHFHSZ are determined based on fuel loading, slope, fire weather, and other relevant factors. These zones are in both local responsibility areas and state responsibility areas. Maps of the statewide and county by county VHFHSZ can be found [here](#).<sup>1</sup>

<sup>1</sup> <https://osfm.fire.ca.gov/divisions/wildfire-prevention-planning-engineering/wildland-hazards-building-codes/fire-hazard-severity-zones-maps/>



More than 25 million acres of California wildlands are classified under very high or extreme fire threat. Approximately 25 percent of the state's population, 11 million people, live in those high-risk areas. Additionally, over 350,000 Californians live in cities that are nearly encompassed within Cal Fire's maps of VHFHSZ. Similar to the proponents of this Resolution, City of Rancho Palos Verdes, over 75 communities have 90 percent or more of residents living in a VHFHSZ.

### **CPUC Rule 20 Program**

The CPUC's Rule 20 program lays out the guidelines and procedures for converting overhead electric and telecommunication facilities to underground electric facilities. Rule 20 funding and criteria is provided at four levels. Levels A, B, and C, reflect progressively diminishing ratepayer funding for undergrounding projects. Recently added Rule 20D is a relatively new program that is specific to San Diego Gas and Electric (SDG&E), which was created in response to the destructive 2007 wildfires. Each of these levels will be discussed below:

### **Rule 20A**

The first California overhead conversion program, Rule 20A, was created in 1967 under then Governor Ronald Reagan. The program was created to provide a consistent and structured means of undergrounding utility lines throughout the state with costs covered broadly by utility ratepayers.

Each year, Investor Owned Utilities (IOUs) propose their Rule 20A allocation amounts to the CPUC during annual general rate case proceedings. In this process, IOUs propose revised utility customer rates based on expected service costs, new energy procurement and projects for the following year, including Rule 20 allocations. The CPUC then reviews, amends, and approves IOU rates. Currently, the cumulative budgeted amount for Rule 20A for Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E) totals around \$95.7 million.

The funding set aside by IOUs for Rule 20A is allocated to local governments through a credit system, with each credit holding a value to be used solely for the costs of an undergrounding project. The credit system was created so that local governments and IOUs can complete undergrounding projects without municipal financing. Through Rule 20A, municipalities that have developed and received city council approval for an undergrounding plan receive annual credits from the IOU in their service area. At the last count by the CPUC, over 500 local governments (cities and counties) participate in the credit system.

While these credits have no inherent monetary value, they can be traded in or banked for the conversion of overhead lines. Municipalities can choose to accumulate their credits until their credit balance is sufficient to cover these conversion projects, or choose to borrow future undergrounding allocations for a period of up to five years. Once the cumulative balance of credits is sufficient to cover the cost of a conversion project, the municipality and the utility can move forward with the undergrounding. All of the planning, design, and construction is performed by the participating utility. Upon the completion of an undergrounding project, the utility is compensated through the local government's Rule 20A credits.

At the outset of the program, the amount of allocated credits were determined by a formula which factored in the number of utility meters within a municipality in comparison to the utilities' service territory. However, in recent years the formula has changed. Credit allocations for IOUs, except for PG&E, are now determined based on the allocation a city or county received in 1990 and is then adjusted for the following factors:

- 50% of the *change from the 1990* total budgeted amount is allocated for the ratio of the number of overhead meters in any city or unincorporated area to the total system overhead meters; and
- 50% of the *change from the 1990* total budgeted amount is allocated for the ratio of the number of meters (which includes older homes that have overhead services, and newer homes with completely underground services) in any city or the unincorporated area to the total system meters.

As noted, PG&E has a different funding formula for their Rule 20A credit allocations as they are not tied to the 1990 base allocation. Prior to 2011, PG&E was allocating approximately five to six percent of its revenue to the Rule 20A program. The CPUC decided in 2011 that PG&E's Rule 20A allocations should be reduced by almost half in an effort to decrease the growing accumulation of credits amongst local governments. Since 2011, PG&E's annual allocations for Rule 20A have been around \$41.3 million annually, which is between two and three percent of their total revenue.

### **Criteria for Rule 20A Projects**

For an undergrounding project to qualify for the Rule 20A program, there are several criteria that need to be met. The project must have a public benefit and:

1. Eliminate an unusually heavy concentration of overhead lines
2. Involve a street or road with a high volume of public traffic
3. Benefit a civic or public recreation area or area of unusual scenic interest,
4. Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines

Notably, fire safety is excluded from the list of criteria that favors aesthetic and other public safety projects.

### **Rule 20A Credit System Imbalance Threatens Program Effectiveness**

Allocations are made by utilities each year for Rule 20A credits. These current budget allocations total \$95.7 million a year. Currently, the cumulative balance of credits throughout the state totals over \$1 billion dollars. The Rule 20A cumulative balances aggregated by region can be found [here](#).<sup>2</sup>

<sup>2</sup> Program Review, California Overhead Conversion Program, Rule 20A for Years 2011-2015, "The Billion Dollar Risk," California Public Utilities Commission.  
[https://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/About\\_Us/Organization/Divisions/Policy\\_and\\_Planning/PPD\\_Work\\_Products\\_\(2014\\_forward\)\(1\)/PPD\\_Rule\\_20-A.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work_Products_(2014_forward)(1)/PPD_Rule_20-A.pdf)

Note: The existing credit allocation formulas do not consider a municipality's need or plans for overhead conversion projects, resulting in large credit balances in some jurisdictions.

Cities and counties are, however, able to trade or sell unallocated Rule 20A credits if they will not be used to fund local undergrounding projects. There have been several cases where one agency has sold their unused credits, often for less than the full dollar value of the credits themselves to another agency.

### **Rule 20B**

Rule 20B projects are those that do not fit the Rule 20A criteria, but do, however, involve both sides of the street for at least 600 feet. These projects are typically done in conjunction with larger developments and are mostly paid for by the developer or applicant. Additionally, the applicant is responsible for the installation.

### **Rule 20C**

Rule 20C projects are usually small projects that involve property owners. The majority of the cost is usually borne by the applicants. Rule 20C applies when the project does not qualify for either Rule 20A or Rule 20B.

### **Rule 20D--Wildfire Mitigation Undergrounding Program**

Rule 20D was approved by the CPUC in January of 2014 and only applies to SDG&E. The Rule 20D program was established largely in response to the destructive wildfires that occurred in San Diego in 2007 as a wildfire mitigation undergrounding program. According to SDG&E, the objective of the Rule 20D undergrounding is exclusively for fire hardening as opposed to aesthetics. The program is limited in scope and is restricted to communities in SDG&E's Fire Threat Zone (now referred to as the [High Fire Threat District or HFTD](#)). As of this time, the program has yet to yield any projects and no projects are currently planned.

For an undergrounding project to qualify for the Rule 20D program, a minimum of three of the following criteria must be met. The project must be near, within, or impactful to:

- Critical electric infrastructure
- Remaining useful life of electric infrastructure
- Exposure to vegetation or tree contact
- Density and proximity of fuel
- Critical surrounding non-electric assets (including structures and sensitive environmental areas)
- Service to public agencies
- Accessibility for firefighters

Similar to Rule 20A, SDG&E must allocate funding each year through their general rate case proceedings to Rule 20D to be approved by the CPUC. This funding is separate from the allocations SDG&E makes for Rule 20A. However, the process of distributing this funding to localities is different. The amount of funding allocated to each city and county for Rule 20D is based on the ratio of the number of miles of overhead lines in SDG&E Fire Threat Zones in a city or county to the total miles of SDG&E overhead lines in the entire SDG&E fire zone. The

Rule 20D program is administered by the utility consistent with the existing reporting, engineering, accounting, and management practices for Rule 20A.

The Committee may want to consider whether Rule 20D should instead be expanded, adapted, or further utilized to support funding for overhead conversions within VHFHSZ throughout the state.

**Fiscal Impact:**

The costs to the State associated with this Resolution will be related to the staff and programmatic costs to the CPUC to take the necessary measures to consider and adopt changes to Rule 20A to include projects in VHFHSZ to the list of criteria for eligibility.

This Resolution calls for an unspecified increase in funding for Rule 20A projects, inferring that portions of increased funds will go towards newly eligible high fire hazard zones. While the Resolution does not request a specific amount be allocated, it can be assumed that these increased costs will be supported by utility ratepayers. According to the CPUC, the annual allocations towards Rule 20A are \$95.7 million.

The CPUC currently reports a cumulative credit surplus valued at roughly \$1 billion that in various regions, given the approval of expanded eligibility called for by this Resolution, could be used to supplement and reduce the level of new dollars needed to make a significant impact in VHFHSZ. The CPUC follows that overhead conversion projects range from \$93,000 per mile for rural construction to \$5 million per mile for urban construction.

The Resolution states that “California is experiencing fire seasons of worsening severity” which is supported by not only the tremendous loss of property and life from recent wildfires, but also in the rising costs associated with clean up, recovery, and other economic losses with high estimates in the hundreds of billions of dollars.

The Committee may wish to consider the costs associated with undergrounding utility lines in relation to the costs associated with past wildfires and wildfires to come.

**Comments:**

***CPUC Currently Exploring Revisions to Rule 20***

In May 2017, the CPUC issued an Order Instituting Rulemaking to Consider Revisions to Electric Rule 20 and Related Matters. The CPUC will primarily focus on revisions to Rule 20A but may make conforming changes to other parts of Rule 20. The League is a party in these proceedings will provide comments.

***Beyond Rule 20A: Additional Options for Funding Undergrounding Projects***

There are various ways in which cities can generate funding for undergrounding projects that fall outside of the scope of Rule 20A. At the local level, cities can choose to forgo the Rule 20A process and opt to use their own General Fund money for undergrounding. Other options are also discussed below:

### ***Rule 20D Expansion***

The City of Berkeley in a 2018 study titled [“Conceptual Study for Undergrounding Utility Wires in Berkeley.”](#) found that the city could possibly qualify for Rule 20D funding if they actively pursued this opportunity in partnership with PG&E and the CPUC.

One of the study’s recommendations is to advocate for release of 20D funds (now earmarked exclusively for SDG&E) to be used for more aggressive fire hardening techniques for above-ground utility poles and equipment, for undergrounding power lines, and for more aggressive utility pole and vegetation management practices in the Very High Hazard Fire Zone within Berkeley’s city limits.

As an alternative to changing the criteria for Rule 20A, the Committee may wish to consider whether there is the opportunity to advocate for the expansion of Rule 20D funding more broadly, expanding its reach to all IOU territories.

### ***Franchise Surcharge Fees***

Aside from Rule 20 allocations, cities can generate funding for undergrounding through franchise fee surcharges. For example, SDG&E currently operates under a 50-year City franchise that was granted in 1970. Under the franchises approved by the San Diego City Council in December 1970, SDG&E agreed to pay a franchise fee to the City equivalent to 3% of its gross receipts from the sales of both natural gas and electricity for 30 years.

These fees were renegotiated in 2000 and in 2001 an agreement was between the City of San Diego, SDG&E, and the CPUC to extend the existing franchise fee to include revenues collected from surcharges. SDG&E requested an increase of 3.88% to its existing electric franchise fee surcharge. The bulk, 3.53% of this increase is to be used for underground conversion of overhead electric wires.

Based on SDG&E's revenue projections, the increase would result in an additional surcharge revenue amount of approximately \$36.5 million per year. SDG&E estimates that this would create a monthly increase of approximately \$3.00 to a typical residential customer's electric bill. These surcharge revenues would pay for additional undergrounding projects including those that do not meet the Rule 20A criteria. The City of Santa Barbara has also adopted a similar franchise surcharge fee.

Having this funding source allows the City of San Diego to underground significantly more miles of above ground utility lines than other municipalities. However, the surcharge is currently being challenged in court, as it is argued that the City had SDG&E impose a tax without a ballot measure.

### ***Utility Bankruptcy and Undergrounding Funding***

In considering this Resolution, it is important to understand that Rule 20A allocations have been more substantial in the past. As mentioned earlier, prior to 2011, PG&E was allocating approximately 5% to 6% of its revenue to the Rule 20A program. Therefore, it is not unreasonable to encourage an increase in Rule 20A allocations as history shows that utilities had the capacity to do so in the past.

However, in a time where IOUs such as PG&E are facing bankruptcy as the result of utility caused wildfires, there is the possibility that expanding rule 20A funding will generate more costs for the ratepayers.

### **Questions to Consider:**

- 1) Is Rule 20A or Rule 20D the more appropriate program to advocate for such an expansion?
- 2) Are there any wildfire risks outside of VHFHSZ that could be mitigated by undergrounding projects?

### **Existing League Policy:**

#### ***Public Safety:***

The League supports additional funding for local agencies to recoup the costs associated with fire safety in the community and timely mutual aid reimbursement for disaster response services in other jurisdictions. (pg. 43)

The League supports the fire service mission of saving lives and protecting property through fire prevention, disaster preparedness, hazardous-materials mitigation, specialized rescue, etc., as well as cities' authority and discretion to provide all emergency services to their communities. (pg. 43)

#### ***Transportation, Communication, and Public Works:***

Existing telecommunications providers and new entrants shall adhere to local city policies on public utility undergrounding. (pg. 54)

The League supports protecting the additional funding for local transportation and other critical unmet infrastructure needs. (pg. 51)

The League supports innovative strategies including public private partnerships at the state and local levels to enhance public works funding. (pg. 52)

#### ***Environmental Quality***

The League opposes any legislation that interferes with local utility rate setting authority and opposes any legislation that restricts the ability of a city to transfer revenue from a utility (or other enterprise activity) to the city's general fund. (pg. 9)

Cities should continue to have the authority to issue franchises and any program should be at least revenue neutral relative to revenue currently received from franchises. (pg. 9)

The League is concerned about the impacts of escalating energy prices on low income residents and small businesses. The League supports energy pricing structures and other mechanisms to soften the impacts on this segment of our community. (pg. 10)

### ***2019 Strategic Goals***

Improve Disaster Preparedness, Recovery and Climate Resiliency.

- Provide resources to cities and expand partnerships to better prepare for and recover from wildfires, seismic events, erosion, mudslides and other disasters.
- Improve community preparedness and resiliency to respond to climate-related, natural and man-made disasters.

### **Support:**

The following letters of concurrence were received:

The City of Hidden Hills

The City of La Cañada Flintridge

The City of Laguna Beach

The City of Lakeport

The City of Malibu

The City of Moorpark

The City of Nevada City

The City of Palos Verdes Estates

The City of Rolling Hills Estates

The City of Rolling Hills

The City of Ventura

# **LETTERS OF CONCURRENCE**

Resolution No. 1

Amendment to Rule 20A





## City of Hidden Hills

6165 Spring Valley Road \* Hidden Hills, California 91302  
(818) 888-9281 \* Fax (818) 719-0083

August 14, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, California 95814

Dear President Arbuckle:

The City of Hidden Hills supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Larry G. Weber  
Mayor



City Council  
Leonard Pieroni, Mayor  
Gregory C. Brown, Mayor Pro Tem  
Jonathan C. Curtis  
Michael T. Davitt  
Terry M. Walker

August 14, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of La Cañada Flintridge supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The City of La Cañada Flintridge is one of the few Southern California cities in which 100% of the community within a Very High Fire Hazard Severity Zone. The City, in 1987, committed 100% of its 20A allocation for forty-five years from this year for a major downtown undergrounding project. Therefore, the only way our City can directly benefit from this Resolution is if there is an additional annual increased allocation for this purpose. Due to the extreme threat the City experienced at the time of the Station Fire, the City is keenly aware of the damage a fire may potentially cause, whether from utility issues or from natural causes. The City strongly supports any effort, including this Resolution, to reduce fire danger for the City's residents.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly with the City of La Cañada Flintridge in support.

Sincerely,

Leonard Pieroni  
Mayor





July 25, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Laguna Beach supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. Ten to the Top 20 most destructive fires in California were caused by electrical sources. The California's Rule 20A program, which allows local governments to pay for undergrounding of utilities costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it. We also believe that this program should redirect unused Rule 20A allocations from cities who have no undergrounding projects planned to the cities in Very High Fire Hazard Severity zones.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects. The City of Laguna Beach recommends that the resolution also be amended to call on the CPUC to redirect unused Rule 20A allocations from cities who have no undergrounding projects planned to the cities in Very High Fire Hazard Severity zones.

Nearly 90% of the City of Laguna Beach land area is designated under State Law and local ordinance as Very High Fire Hazard Severity Zone. While the City has used Rule 20A and 20B funding in the past to underground more than half of its overhead utilities, sufficient funding is not available to underground the remaining parts of the City.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

July 25, 2019  
Page 2

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bob Whalen", with a stylized, cursive script.

Bob Whalen  
Mayor

## CITY OF LAKEPORT

*Over 125 years of community  
pride, progress and service*



August 7, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Lakeport supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Tim Barnes  
Mayor  
City of Lakeport

A handwritten signature in blue ink, appearing to read "Tim Barnes", is written over a faint, larger signature that appears to read "Jan Arbuckle".



# City of Malibu

Jefferson Wagner, Mayor

23825 Stuart Ranch Road · Malibu, California · 90265-4861  
Phone (310) 456-2489 · Fax (310) 456-3356 · [www.malibucity.org](http://www.malibucity.org)

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

RE: City of Rancho Palos Verdes Proposed Resolution to Amend California Public Utilities Commission Rule 20A – SUPPORT

Dear Ms. Arbuckle:

At its Regular meeting on August 12, 2019, the Malibu City Council unanimously voted to support the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state, but California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, as well as willing and able to foot the bill. The City of Malibu agrees with Rancho Palos Verdes that Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission (CPUC) should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects. As a recent series of news stories on wildfire preparedness in California pointed out, there are more than 75 communities across the state with populations over 1,000, including Rancho Palos Verdes and Malibu, where at least 90 percent of residents live in a Cal Fire-designated Very High Fire Hazard Severity Zone.

It is well-known that electric utility equipment is a common fire source, and has sparked some of the most destructive blazes in our state's history. Moving power lines underground is, therefore, a critical tool in preventing them. Currently, Rule 20A primarily addresses visual blight, but with fire seasons worsening, it is key that fire safety also be considered when local governments pursue Rule 20A projects, and that annual funding allocations for the program be expanded.

It is worth noting that the State does have a program, Rule 20D, that factors in fire safety for funding undergrounding projects. However, this is limited to San Diego Gas & Electric Company projects in certain areas only. This needs to be expanded to include projects in all projects within designated Very High Fire Hazard Severity Zones.

*Rancho PV League Resolution*  
*Amend Rule 20A*  
*August 15, 2019*  
*Page 2 of 2*

The proposed resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, the City of Malibu strongly concurs that the resolution should go before the General Assembly.

Sincerely,



Jefferson Wagner  
Mayor

Cc: Honorable Members of the Malibu City Council  
Reva Feldman, City Manager  
Megan Barnes, City of Rancho Palos Verdes, [mbarnes@rpvca.gov](mailto:mbarnes@rpvca.gov)





# CITY OF MOORPARK

799 Moorpark Avenue, Moorpark, California 93021  
Main City Phone Number (805) 517-6200 | Fax (805) 532-2205 | moorpark@moorparkca.gov

July 24, 2019

**SUBMITTED ELECTRONICALLY**

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

RE: SUPPORT FOR RANCHO PALOS VERDES RESOLUTION RE: POWER LINE UNDERGROUNDING

Dear President Arbuckle:

The City of Moorpark supports the City of Rancho Palos Verdes effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

All cities in Ventura County, including Moorpark, have wildfire prevention fresh in our memories following the highly destructive 2017-2018 Thomas Fire, which was caused by above-ground power lines. The 2018 Woolsey Fire similarly affected Ventura County, and lawsuits have been filed alleging it was also caused by above-ground power lines. Each of these fires caused billions of dollars in damages and highlight the importance of undergrounding power lines.



The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

A handwritten signature in blue ink that reads "Janice Parvin". The signature is fluid and cursive, with the first name "Janice" and last name "Parvin" clearly distinguishable.

Janice Parvin  
Mayor

cc: City Council  
City Manager



Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Nevada City supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission (CPUC) should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The City of Nevada City would also like to add that the local agency be given the power to use private firms to do design, inspect and construct Rule 20A projects in local jurisdiction rather than be required to use the designated local utility. In addition, the City of Nevada City wants the CPUC to allow local jurisdictions to transfer excess funds between agencies to better serve projects in high fire hazard severity zones.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Reinette Senum  
Mayor  
City of Nevada City



CITY OF  
*Palos Verdes Estates*

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July 25, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Palos Verdes Estates supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's current Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Mayor Kenneth J. Kao  
City of Palos Verdes Estates

cc: PVE City Council  
PVE Interim City Manager Petru  
RPV City Manager Willmore





**City of  
Rolling Hills Estates**

**Judith Mitchell**  
*Mayor*

**Velveth Schmitz**  
*Mayor Pro Tem*

**Britt Huff**  
*Council Member*

**Frank V. Zerunyan**  
*Council Member*

**Steven Zuckerman**  
*Council Member*

August 14, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Rolling Hills Estates supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

  
Judith Mitchell  
Mayor



# City of Rolling Hills

INCORPORATED JANUARY 24, 1957

NO. 2 PORTUGUESE BEND ROAD  
ROLLING HILLS, CALIF. 90274  
(310) 377-1521  
FAX: (310) 377-7288

August 14, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear Board of Directors:

The City of Rolling Hills supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,

Leah Mirsch  
Mayor

July 29, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St., Ste. 400  
Sacramento, CA 95814

Dear President Arbuckle:

The City of Ventura supports the City of Rancho Palos Verdes' effort to bring a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.


Undergrounding power lines is an important tool in preventing destructive wildfires that have devastated communities across our state. But California's Rule 20A program, which allows local governments to pay for these costly projects with ratepayer funds, does not factor in fire safety for eligibility. Unless projects meet the program's limited eligibility criteria, they are left to be funded by property owners who are proactive, willing and able to foot the bill. We believe Rule 20A offers an important opportunity for fire prevention and that the California Public Utilities Commission should expand this program so more communities can utilize it.

The resolution calls on the CPUC to amend Rule 20A to include projects in Very High Fire Hazard Severity Zones to the list of criteria for eligibility. To facilitate more undergrounding projects in these high-risk zones, the resolution also calls on the CPUC to increase funding allocations for Rule 20A projects.

The resolution is also in line with one of the League's 2019 Strategic Goals of improving disaster preparedness, recovery and climate resiliency.

For these reasons, we concur that the resolution should go before the General Assembly.

Sincerely,



Alex D. McIntyre  
City Manager

## **2. A RESOLUTION CALLING UPON THE FEDERAL AND STATE GOVERNMENTS TO ADDRESS THE DEVASTATING IMPACTS OF INTERNATIONAL TRANSBOUNDARY POLLUTION FLOWS INTO THE SOUTHERNMOST REGIONS OF CALIFORNIA AND THE PACIFIC OCEAN**

Source: San Diego County Division

Concurrence of five or more cities/city officials

Cities: Calexico; Coronado; Imperial Beach; San Diego

Individual City Officials: City of Brawley: Mayor Pro Tem Norma Kastner-Jauregui; Council Members Sam Couchman, Luke Hamby, and George Nava. City of Escondido: Deputy Mayor Consuelo Martinez. City of La Mesa: Council Member Bill Baber. City of Santee: Mayor John Minto, City of Vista: Mayor Judy Ritter and Council Member Amanda Young Rigby

Referred to: Environmental Quality Policy Committee

**WHEREAS**, international transboundary rivers that carry water across the border from Mexico into Southern California are a major source of sewage, trash, chemicals, heavy metals and toxins; and

**WHEREAS**, transboundary flows threaten the health of residents in the United States and Mexico, harm important estuarine land and water of international significance, force closure of beaches, damage farmland, adversely impact the South San Diego County and Imperial County economy; compromise border security, and directly affect U.S. military readiness; and

**WHEREAS**, a significant amount of untreated sewage, sediment, hazardous chemicals and trash have been entering southern California through both the Tijuana River Watershed (75 percent of which is within Mexico) and New River flowing into southern California's coastal waterways and residential and agricultural communities in Imperial County eventually draining into the Salton Sea since the 1930s; and

**WHEREAS**, in February 2017, an estimated 143 million gallons of raw sewage flowed into the Tijuana River and ran downstream into the Pacific Ocean and similar cross border flows have caused beach closures at Border Field State Park that include 211 days in 2015; 162 days in 2016; 168 days in 2017; 101 days in 2018; and 187 days to date for 2019 as well as closure of a number of other beaches along the Pacific coastline each of those years; and

**WHEREAS**, approximately 132 million gallons of raw sewage has discharged into the New River flowing into California through communities in Imperial County, with 122 million gallons of it discharged in a 6-day period in early 2017; and

**WHEREAS**, the presence of pollution on state and federal public lands is creating unsafe conditions for visitors; these lands are taxpayer supported and intended to be managed for recreation, resource conservation and the enjoyment by the public, and

**WHEREAS**, the current insufficient and degrading infrastructure in the border zone poses a significant risk to the public health and safety of residents and the environment on both

sides of the border, and places the economic stress on cities that are struggling to mitigate the negative impacts of pollution; and

**WHEREAS**, the 1944 treaty between the United States and Mexico regarding *Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande* allocates flows on trans-border rivers between Mexico and the United States, and provides that the nations, through their respective sections of the International Boundary Water Commission shall give control of sanitation in cross border flows the highest priority; and

**WHEREAS**, in 1993, the United States and Mexico entered into the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a North American Development Bank* which created the North American Development Bank (NADB) to certify and fund environmental infrastructure projects in border-area communities; and

**WHEREAS**, public concerns in response to widespread threats to public health and safety, damage to fish and wildlife resources and degradation to California's environment resulting from transboundary river flow pollution in the southernmost regions of the state requires urgent action by the Federal and State governments, and

**WHEREAS**, Congress authorized funding under the U.S. Environmental Protection Agency's (EPA) Safe Drinking Water Act and established the State and Tribal Assistance Grants (STAG) program for the U.S.-Mexico Border Water Infrastructure Program (BWIP) in 1996 to provide grants for high-priority water, wastewater, and storm-water infrastructure projects within 100 kilometers of the southern border; and

**WHEREAS**, the EPA administers the STAG and BWIP programs, and coordinates with the North American Development Bank (NADB) to allocate BWIP grant funds to projects in the border zone; and

**WHEREAS**, since its inception, the BWIP program has provided funding for projects in California, Arizona, New Mexico and Texas that would not have been constructed without the grant program; and

**WHEREAS**, the BWIP program was initially funded at \$100 million per year, but, over the last 20 years, has been continuously reduced to its current level of \$10 million; and

**WHEREAS**, in its FY 2020 Budget Request, the Administration proposed to eliminate the BWIP program; and

**WHEREAS**, officials from EPA Region 9, covering California, have identified a multitude of BWIP-eligible projects along the southern border totaling over \$300 million; and

**WHEREAS**, without federal partnership through the BWIP program and state support to address pollution, cities that are impacted by transboundary sewage and toxic waste flows are



left with limited resources to address a critical pollution and public health issue and limited legal remedies to address the problem; and

**WHEREAS**, the National Association of Counties, (NACo) at their Annual Conference on July 15, 2019 and the U.S. Conference of Mayors at their Annual Conference on in July 1, 2019 both enacted resolutions calling on the federal and state governments to work together to fund and address this environmental crisis; and

**WHEREAS**, local governments and the public support the State's primary objectives in complying with environmental laws including the Clean Water Act, Porter-Cologne Water Quality Control Act, and Endangered Species Act and are supported by substantial public investments at all levels of government to maintain a healthy and sustainable environment for future residents of California, and

**WHEREAS**, League of California Cities policy has long supported efforts to ensure water quality and oppose contamination of water resources; and

**NOW, THEREFORE, BE IT RESOLVED** at the League General Assembly, assembled at the League Annual Conference on October 18, 2019 in Long Beach, that the League calls upon the Federal and State governments to restore and ensure proper funding to the U.S- Mexico Border Water Infrastructure Program (BWIP) and recommit to working bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

## **Background Information on Resolution No. 2**

Source: San Diego County Division

### **Background:**

Along California's southern border with Mexico, the New River in Imperial County and the Tijuana River in San Diego County are a major sources of raw sewage, trash, chemicals, heavy metals, and toxins that pollute local communities. Sewage contaminated flows in the Tijuana River have resulted in significant impacts to beach recreation that includes the closure of Border Field State Beach for more than 800 days over the last 5-years. Similarly, contaminated flows in the New River presents comparable hazards, impacts farm land, and contributes to the ongoing crisis in the Salton Sea. These transboundary flows threaten the health of residents in California and Mexico, harms the ecosystem, force closures at beaches, damage farm land, makes people sick, and adversely affects the economy of border communities. The root cause of this cross border pollution is from insufficient or failing water and wastewater infrastructure in the border zone and inadequate federal action to address the problem through existing border programs.

The severity of cross border pollution has continued to increase, due in part to the rapid growth of urban centers since the passage of the North American Free Trade Agreement (NAFTA). While economic growth has contributed to greater employment, the environmental infrastructure of the region has not kept pace, which is why Congress authorized the Border Water Infrastructure Program (BWIP) in 1996. The U.S. Environmental Protection Agency (EPA) administers the BWIP and coordinates with the North American Development Bank (NADB) to provide financing and technical support for projects on both sides of the U.S./Mexico border. Unfortunately, the current BWIP funding at \$10 million per year is only a fraction of the initial program budget that shares funding with the entire 2,000 mile Mexican border with California, Arizona, New Mexico and Texas. EPA officials from Region 9 have identified an immediate need for BWIP projects totaling over \$300 million just for California. Without federal partnerships through the BWIP and state support to address cross border pollution, cities that are impacted by transboundary sewage and toxic waste flows are left with limited resources to address a critical pollution and public health issue.

The International Boundary and Water Commission (IBWC) is another important federal stakeholder that, under the Treaty of 1944 with Mexico, must address border sanitation problems. While IBWC currently captures and treats some of the pollution generated in Mexico, it also redirects cross border flows without treatment directly into California.

Improving environmental and public health conditions for communities along the border is essential for maintaining strong border economy with Mexico. The IBWC, EPA, and NADB are the important federal partners with existing bi-national programs that are able to immediately implement solutions on cross border pollution. California is in a unique position to take the lead and work with local and federal partners to implement real solutions that will addresses the long standing and escalating water quality crisis along the border.

For those reasons, the cities of Imperial Beach and Coronado requested the San Diego County Division to propose a resolution at the 2019 League Annual Conference calling upon the federal

and state governments to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California, San Diego and Imperial Counties and the Pacific Ocean.

On August 12, 2019 at the regularly scheduled meeting of the San Diego County Division, the membership unanimously endorsed submittal of the resolution, with close to 75% membership present and voting.

The Imperial County Division does not have a scheduled meeting until after the deadline to submit proposed resolutions. However, the City of Calexico, which is most directly impacted by initial pollution flow of the New River from Mexicali, sent a letter in concurrence of this resolution as well as numerous city official from cities within Imperial County and the Imperial County Board of Supervisors. The League Imperial County Division will place a vote to support this resolution on the agenda of their September 26, 2019 meeting.

## **League of California Cities Staff Analysis on Resolution No. 2**

Staff: Derek Dolfie, Legislative Representative  
Carly Shelby, Legislative and Policy Development Assistant  
Committees: Environmental Quality

### **Summary:**

This Resolution states that the League of California Cities should call upon the State and Federal governments to restore and ensure proper funding for the U.S. – Mexico Border Water Infrastructure Program (BWIP) and work bi-nationally to address water quality issues resulting from transboundary flows from Mexico’s Tijuana River into the United States containing untreated sewage, polluted sediment, and trash.

### **Background:**

The League of California Cities’ San Diego County Division is sponsoring this resolution to address their concerns over the contaminated flows from the Tijuana River into California that have resulted in the degradation of water quality and water recreational areas in Southern California.

The Tijuana River flows north through highly urbanized areas in Mexico before it enters the Tijuana River Estuary and eventually the Pacific Ocean via waterways in San Diego County in California. Urban growth in Tijuana has contributed to a rise in rates of upstream flows from water treatment facilities in Mexico. These treatment facilities have raised the amount of untreated sewage and waste in the Tijuana River due to faulty infrastructure and improper maintenance. The federal government refers to the river as an “impaired water body” because of the presence of pollutants in excess, which pose significant health risks to residents and visitors in communities on both sides of the border.

### ***Federal Efforts to Address Pollution Crisis***

To remedy the Tijuana River’s low water quality, the United States and Mexico entered into a Treaty in 1944 entitled: *Utilization of Waters of the Colorado River and Tijuana Rivers and of the Rio Grande – the International Boundary and Water Commission (IBWC)*. The IBWC was designed to consist of a United States section and a Mexico section. Both sections were tasked with negotiating and implementing resolutions to address water pollution in the area, which includes overseeing the development of water treatment and diversion infrastructure.

After the formation of the IBWC, the U.S. and Mexico entered into a treaty in 1993 entitled: *Agreement Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank*. This agreement established the North American Development Bank (NADB), which certifies and funds infrastructure projects located within 100 kilometers (62 miles) of the border line. The NADB supports federal programs like the Border Water Infrastructure Program (BWIP), which was initially funded at \$100 million, annually.

The degradation of existing water treatment infrastructure along the border coincides with the federal government’s defunding of the BWIP, which has steadily decreased from \$100 million in 1996 to \$10 million today. The Federal FY 2020 Budget proposes eliminating BWIP funding

altogether. EPA's regions 6 and 9 (includes U.S. states that border Mexico) have identified a number of eligible projects that address public health and environmental conditions along the border totaling \$340 million.

The NADB has funded the development of water infrastructure in both the U.S. and Mexico. Water diversion and treatment infrastructure along the U.S – Mexico border includes, but is not limited to, the following facilities:

- *The South Bay International Wastewater Treatment Plant (SBIWTP)*. This facility was constructed by the U.S. in 1990 and is located on the California side of the border and is operated under the jurisdiction of the IBWC. The SBIWTP serves as a diversion and treatment sewage plant to address the flow of untreated sewage from Mexico into the United States.
- *Pump Station CILA*. CILA was constructed by Mexico in 1991 and is located along the border in Mexico. This facility serves as the SBIWTP's Mexican counterpart.

Both the SBIWTP and CILA facilities have had a multitude of overflows containing untreated sewage and toxic waste that spills into the Tijuana River. The cause of overflows can be attributed to flows exceeding the maximum capacity that the infrastructure can accommodate (this is exacerbated during wet and rainy seasons) and failure to properly operate and maintain the facilities. Much of the existing infrastructure has not had updates or repairs for decades, causing overflows to become more frequent and severe. The most notable overflow occurred in February 2017, wherein 143 million gallons of polluting waste discharged into the Tijuana River; affecting the Tijuana Estuary, the Pacific Ocean, and Southern California's waterways.

### ***State Actions***

In response to the February 2017 overflow, the San Diego Water Board's Executive Officer sent a letter to the U.S. and Mexican IBWC Commissioners which included recommendations on how to improve existing infrastructure and communications methods between both nations.

In September of 2018, California Attorney General Xavier Becerra submitted a lawsuit against IBWC for Violating the Clean Water Act by allowing flows containing sewage and toxic waste to flow into California's waterways, posing a public health and ecological crisis. The cities of Imperial Beach, San Diego, Chula Vista, the Port of San Diego, and the San Diego Regional Water Quality Board have also filed suit against the IBWC. The suit is awaiting its first settlement conference on October 19, 2019. If parties are unable to reach a settlement, the case will go to trial.

### **Fiscal Impact:**

California's economy is currently the sixth largest in the world, with tourism spending topping \$140.6 billion in 2018. In the past five years, San Diego's Border Field State Park has been closed for over 800 days because of pollution from the Tijuana River. A decline in the State's beach quality and reputation could carry macroeconomic effects that could ripple outside of the San Diego County region and affect coastal communities throughout California.

### **Existing League Policy**

The League of California Cities has extensive language on water in its Summary of Existing Policy and Guiding Principles. Fundamentally, the League recognizes that beneficial water quality is essential to the health and welfare of California and all of its citizens. Additionally, the League advocates for local, state and federal governments to work cooperatively to ensure that water quality is maintained.

The following policy relates to the issue of water quality:

- Surface and groundwater should be protected from contamination.
- Requirements for wastewater discharge into surface water and groundwater to safeguard public health and protect beneficial uses should be supported.
- When addressing contamination in a water body, water boards should place priority emphasis on clean-up strategies targeting sources of pollution, rather than in stream or end-of-pipe treatment.
- Water development projects must be economically, environmentally and scientifically sound.
- The viability of rivers and streams for instream uses such as fishery habitat, recreation and aesthetics must be protected.
- Protection, maintenance, and restoration of fish and wildlife habitat and resources.

Click here to view the [Summary of Existing Policy and Guiding Principles 2018](#).

### **Comments:**

1. Water quality issues are prevalent across California and have been a constant priority of the State's legislature and residents. In 2014, California's voters approved Proposition 1, which authorized \$7.5 billion in general obligation bonds to fund water quality improvement projects. In 2019, the Legislature reached an agreement to allocate \$130 million from the State's Greenhouse Gas Reduction Fund (GGRF) to address failing water infrastructure and bad water qualities for over one million of California's residents in rural communities. Water quality is not an issue unique to the County of San Diego and communities along the border.
2. Tijuana River cross-border pollution has caught national attention. Members of Congress have proposed recent funding solutions to address the pollution crisis, including:
  - In February of 2019, California Congressional Representatives Vargas, Peters, and Davis helped secure \$15 million for the EPA to use as part of its BWIP.
  - *H.R. 3895 (Vargas, Peters, 2019), The North American Development Bank Pollution Solution Act*. This bill seeks to support pollution mitigation efforts along the border by increasing the NADB's capital by \$1.5 billion.
  - *H.R. 4039 (Levin, 2019), The Border Water Infrastructure Improvement Act*. This bill proposes increasing funding to the BWIP from the existing \$10 million to \$150 million as a continuous appropriation until 2025.Additionally, the National Association of Counties (NACo) and the U.S. Conference of Mayors enacted resolutions in support of increased funding for U.S. – Mexico border water infrastructure to address the environmental crisis in 2019.

3. The border pollution problem has sparked action from local, state, and federal actors. Should this resolution be adopted, League membership should be aware that future action will be adapted by what is explicitly stated in the resolution's language. In current form, the resolution's resolve clause cites the BWIP as the only program that should receive reinstated and proper funding. League staff recommends the language be modified to state:

**“NOW, THEREFORE, BE IT RESOLVED** at the League General Assembly, assembled at the League Annual Conference on October 18, 2019 in Long Beach, that the League calls upon the Federal and State governments to restore and ensure proper funding for environmental infrastructure on the U.S. – Mexico Border, including to the U.S.–Mexico Border Water Infrastructure Program (BWIP), and recommit to working bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.”

Modifying the language would ensure enough flexibility for the League to support funding mechanisms outside of the prescribed federally-operated BWIP.

4. It remains unclear if there is an appetite in Washington to fund border-related infrastructure projects that address environmental quality. Given the high probability of another overflow containing waste and sewage from the existing infrastructure operated by the IBWC, League membership should consider the outcome if no resolution is reached to address the issue.

**Support:**

The following letters of concurrence were received:

**Cities:**

The City of Calexico

The City of Coronado

The City of Imperial Beach

The City of San Diego

**In their individual capacity:**

Amanda Young Rigby, City of Vista Council Member

Bill Baber, City of La Mesa Council Member

Consuelo Martinez, City of Escondido Deputy Mayor

George A. Nava, City of Brawley Council Member

John Minto, City of Santee Mayor

Judy Ritter, City of Vista Mayor

Luke Hamby, City of Brawley Council Member

Norma Kastner-Jauregui, City of Brawley Mayor Pro-Tempore

Sam Couchman, City of Brawley Council Member

# **LETTERS OF CONCURRENCE**

Resolution No. 2

International Transboundary  
Pollution Flows





# CITY OF CALEXICO

608 Heber Ave.  
Calexico, CA 92231-2840  
Tel: 760.768.2110  
Fax: 760.768.2103  
[www.calexico.ca.gov](http://www.calexico.ca.gov)

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts Of International Transboundary River  
Pollution Flow Resolution**

President Arbuckle:

The city of Calexico strongly supports the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

Local government and the public support the State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue.

*Viva Calexico!*

If you have any questions or require additional information, please do not hesitate to contact me at 760/768-2110.

Sincerely,

***CITY OF CALEXICO***

A handwritten signature in blue ink that reads "David Dale". The signature is written in a cursive, flowing style.

David Dale  
City Manager

Cc: Honorable Mayor Bill Hodge

*Viva Callexico!*



## CITY OF CORONADO

1825 STRAND WAY  
CORONADO, CA 92118

OFFICE OF THE CITY MANAGER  
(619) 522-7335  
FAX (619) 522-7846

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts of International Transboundary River Pollution Flows Resolution**

This letter is written on behalf of and with the support of the Coronado City Council. The City of Coronado wholeheartedly supports the resolution adopted by the San Diego County and Imperial County Division of the California League of Cities.

The San Diego County Division's resolution calls upon the federal and state governments to restore and ensure proper funding of the U.S.-Mexico Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

The City has been working closely with the Environmental Protection Agency and other federal partners on the matter since early 2018. City leaders are committed to finding long-term, sustainable solutions to this problem. Through its advocacy and education efforts, the City of Coronado has raised national awareness of the problem among legislators, political appointees and career staff at federal agencies. These efforts have been successful. However, the City along with our coalition partners, look forward to more action to swiftly resolve this issue.

Local government and the public support the state's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, Coronado values the policy development process provided to the General Assembly. We appreciate your time on this issue. Please feel free to contact me if you have any questions.

Sincerely,



Blair King  
Coronado City Manager

cc: Coronado Mayor and City Council  
Bill Baber, President, San Diego County Division  
c/o Catherine Hill, Regional Public Affairs Manager, San Diego County Division [chill@cacities.org](mailto:chill@cacities.org)



# City of Imperial Beach, California

OFFICE OF THE CITY MANAGER

825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8303 Fax: (619) 628-1395

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K St. Suite 400  
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts Of International Transboundary River  
Pollution Flow Resolution

President Arbuckle:

The city of Imperial Beach appreciates and supports the San Diego County Division's effort to submit a resolution for consideration by the full membership of the League of California Cities.

The Division's resolution calls on Federal and State government to address the impacts of transboundary pollution flows into the Southwestern regions of California. The pollution in these areas is an environmental disaster that threatens the health and general welfare of residents near the Mexican border in Imperial and San Diego Counties.

I encourage all voting delegates and elected officials in attendance at the 2019 Annual League of California Cities Conference in Long Beach to support this important resolution as it addresses the critical need for the federal and state government to recommit to work bi-nationally to address the serious contamination issues and to develop and implement long-term solutions.

I am available for any questions or additional information related to this letter of support.

Sincerely,

Andy Hall  
City Manager

Cc: Honorable Mayor Serge Dedina  
Honorable Mayor Pro Tem Robert Patton  
Honorable Councilmember Paloma Aguirre  
Honorable Councilmember Ed Spriggs  
Honorable Councilmember Mark West



# City of Imperial Beach, California

OFFICE OF THE MAYOR

825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8303 Fax: (619) 628-1395

August 16, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

RE: Environmental and Water Quality Impacts Of International Transboundary River Pollution Flow Resolution

President Arbuckle:

The city of Imperial Beach strongly supports the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

Local government and the public support the State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. This resolution addresses the critical need for the federal and state governments to recommit to work bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental and safety concerns in communities along California's southern border impacting the state.

As members of the League, our city values the policy development process provided to the General Assembly. We appreciate your time on this issue. If you have any questions or require additional information, please do not hesitate to contact me at 619-423-8303.

Sincerely,

Serge Dedina  
Mayor



THE CITY OF SAN DIEGO

**KEVIN L. FAULCONER**

Mayor

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts of International Transboundary River  
Pollution Flow Resolution**

President Arbuckle:

The City of San Diego supports the San Diego County Division in their effort to submit a resolution to the General Assembly at the League of California Cities' 2019 Annual Conference in Long Beach.

To suppress the flow of pollution between the Mexico and Southern California's water channels, the Division requests for the Federal and State governments to give proper funding to the Border Water Infrastructure Program (BWIP).

The City of San Diego and its citizens have expressed their concerns about untreated sewage, polluted sediment and trash flowing from Mexico, into California, causing health, environmental and safety concerns. The State's water and environmental quality objectives and League policy has long supported efforts to ensure water quality and oppose contamination of water resources. With the Division's resolution, the great need for federal and state governments to reconsider working together, will help in developing a long-term solution to address serious water quality and contamination issues.

As members of the League, our City values the policy development process provided to the General Assembly. We appreciate your time on this issue.

Please contact me at (619)453-9946 if you have any questions.

Sincerely,

Denice Garcia  
Director of International Affairs

Cc: Honorable Mayor Kevin L. Faulconer







## AMANDA YOUNG RIGBY

CITY COUNCILWOMAN

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Re: Border Sewage Issues

Dear President Arbuckle;

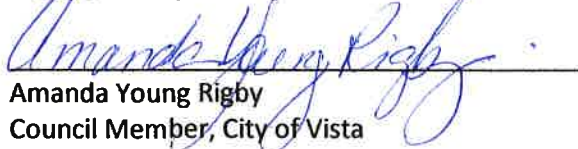
As a Council Member in the City of Vista, and solely in my individual capacity as such, I write in **support** of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the constant sewage pollution issues at the international border with Mexico.

This Resolution requests that the federal and state governments recognize the paramount importance of this issue and address the devastating impacts that this constant contamination has on the southernmost regions of California and the Pacific coastline by requesting the necessary funding to develop and implement effective and long term solutions to the raw sewage contamination coming into San Diego and Imperial Counties from Mexico.

Although I have lived in Vista for 27 years now, I grew up in Imperial Beach and know well the severe health and environmental impact that this situation has had on our border communities for the **decades**.

As a member of the League, I value the League's ability to effectively advocate on behalf of not only our cities but in effect, our citizens, and this is an important issue for our entire state. Should you have any questions or comments, please contact me at the number below. Thank you for your consideration.

Most Sincerely,

  
Amanda Young Rigby  
Council Member, City of Vista

cc: Vista City Council  
Vista City Manager  
Vista City Attorney  
City of Imperial Beach  
City of Coronado  
City of Calexico  
City of San Diego



**CITY OF  
LA MESA**  
JEWEL of the HILLS

August 16, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

**RE: Environmental and Water Quality Impacts Of International Transboundary River Pollution Flows Resolution**

President Arbuckle:

As a Council Member for the City of La Mesa and in my individual capacity, not on behalf of the full La Mesa City Council as a body or the City, I am writing you in support of the San Diego County Division's effort to submit a resolution for consideration by the General Assembly at the League's 2019 Annual Conference in Long Beach.

The Division's resolution calls upon the Federal and State governments to restore and ensure proper funding of the Border Water Infrastructure Program (BWIP) to address the devastating impacts of international transboundary pollution flows into the waterways of the southernmost regions of California (San Diego and Imperial Counties) and the Pacific Ocean.

As San Diego County Division President and a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at 619-667-1106, should you have any questions.

Sincerely,

BILL BABER  
COUNCIL MEMBER CITY OF LA MESA  
PRESIDENT, LEAGUE SAN DIEGO COUNTY DIVISION



August 16, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the city of Escondido, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at [cmartinez@escondido.org](mailto:cmartinez@escondido.org) if you have any questions.

Sincerely,



Consuelo Martinez  
Deputy Mayor

cc: Honorable Mayor and City Council Members  
Jeffrey R. Epp, City Manager



# CITY OF BRAWLEY

## ADMINISTRATIVE OFFICES

383 Main Street  
Brawley, CA 92227  
Phone: (760) 351-3048  
FAX: (760) 351-3088

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

George A. Nava  
City Council Member  
City of Brawley

MAYOR  
John W. Minto



# CITY OF SANTEE

CITY COUNCIL  
Ron Hall  
Stephen Houlahan  
Laura Koval  
Rob McNelis

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As Mayor of the city of Santee, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (JMinto@cityofsanteeca.gov) if you have any questions.

Sincerely,

JOHN W. MINTO  
Mayor  
City of Santee



JUDY RITTER

MAYOR

August 16, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As Mayor of the city of Vista, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at [jritter@cityofvista.com](mailto:jritter@cityofvista.com) if you have any questions.

Sincerely,

Judy Ritter  
Mayor  
City of Vista





# CITY OF BRAWLEY

## ADMINISTRATIVE OFFICES

383 Main Street  
Brawley, CA 92227  
Phone: (760) 351-3048  
FAX: (760) 351-3088

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Luke Hamby  
City Council Member  
City of Brawley



# CITY OF BRAWLEY

## ADMINISTRATIVE OFFICES

383 Main Street  
Brawley, CA 92227  
Phone: (760) 351-3048  
FAX: (760) 351-3088

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Norma Kastner-Jauregui  
Mayor Pro-Tempore  
City of Brawley



# CITY OF BRAWLEY

## ADMINISTRATIVE OFFICES

383 Main Street  
Brawley, CA 92227  
Phone: (760) 351-3048  
FAX: (760) 351-3088

August 15, 2019

Jan Arbuckle, President  
League of California Cities  
1400 K Street, 4<sup>th</sup> Floor  
Sacramento, CA 95814

Dear President Arbuckle:

As one Council Member of the City of Brawley, and in my individual capacity and not on behalf of the Council as a body or the City, I write in support of the League of California Cities 2019 Annual Conference Resolution proposed by the San Diego County Division to address the transboundary river flow pollution impacting cities in San Diego and Imperial Counties.

This resolution calls upon the federal and state governments to address the devastating impacts of international transboundary pollution flows into the southernmost regions of California and the Pacific Ocean by requesting the necessary funding to develop solutions for pollution coming into San Diego County and Imperial County waterways through the Tijuana River and New River, respectively.

The passage of the proposed resolution by the San Diego County Division would provide support for the restoration of much needed funding and development and implementation of long-term solutions to address serious water quality and contamination issues, such as discharge of untreated sewage and polluted sediment and trash-laden transboundary flows that result in significant health, environmental, and safety concerns in communities along California's southern border impacting the state.

As a member of the League, I value the policy development process provided to the General Assembly. I appreciate your time on this issue. Please feel free to contact me at (City email) if you have any questions.

Sincerely,

Sam Couchman  
City Council Member  
City of Brawley