CITY OF NEWPORT BEACH
CITY COUNCIL AGENDA

JULY 14, 2026
COUNCIL CHAMBERS - 100 CIVIC CENTER DRIVE, NEWPORT BEACH, CA 92660

REGULAR MEETING - 4:00 P.M.

LAUREN KLEIMAN, Mayor
NOAH BLOM, Mayor Pro Tem
MICHELLE BARTO, Councilmember
ROBYN GRANT, Councilmember
JOE STAPLETON, Councilmember
SARA J. WEBER, Councilmember
ERIK WEIGAND, Councilmember

SEIMONE JURJIS , City Manager
AARON C. HARP, City Attorney
LENA SHUMWAY, City Clerk

NOTICE REGARDING PRESENTATIONS REQUIRING USE OF CITY EQUIPMENT
Any presentation requiring the use of the City of Newport Beach's equipment must be submitted to the City Clerk 24 hours prior to the scheduled City Council meeting.

LEVINE ACT
Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a contract (other than competitively bid, labor, or personal employment contracts), franchise, license, permit, or other entitlement for use, is required to disclose on the record of the proceeding any contribution in an amount of more than five hundred dollars ($500) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record.

PUBLIC HEARINGS
If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

NOTICE TO THE PUBLIC
Any times listed in this agenda are provided as a courtesy and the actual item may be heard before or after the time given.
This agenda was prepared by the City Clerk. Copies of the staff reports and supporting materials are on file with the City Clerk and are available for public inspection and copying at the City Clerk's Office or online at newportbeachca.gov/agendas. For questions or to request copies of any staff reports or other documentation related to items on this agenda, please contact the City Clerk's Office at 949-644-3005.
The City of Newport Beach's goal is to fully comply with the Americans with Disabilities Act (ADA). If you require special assistance to participate in this meeting, we will attempt to accommodate you in every reasonable manner. Please contact City Clerk staff prior to the meeting at 949-644-3005 or cityclerk@newportbeachca.gov so that reasonable accommodations can be made.

VIEWING THE CITY COUNCIL MEETING

The City of Newport Beach provides opportunities for the public to view City Council meetings without attending in person. Meetings are broadcast live on Cox Channel 852 (HD) or Cox Channel 30 and livestreamed online at https://newportbeachca.gov/nbtv

Members of the public who wish to comment on matters before the City Council, in lieu of appearing in person, may submit written comments to cityclerk@newportbeachca.gov. Written comments received by 4:00 p.m. on the Monday preceding the meeting will be provided to the City Council as part of the meeting record and posted on the City's website.

ZOOM WEB CONFERENCING FOR ONLINE MEETING PARTICIPATION

In addition to viewing City Council meetings through the City's live and on-demand streaming service, meetings will also be available through Zoom web conferencing to enhance public participation. A telephone dial-in option will also be available.

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To join the meeting, click https://us06web.zoom.us/j/82104392296

You may also join through the Zoom application on your smartphone or tablet, or through a web browser at https://zoom.us/join, by entering:

Webinar ID: 821 0439 2296

Please enter your name in the Zoom application so that the City Clerk may identify you when it is your turn to speak. If you wish to provide public comment, please use the "Raise Hand" feature during the applicable public comment period.

HOW TO CONNECT TO THE ZOOM WEB CONFERENCE BY TELEPHONE

Dial: (949) 662-3855

Webinar ID: 821 0439 2296

Participants joining by telephone will be identified by the last four digits of their telephone number. When called upon to speak, please state your name for the record.

When requested by the City Clerk, telephone participants may mute or unmute their line by pressing *6.
Telephone participants may raise their hand by pressing *9. Once raised, a hand cannot be lowered using the telephone keypad.

I. ROLL CALL - 4:00 p.m.

INVOCATION

Chaplain Kathy Gilbert - Calvary Chapel of Costa Mesa

PLEDGE OF ALLEGIANCE

II. PRESENTATIONS

- **Recognition of Outgoing Board, Commission and Committee Members**

III. STUDY SESSION

- **The City Council will receive a staff presentation on the City's planning, public safety response, and operational efforts related to the Fourth of July weekend. The study session will include a review of pre-event preparations, staffing and resources, enforcement efforts, mutual aid coordination, incident response, and next steps to further protect public safety during future holiday weekends.**

PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

The City Council of Newport Beach welcomes and encourages community participation. Public comments are invited on items listed on the agenda and non-agenda items. Speakers must limit comments to three minutes per person to allow everyone to speak. Written comments are encouraged as well. The City Council has the discretion to extend or shorten the time limit on agenda or non-agenda items.

CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

IV. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

- **Consider taking a support position on Propositions on November 2026 ballot:**
  Proposition 39 (Voter ID)
  Proposition 41 (Audit new tax spending)
  Proposition 42 (Prohibit new personal property tax and retroactive taxes), and
  Consider taking an opposition position on Proposition 40 on the November 2026 ballot (Billionaire Tax)
  (Councilmember Weigand)

PUBLIC COMMENTS ON CONSENT CALENDAR

This is the time in which Councilmembers may pull items from the CONSENT CALENDAR for discussion (ITEMS 1 - 11). Public comments are also invited on Consent Calendar items. Speakers must limit comments to three minutes. Before speaking, please state your name for the record. If any item is removed from the Consent Calendar by a Councilmember, members of the public are invited to speak on each item for up to three minutes per item.

All matters listed under CONSENT CALENDAR are considered to be routine and will all be enacted by one motion in the form listed below. Councilmembers have received detailed staff reports on each of the items recommending an action. There will be no separate discussion of these items prior to the time the City Council votes on the motion unless members of the City Council request specific items to be discussed and/or removed from the Consent Calendar for separate action.

V. CONSENT CALENDAR

1. Approval of Minutes

Approval of Minutes for the June 23, 2026, Regular City Council Meeting.

2026-06-23 CC Minutes

ORDINANCES FOR ADOPTION

2. Ordinance No. 2026-07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

a) Find the adoption of this ordinance and master license agreement template is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3), 15303, and 15378, of the California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines). The proposed amendments are also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment;

b) Waive full reading of an Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-07, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way) and Amending Chapter 20.49 (Personal Wireless Service Facilities) of the Newport Beach Municipal Code Related to Telecommunication Facilities*; and

c) Adopt a Master License Agreement template for the nonexclusive installation of personal wireless service facilities by private wireless providers in the public right-of-way in a form substantially similar to Attachment C.

Staff Report
Attachment A - Ordinance No. 2026-07
Attachment B - Standards and Regulations
Attachment C - Master License Agreement Template

3. **Ordinance No. 2026-08: Updating Title 1 (General Provisions) of the Newport Beach Municipal Code Related to City Employees' Enforcement of the Municipal Code and State Law**

   a) Find the adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

   b) Waive full reading of an Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-08, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations), Chapter 1.12 (Citations and Warrants), Title 1 (General Provisions) of the Newport Beach Municipal Code Related to City Employees' Enforcement of the Municipal Code and State Law*.

   Staff Report
   Attachment A - Ordinance No. 2026-08

4. **Ordinance No. 2026-09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor**

   a) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

   b) Waive full reading of an Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-09, *An Ordinance of the City Council of Newport Beach, California, Amending Title 10 (Offenses and Nuisances), Title 11 (Recreational Activities), and Title 17 (Harbor Code) of the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor.*

   Staff Report
   Attachment A - Ordinance No. 2026-09

CONTRACTS AND AGREEMENTS

5. **Approval of a Professional Services Agreement with Arts Orange County to Manage Phase XI of the Sculpture Exhibition in Civic Center Park**

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Authorize the Mayor and City Clerk to execute a Professional Services Agreement with Arts Orange County for Sculpture Exhibition - Phase XI in the Civic Center Park for a total amount not-to-exceed $135,080.

Staff Report

Attachment A - Agreement with Arts Orange County

6. **FY 2025-26 Park Shade Structures Project - Award of Contract No. 10002-1 (26P02)**

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(d), Class 1 (restoration or rehabilitation of deteriorated facilities involving negligible or no expansion of existing use) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Find the bids submitted by Varn Painting, Inc. dba Varn Development, Ampel Corp, and First Trade, LLC dba YMC to be non-responsive;

d) Award Contract No. 10002-1 to Micon Construction, Inc. for the total bid price of $376,000 for the FY 2025-26 Park Shade Structures Project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $37,600 (10% of the total bid) to cover the cost of unforeseen work not included in the original contract.

Staff Report

Attachment A - Location Map

7. Trash Enclosure Modifications - Award of Contract No. 10030-1 (27F13)

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 3 (new construction or conversion of small structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Approve Budget Amendment No. 27-002 appropriating $50,000 in new revenue and expenditures from Ruby's Diner to Account Nos. 13501-561005-25T13 and 13501-980000-27F13, respectively;

d) Award Contract No. 10030-1 to Vandert Construction Inc. for the total bid price of $244,000 for the Trash Enclosure Modifications project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $36,600 (15% of the total bid) to cover the cost of unforeseen work not included in the original contract.

Staff Report
Attachment A - Location Maps
Attachment B - 100X Construction Bid Protest Letter
Attachment C - Budget Amendment
Attachment D - Vandert Construction Bid Protest Response Letter

8. Approval of Professional Services Agreement with Marine Taxonomic Services, LTD for Newport Harbor Shallow-Water Eelgrass Surveys - Contract No. 7487-5

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

b) Approve a Professional Services Agreement with Marine Taxonomic Services, LTD for the 2026 Newport Harbor Shallow-Water Eelgrass Surveys for a total not-to-exceed amount of $174,208.62, and authorize the Mayor and City Clerk to execute the agreement.

Staff Report
Attachment A - Professional Services Agreement

9. Approval of Amendment No. Two to Residential Solid Waste Collection & Recycling Contract (Contract No. 8823-1) with CR&R, Inc.

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Authorize the Mayor and City Clerk to execute Amendment No. Two to Agreement for the Collection, Transportation, Processing and Diversion of Residential Recyclable Materials, Food Scraps, Green Waste and other Materials and Collection, Transportation and Disposal of Municipal Solid Waste Between the City of Newport Beach and CR&R, Incorporated increasing the annual cost to $9,958,229 (Contract No. 8823-1) for Fiscal Year 2026-27.

Staff Report
Attachment A - CR&R Contract Rate Increase Request Letter
Attachment B - Amendment No. Two
Attachment C - Updated D-1 Compensation Schedule
Attachment D - 2026 Rate Adjustment Compensation Calculation

MISCELLANEOUS

10. Response to the 2025-2026 Orange County Grand Jury Report "Wildfires Hit Home"

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;

b) Approve the Newport Beach Fire Department's response to the 2025-2026 Grand Jury Report, "Wildfires Hit Home", authorize the Mayor to sign the cover letter, and authorize the Fire Chief to finalize and submit the response on behalf of the City of Newport Beach to the Presiding Judge of the Orange County Superior Court.

Staff Report
Attachment A - 2025-2026 Orange County Grand Jury Report
Attachment B - Response to the 2025-2026 Grand Jury Report
Attachment C - Draft Cover Letter

11. Planning Commission Agenda for the July 9, 2026, Meeting

Receive and file.

PC agenda -July 9, 2026
PC Action Report -07-09-2026
Tentative Agenda

ACTION: MOVE AFFIRMATIVE ACTION OF THE CONSENT CALENDAR, EXCEPT FOR THOSE ITEMS REMOVED

ITEMS REMOVED FROM THE CONSENT CALENDAR

VI. PUBLIC HEARINGS

12. Resolution No. 2026-52: 2350 Bristol Street Driveway Access Appeal (PA2025-0112)

a) Conduct a de novo public hearing;

b) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 as projects which a public agency rejects or disapproves are not subject to CEQA review; and

c) Adopt Resolution No. 2026-52, *A Resolution of the City Council of the City of Newport Beach, California, Denying an Appeal and Upholding the Decision of the Planning Commission to Deny Employee and Delivery Vehicle Use of an Emergency Access Driveway at an Existing Professional Office Building Located at 2350 Bristol Street Driveway Access (PA2025-0112).*

Staff Report
Attachment A - Resolution No. 2026-52
Attachment B - March 19, 2026, PC Staff Report
Attachment C - Planning Commission Resolution No. PC2026-008
Attachment D - March 19, 2026, PC Minutes
Attachment E - Appeal Application and Justification
Attachment F - Project Plans

13. **Ordinance No. 2026-10: Approving Amendment to Newport Place Planned Community Development Plan (PC-11) Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay and Resolution No. 2026-53: Overriding Airport Land Use Commission's Determination of Inconsistency (PA2025-0196)**

a) Conduct a public hearing;

b) Find the Amendment is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly;

c) Introduce Ordinance No. 2026-10, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to the Newport Place Planned Community Development Plan (PC-11) to Revise the Minimum Inclusionary For-Sale Housing Percentage Required within the Residential Overlay (PA2025-0196); and*

d) Adopt Resolution No. 2026-53, *A Resolution of the City Council of the City of Newport Beach, California, Finding an Amendment to the Newport Place Planned Community Development Plan (PC-11) to Revise the Minimum Inclusionary For-Sale Housing Percentage Required within the Residential Overlay Consistent with the Purposes of the State Aeronautics Act and Overriding the Orange County Airport Land Use Commission's Determination of Inconsistency with the 2008 John Wayne Airport Environs Land Use Plan (PA2025-0196).*

Staff Report
Attachment A -Ordinance No. 2026-10
Attachment B - CC Resolution No. 2026-53
Attachment C - March 19 2026 PC Staff Report
Attachment D - PC Minutes
Attachment E - PC Reso PC2026-009
Attachment F - Council Resolution No. 2026-27
Attachment G - ALUC and State Department Letters

VII. MOTION FOR RECONSIDERATION

A motion to reconsider the vote on any action taken by the City Council at either this meeting or the previous meeting may be made only by one of the Councilmembers who voted with the prevailing side.

ADJOURNMENT

Written Comments Received on Agenda and Non-Agenda Items after Agenda Posting

General Comments on various items

12 - Correspondence

00 - Non-Agenda Items - Correspondence

00 - Study Session - Correspondence

00 - Written Comments

PLEASE TURN CELL PHONES OFF OR SET IN SILENT MODE.

City Council Regular Meeting

Meeting Minutes

June 23, 2026, 4:00 PM

100 Civic Center Drive, Newport Beach, CA 92660

I. ROLL CALL

Present: Mayor Lauren Kleiman, Mayor Pro Tem Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Joe Stapleton, Councilmember Sara J. Weber, Councilmember Erik Weigand

Invocation

The invocation was led by the Reverend Canon Dr. George Okusi, St. John the Divine Episcopal Church.

Pledge of Allegiance

The Pledge of Allegiance was led by Councilmember Barto.

II. PRESENTATIONS

Proclamation Recognizing Newport Harbor High School Baseball Team for Winning the CIF Southern California Regional Division II Championship

Mayor Kleiman read a proclamation honoring the Newport Harbor High School Sailors baseball team for their 25–10 season record and CIF Southern California Regional Division II Championship victory over Bakersfield Christian (5–1), recognizing captains as well as head coach Josh Lee.

III. STUDY SESSION

Results of the REAP 2.0 Mixed-Use Study

Deputy Community Development Director Liz Westmoreland provided background on the state-funded REAP 2.0 grant study, explaining that the City received consulting assistance through the Orange County Council of Governments to evaluate mixed-use zoning regulations in support of Housing Element Policy Action 4H. Assistant Planner Jerry Arregui presented the study's findings, which included conceptual development analyses of three mixed-use sites. The analyses concluded that none of the sites were financially feasible under current zoning standards due to small lot sizes, parking constraints, and limited revenue-generating floor area. Staff recommended several zoning amendments to improve project viability, including streamlined administrative approval for smaller developments, bedroom-based parking requirements, a minimum residential density of two units, parking waivers for resident-serving commercial uses, and revisions to open-space and building bulk standards. The Planning Commission reviewed the study in May and provided additional feedback, including consideration of allowing residential-only developments in additional zoning districts and exercising caution regarding the use of parking waivers.

Councilmember Weigand noted the City's substantial ongoing housing workload and expressed a preference to receive and file the study without pursuing immediate code amendments, characterizing the study as useful background information to be revisited at a future date.

Public Comment:

Nancy Gardner noted the difficulty of workforce and affordable housing in high-value areas and expressed hope to work with the Council on state-mandated housing challenges in the future.

Denys Oberman agreed with Councilmember Weigand's suggestion to defer action, expressing concern that the proposals could force high-density residential builds into already constrained areas, and encouraged the Council to explore better-suited locations.

Susan DeSantis, former Housing Element Update and General Plan Update Committee member, thanked staff and consultants for the study, acknowledged its regulatory and economic value and encouraged future community outreach, case studies from successful mixed-use communities, and a field learning tour before any implementation.

Staff confirmed that presentation of the study to the Planning Commission and City Council satisfied the grant requirements and that no further action by the City Council was necessary. The Council subsequently reached a consensus to take no additional action at this time.

PUBLIC COMMENTS ON AGENDA AND NON-AGENDA ITEMS

Adam Leverenz raised concerns about the City's Tidelands management review, presenting two alternative square-footage rental rates from the State Lands Commission report and suggesting the Council adopt the state benchmark rate to reduce potential increases for dock permittees and remove local appraisal variability.

Gary Osterberg, Newport Coast resident, urged the Council to honor the original annexation agreement that he understood to preclude trash and recycling fees for Newport Coast residents, expressing concern that a proposed organic recycling fee would circumvent that commitment.

Laura Curran encouraged the Council to conduct a study session or Finance Committee review of the Visit Newport Beach budget (Item 19). She further suggested that the Police Headquarters Advisory Committee evaluate the recently sold Newport Beach car wash property, along with other commercially zoned properties on the market, as potential locations for a future police headquarters.

Jim Mosher commended the City’s new Zoom public participation option and suggested that it be more widely publicized to encourage greater public participation. He also announced that John Wayne Airport’s quarterly aircraft noise meeting would be held the following day at 2:00 p.m. and would be accessible online through ocair.com.

CITY COUNCIL ANNOUNCEMENTS AND ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Councilmember Weigand announced his annual 4th of July bike parade in Dover Shores, beginning at 10:30 a.m. at Santiago and Mariners Drive, organized with assistance from Recreation Director Sean Levin.

Councilmember Barto reported attending the Lifeguard All-Hands meeting, the Newport Beach Junior Guards Summer Kickoff, and the Oasis Senior Center Wine and Cheese event.

Councilmember Grant reported attending an Association of California Cities tour of the San Onofre Nuclear Generating Station and praised the safety and environmental stewardship of the decommissioning process. She also thanked the Balboa Bay Club and John Wortman for the 19th Annual Father's Day Car Show.

Councilmember Weber expressed appreciation for the placement of 250th anniversary flags by City staff.

Councilmember Stapleton echoed praise for the anniversary flags, reported attending the Lifeguard All-Hands meeting and Junior Guards program kickoff, the Employee Service Awards, and the AAA Auto Club ribbon cutting on Birch Street. He also announced a 4th of July parade on the Balboa Peninsula beginning at 38th Street, and recognized Recreation Director Levin on the occasion of his final City Council meeting after nearly 25 years of service.

Mayor Pro Tem Blom noted the Employee Service Awards and humorously recognized Deputy City Manager Ben Zdeba for his attire, which he described as fully ‘punk rock’, bringing back the true idea of the nineties.

Mayor Kleiman invited Recreation Director Levin to address the Council. Recreation Director Levin thanked the Council and staff for their support throughout his over 24 years of service, crediting the Council for enabling departmental growth and the staff for making all programs possible.

IV. CONSENT CALENDAR

Prior to the consent calendar vote, City Manager Seimone Jurjis provided the required government code summary for Item 7, noting amendments to the Key & Management Compensation Plan which included eliminating the dollar limit on executive physical examinations, increasing annual telecommuting hours from 80 to 100, and discontinuing 4/10 work schedules effective June 30, 2026.

Councilmember Weigand announced a recusal on Item 4 (Personal Wireless Service Facilities) due to a conflict of interest, and commended Mayor Kleiman's regional partnership work in connection with Item 18. Councilmember Weber and Councilmember Stapleton each commended staff and one another for collaboration on Item 5 (Grants and Sponsorship Policies) without pulling the item for separate discussion. Councilmember Stapleton announced a recusal on Item 10 due to a real property interest, and pulled Item 20 for separate discussion. Councilmember Grant pulled Item 18 for a separate discussion.

Public Comment on Consent Calendar:

Jim Mosher expressed concern about the increased grant funding in Item 5, questioning whether Finance Committee deliberations were adequately transparent and whether individual Council discretionary grants should exist as a policy at all. He also urged the Council to call up for review the Planning Commission's approval of a 30-unit housing project near the Environmental Nature Center (Item 21).

Adam Leverenz raised concerns about Items 2, 3, and 16, including the scope of citation authority, a potential compliance issue for vessels with portable sanitation devices under the revised harbor code, and the significant increase in administrative citation hearings necessitating the two new law firm agreements.

Nick Laborde, on behalf of Miracle Makers International Film Festival, argued that Miracle Makers qualified for funding under either the new Policy A-12 or Policy B-12 frameworks in Item 5 and requested the Council approve funding for the festival.

Erin Miracle, Miracle Makers International Film Festival founder, introduced herself and the festival, described its planned activities at the Regal Edwards Newport Beach Theatre, and respectfully requested any level of financial support from the Council, asserting the festival's eligibility under the revised grant policies.

The balance of the Consent Calendar (Items 1–17, 19, and 21, excluding Items 18 and 20) was approved by unanimous vote, with Councilmember Weigand recused on Item 4 and Councilmember Stapleton recused on Item 10.

Motion: *Mayor Pro Tem Blom moved, seconded by Councilmember Stapleton, to approve the balance of the Consent Calendar (Items 1–17, 19, and 21).* Motion carried by unanimous vote.

IV. CONSENT CALENDAR

1. Approval of Minutes

Approval of Minutes for the June 9, 2026, Regular City Council Meeting.

ORDINANCES FOR INTRODUCTION

2. Ordinance No. 2026 - 08: Updating Title 1 (General Provisions) of the Newport Beach Municipal Code Related to City Employees' Enforcement of the Municipal Code and State Law

3. Ordinance No. 2026 - 09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor

ORDINANCES FOR ADOPTION

4. Ordinance No. 2026 - 07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

RESOLUTIONS FOR ADOPTION

5. Community Programs Grants, Community Event Assistance and Strategic Sponsorship Recommendations for Fiscal Year 2026 - 27

6. Resolution No. 2026 - 45: Recognizing the 250th Anniversary of the United States of America, July 4, 2026

7. Resolutions Nos 2026 - 46 & 2026 - 47: A Side Letter Agreement Between the City of Newport Beach and the Newport Beach City Employees Association Related to Alternative Work Schedules and the Telecommuting Program; and Modifications to the Key & Management Compensation Plan Related to Executive Management Physicals and the Telecommuting Program

CONTRACTS AND AGREEMENTS

8. Public Bathroom Gate Fabrication and Installation Notice of Completion for Contract No. 9761- 1

9. Fire Station No. 2 HVAC Retrofit Notice of Completion for Contract No. 9959 - 1 (25R02)

10. Concrete Replacement Program Fiscal Year 2025-26 Notice of Completion for Contract No. 9945 - 1 (26R06)

11. Approval of Professional Services Agreement with GMU Geotechnical, Inc. for Pavement Management Program and Inspection Services (Contract No. 9966 - 1) (27R01)

12. Award of Professional Service Agreements for the Newport Terrace Closed Landfill Gas Control System to American International Environmental, Inc., and Tetra Tech BAS.

13. Renewal of Microsoft License Agreement

14. Approval of Professional Services Agreement with Davis Farr LLP for Professional Audit Services

15. Irrigation Controllers Replacement Phase 4 Award of Contract No. 10128-1

16. Professional Services Agreement with Serviam Law LLP DBA Serviam by Wright LLP and Nastich Law, a Professional Corporation for Hearing Adjudication Services

17. Amendment No. One for an Agreement with Interior Office Solutions, Inc. DBA PeopleSpace Inc. for Space Planning and Freestanding Modular Furniture Installation Services (Contract No.10127 - 1)

18. Memorandum of Understanding Between the Cities of Huntington Beach and Newport Beach Regarding the Huntington Beach Navigation Center

MISCELLANEOUS

19. Visit Newport Beach, Inc. Fiscal Year 2027 and 2028 Destination Business Plan Budget, Leisure Marketing (TOT) Fiscal Year 2027 28 Budget and Performance Standards Report

20. Appointments to Police Headquarters Advisory Committee

21. Planning Commission Agenda for the June 18, 2026, Meeting

ITEMS REMOVED FROM THE CONSENT CALENDAR

18. Memorandum of Understanding Between the Cities of Huntington Beach and Newport Beach Regarding the Huntington Beach Navigation Center

At Councilmember Grant's request, staff presented the proposed MOU. Assistant City Manager Tara Finnigan explained that the agreement would provide 10 dedicated shelter beds at the Huntington Beach Navigation Center, a part-time social services worker for Newport Beach clients, and associated overhead, at a total cost of $44,100 per month plus a one-time $9,000 vehicle conversion fee, for a total not-to-exceed amount of $529,200. The agreement replaces the existing arrangement with the City of Costa Mesa Bridge Shelter (20 beds plus PATH social services at approximately $120,000 per month combined), representing an annual savings of approximately $1,000,000.

Councilmember Grant pulled the item to highlight the City's accomplishment of reducing street-level homelessness by more than 90% and to acknowledge the dedicated work of staff. She expressed support for right-sizing the shelter commitment and praised the savings achieved.

Councilmember Barto thanked staff for managing a constituent concern during the transition.

Mayor Pro Tem Blom offered extended praise for the Mayor's leadership in negotiating the Huntington Beach partnership and acknowledged the years of effort invested by staff and the full Council in addressing homelessness.

Motion: *Mayor Pro Tem Blom moved, seconded by Mayor Kleiman, to*
a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
b) Approve the Memorandum of Understanding Between the City of Huntington Beach and the City of Newport Beach Regarding the Huntington Beach Navigation Center and authorize the Mayor and City Clerk to execute the Memorandum of Understanding for a total not-to-exceed amount of $529,200.

Motion carried by unanimous vote.

20. Appointments to Police Headquarters Advisory Committee

Councilmember Stapleton introduced the item, noting that 31 applications were received, and invited colleagues to discuss any recommended adjustments to the proposed appointments.

Councilmember Weigand raised concerns regarding applicant Ronald Rubino's application, noting questions about a prior plea of guilty to a misdemeanor in connection with the 1994 Orange County bankruptcy, and whether the expungement of that record should have been disclosed on the application. He expressed discomfort appointing an individual with that history to a committee overseeing an estimated $150 million project, and indicated support for substituting alternate candidate Paul Watkins.

Mayor Pro Tem Blom acknowledged the concern, offered a friendly amendment to substitute Paul Watkins for Ronald Rubino, and called for a vote.

Councilmember Grant noted that Mr. Rubino had provided clarifying information regarding the expungement of a matter from approximately 30 years ago and expressed that he would have been a qualified contributor, while also affirming support for Mr. Watkins.

Councilmember Weigand added that the core issue was the absence of voluntary disclosure on the application, regardless of the expungement's legal effect.

Public Comment:

Adam Leverenz cautioned the Council to distinguish between the terms "expungement" and "exoneration," noting that the applicant's materials may have used the word "exonerated," which carries a different legal meaning.

Susan DeSantis expressed that it was inappropriate to disqualify a community member from volunteer service based on a decades-old matter in which he was exonerated, and stated that his background was well-suited to the committee's purpose.

The Council approved the appointments with Paul Watkins substituted in place of Ronald Rubino as a citizen member of the Police Headquarters Advisory Committee.

Motion: *Mayor Pro Tem Blom moved, seconded by Councilmember Weber, to*
a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
b) Make appointments to the Police Headquarters Advisory Committee of four members: Thomas Maloney, Sandra Meadows, Robert Olson, and Paul Watkins;

c) Appoint Councilmember Sara J. Weber, Councilmember Michelle Barto, and Mayor Pro Tem Noah Blom as the three members of the Newport Beach City Council;

d) Appoint Councilmember Sara Weber as Chair and Mayor Pro Tem Blom as Vice Chair of the Police Headquarters Advisory Committee.

Motion carried by unanimous vote.

V. PUBLIC HEARINGS

22. Resolution Nos. 2026-48 and 2026-49: Overriding the Orange County Airport Land Use Commission and Adopting the Newport Beach 2050 General Plan

Deputy City Manager Zdeba presented the item, summarizing a seven-year community-driven effort to update the 2006 General Plan with a new planning horizon of 2050. He noted no changes to development limits or land use patterns, completion of SB 18 tribal consultation, preparation of a CEQA addendum, and the ALUC override process following a March 2026 inconsistency determination. A General Plan Advisory Committee and Steering Committee collectively met over 100 times and voted 25–1 to support the draft. An online, searchable version of the General Plan is planned for near-term launch.

Councilmember Weber requested clarification that the word "parcels" in Policy LU 28.1 includes "sites" consistent with the zoning code. Deputy City Manager Zdeba confirmed this could be added to the policy language.

Public Comment:

Nancy Gardner expressed support for adoption and urged the Council to establish an annual General Plan Review Committee as recommended by the GPAC to monitor implementation of the plan's policies.

Denys Oberman acknowledged the effort involved and emphasized the need to update the Circulation Element to align with housing-driven land use changes resulting from state mandates.

Jim Mosher raised questions about the ownership and maintenance of the new online general plan platform, noted a discrepancy between population projections in the General Plan and those in the recently adopted Urban Water Management Plan and Housing Element EIR, and questioned whether anomaly table LU-1 accurately reflected all approved developments.

Susan DeSantis thanked all participants in the process, endorsed the plan's emphasis on environmental stewardship and neighborhood character, and encouraged continued monitoring of implementation effects, early community engagement in future planning, and transparency regarding growth assumptions.

Motion: *Mayor Pro Tem Blom moved, seconded by Councilmember Weber, to*
a) Consistent with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, find that the Addendum prepared to the certified final Program Environmental Impact Report (EIR) for the City of Newport Beach Housing Element Implementation Program (SCH No. 2023060699) adequately analyzes the approval and implementation of the Newport Beach 2050 General Plan, and that no new environmental impacts or no impacts of greater severity would result from it;
b) Adopt Resolution No. 2026 - 48, A Resolution of the City Council of the City of Newport Beach, California, Finding the Comprehensive Update of the Newport Beach General Plan, Also Known as the "Newport Beach 2050 General Plan," Consistent with the Purposes of the State Aeronautics Act and Overriding the Orange County Airport Land Use Commission's Determination of Inconsistency with the 2008 John Wayne Airport Environs Land Use Plan (PA2022 080); and
c) Adopt Resolution No. 2026 - 49, A Resolution of the City Council of the City of Newport Beach, California, Adopting the Comprehensive Update of the Newport

Beach General Plan, Also Known as the "Newport Beach 2050 General Plan" (PA2022 080).

Motion carried by unanimous vote.

23. Resolution Nos. 2026-50 and 2026-51: Collection of Sewer and Recycling Fees and Charges Through the Property Tax Roll

Administrative Services Director Jason Al-Imam and Finance Manager Jessica Nguyen presented the item, clarifying that this action does not establish a new fee or increase existing fees, but authorizes continued collection of established sewer and recycling charges through the Orange County property tax roll for approximately 5,600 accounts that do not receive City water service. Collection via the tax roll was implemented in 2022 and has improved collection rates while reducing staff administrative burden.

Councilmember Grant asked how the item related to a public comment about recycling fees in Newport Coast. Staff confirmed this item covers only recycling charges and sewer fees for accounts without City water billing; it is not related to the trash collection fee question raised by the Newport Coast resident.

Public Comment:

Jim Mosher noted that for properties within the City's pre-November 1, 1996 boundaries receiving curbside refuse service, Municipal Code Section 604.14 may require that the cost of collecting and disposing of recyclables be covered entirely by ad valorem tax revenue, suggesting a supplemental recycling charge for such properties could be legally questionable.

Adam Leverenz asked whether placement of fees on the property tax roll could result in liens against a property for nonpayment of recycling fees.

Motion: Mayor Pro Tem Blom moved, seconded by Councilmember Barto, to

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
b) Adopt Resolution No. 2026 - 50, A Resolution of the City Council of the City of Newport Beach, California Confirming the Sewer Service Fee Report for Fiscal Year 2026 - 27 and Authorizing Collection of the Fee Through the Orange County Tax Roll; and
c) Adopt Resolution No. 2026 - 51, A Resolution of the City Council of the City of Newport Beach, California Confirming the Recycling Fee Report for Fiscal Year 2026 - 27 and Authorizing the Collection of the Fee Through the Orange County Tax Roll.

Motion carried by unanimous vote.

VI. MOTION FOR RECONSIDERATION

No motions for reconsideration were offered.

The meeting was adjourned at 5:51pm.

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No.2

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov
PREPARED BY:	Benjamin M. Zdeba, Deputy City Manager - 949-644-3253, bzdeba@newportbeachca.gov Jose Montoya, Deputy City Attorney - 949-644-3133, jmontoya@newportbeachca.gov
TITLE:	Ordinance No. 2026-07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

ABSTRACT:

For the City Council's consideration is the adoption of Ordinance No. 2026-07, amending Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) to comprehensively update the City of Newport Beach's (City) regulations for personal wireless facilities, especially related to those in the public right-of-way. This ordinance was introduced and considered at the City Council meeting on June 9, 2026.

Also for the City Council's consideration is the adoption of a Master License Agreement template for nonexclusive installation of personal wireless service facilities by private wireless providers in the public right-of-way.

RECOMMENDATIONS:

a) Find the adoption of this ordinance and master license agreement template is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3), 15303, and 15378, of the California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines).The proposed amendments are also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment;

b) Waive full reading of an Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-07, *An Ordinance of the City Council of the City of Newport Beach, California, Adding Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way) and Amending Chapter 20.49 (Personal Wireless Service Facilities) of the Newport Beach Municipal Code Related to Telecommunication Facilities*; and

c) Adopt a Master License Agreement template for the nonexclusive installation of personal wireless service facilities by private wireless providers in the public right-of-way in a form substantially similar to Attachment C.

DISCUSSION:

Small cell and mid-cell installations within the public right-of-way have been identified as crucial to establishing an adequate network of coverage to serve the community. Current City regulations require a minor use permit (i.e., discretionary approval) for these installations, which has created a regulatory barrier for investment in such infrastructure in Newport Beach. The proposed amendments to Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the NBMC serve to update and streamline how the City regulates facilities within the public right-of-way and to modernize terms and definitions, consistent with state and federal law.

Chapter 20.49 (Wireless Telecommunications Facilities) of the NBMC is primarily being updated to remove the process and detailed regulations for Class 3 (Public Right-of- Way) Installations, as defined by current Section 20.49.030(G). It is also being updated to provide clarification where, in practice, City staff has recognized confusion in the application of certain provisions.

Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way) is proposed to be added as a new chapter under Title 13 to provide clear separate regulations related to Class 3 (Public Right-of-Way) Installations. Two key provisions of this new chapter are Sections 13.22.040 (Departmental Standards, Forms and Other Regulations) and 13.22.050 (Permits Required), which help to streamline review and permitting processes.

Section 13.22.040 explicitly authorizes the Public Works Department director to publish and update standards, forms and other regulations. Although components are included in the NBMC, authorizing a separately published document allows City staff to be more agile with overseeing the regulations of facilities by responding to changes in technology or unintended consequences without necessitating an update to the NBMC. A draft of the "Personal Wireless Service Facilities in the Public Right-of-Way Standards and Regulations" document is provided as Attachment B. This document is intended to be published to the City's website on the effective date of the Ordinance.

Section 13.22.050 outlines the required approvals or permits that are necessary to install a facility within the public right-of-way. Generally, any proposed facility in the public right-of-way will require a license agreement with the City. This section provides a streamlined path by which a templated master license agreement[1] may take the place of wireless facility permits, while still providing the City control over the time, place and manner of

[1] As proposed, "Master license agreement" means a contractual agreement between the City, acting in its proprietary capacity, and an applicant that establishes the uniform terms, conditions and procedures governing the use of City property or infrastructure within the public right-of-law to construct, install, modify, collocate, relocate or otherwise deploy personal wireless service facilities.

installations. City staff prepared the template, included as Attachment C, for City Council review and adoption. If a licensee makes no exceptions or changes to the template, the agreement may be executed without the separate authorization of the City Council.

The City Council introduced the Ordinance on June 9, 2026, at a noticed public hearing. After considering all evidence and taking public testimony, Mayor Pro Tem Noah Blom made a motion, which was seconded by Mayor Lauren Kleiman. Following the motion, the City Council voted unanimously (6 ayes, 0 nays, 1 recusal) to introduce Ordinance No. 2026-07 and to pass it on to a second reading.

If adopted, the Ordinance will become effective after 30 days, updating the regulations citywide except for those areas in the Coastal Zone. On a parallel track and consistent with Resolution No. 2026-41, City staff will submit the complementary Local Coastal Program Amendment to the California Coastal Commission for review and will diligently work to make the authorized updates to Title 21 (Local Coastal Program Implementation Plan) of the NBMC for areas within the Coastal Zone.

FISCAL IMPACT:

The proposed amendments will have no fiscal impact. To ensure costs are fully recovered, a new permit fee is being established. This fee is structured to capture the staff time and administrative resources necessary to implement the updated regulations.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find the adoption is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the proposed ordinance is exempt from the provisions of CEQA under Class 3, Section 15303. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed ordinance is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Ordinance No. 2026-07
Attachment B – Draft Personal Wireless Service Facilities in the Public Right-of-Way Standards and Regulations
Attachment C – Master License Agreement Template

Attachment A

Ordinance No. 2026-07

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADDING CHAPTER 13.22 (PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY) AND AMENDING CHAPTER 20.49 (PERSONAL WIRELESS SERVICE FACILITIES) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO TELECOMMUNICATION FACILITIES

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California ("State");

WHEREAS, 47 U.S.C. Section 332(c)(7)(B) prohibits state or local governments from regulating the placement or modification of personal wireless service facilities that have the effect of prohibiting personal wireless services;

WHEREAS, 47 U.S.C. Section 332(c)(7)(B)(iv) prohibits state or local governments from regulating the placement of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission's ("FCC") regulations concerning such emissions;

WHEREAS, the FCC issued a Declaratory Ruling and Third Report and Order on September 26, 2018, ("Declaratory Ruling") adding 47 C.F.R. Sections 1.6001 to 1.6004 which adopted new rules substantially revising local authority to regulate the deployment of small wireless facilities;

WHEREAS, portions of the Declaratory Ruling, including the establishment of new 60-day and 90-day presumptively reasonable periods in which a city must act upon proposed small wireless facilities, were upheld in *City of Portland v. FCC,* 969 F.3d (9th Cir. 2020);

WHEREAS, the Telecommunications Act of 1996 preempts and declares invalid state rules that have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service;

WHEREAS, the California Legislature delegated to the California Public Utilities Commission ("CPUC"), the authority to regulate local telephone competition and issue certificates of public convenience and necessity to new entrants that are qualified to provide competitive local telephone exchange services and related telecommunications service;

WHEREAS, Section 2902 of the California Public Utilities Code authorizes cities to supervise and regulate the relationships between a public utility and the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets and the location of the poles, wires, mains, or conduits on, under, or above any public streets;

WHEREAS, Section 7901 of the California Public Utilities Code ("Section 7901") authorizes telephone and wireless corporations to construct telephone or wireless telecommunication lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abatements for supporting the insulators, wires, and other necessary fixtures of their lines, provided they do not to incommode the public use of the road or highway or interrupt the navigation of the waters;

WHEREAS, Section 7901.1 confirms the right of municipalities to exercise reasonable control of the time, place, and manner in which roads, highways, and waterways are accessed, which control must be applied to all entities in an equivalent manner, and may involve the imposition of fees;

WHEREAS, the courts have determined that a city may regulate the placement and appearance of telecommunications equipment installed in the public right-of-way, and that the city need not grant wireless providers blanket permission to install their equipment throughout a city, but may require wireless providers to go through reasonable site-specific permitting process procedures;

WHEREAS, Section 50030 of the California Government Code provides that any permit fee imposed by a city for the placement, installation, repair, or upgrading of telecommunications facilities, such as lines, poles, or antennas, by a telephone corporation that has obtained all required authorizations from the CPUC and FCC to provide telecommunications services, must not exceed the reasonable costs of providing the service for which the fee is charged, and must not be levied for general revenue purposes;

WHEREAS, 47 U.S.C. Section 1455 requires approval of certain eligible facilities requests for modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such wireless tower or base station;

WHEREAS, under the police power of Article XI, section 7 of the California Constitution, confirmed in *T-Mobile West LLC v. City and County of San Francisco*, 6 Cal. 5th 1107 (2019), cities retain the full authority to regulate telecommunication facilities in the right-of-way to the extent such regulations are not inconsistent with general laws;

WHEREAS, cities also retain all local zoning powers not specifically preempted by federal law, which is confirmed by *T-Mobile S., LLC v. City of Roswell,* 574 U.S. 293, 303 (2015);

WHEREAS, unregulated wireless communication facilities may cause visual blight and diminution of property values absent reasonable standards;

WHEREAS, it is in the public interest to encourage wireless facilities to be located in non-residential zones and in locations other than areas immediately nearby residences and that such facilities blend in with the urban landscape;

WHEREAS, Chapter 20.49 (Wireless Telecommunications Facilities) of the Newport Beach Municipal Code ("NBMC") regulating wireless telecommunications facilities was last comprehensively updated in 2014 with a subsequent incorporation of Chapter 21.49 (Wireless Telecommunications Facilities) of the NBMC to regulate such facilities in the coastal zone;

WHEREAS, the City Council adopted Resolution No. 2021-42 on May 25, 2021, initiating updates to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC related to wireless service facilities in the right-of-way;

WHEREAS, the telecommunications and wireless landscapes continue to evolve with demand shifting decisively from traditional voice service to data-driven connectivity, with users now expecting high-bandwidth, seamless, and low-latency performance to support streaming, remote work, and real-time communication;

WHEREAS, the widespread decline of landlines and increased reliance on cellular networks have placed greater pressure on wireless infrastructure, while the proliferation of tablets, connected vehicles, and other smart devices has expanded both the number and diversity of devices competing for network capacity;

WHEREAS, as technology continues to advance at a rapid pace, these trends underscore the importance of maintaining regulatory and permitting processes that are clear, adaptable, and forward-looking, while preserving the City's ability to exercise thoughtful local oversight;

WHEREAS, the City Council conducted a study session regarding wireless facilities on January 13, 2026, wherein staff presented a three-pronged approach to enhance community connectivity through code updates, policy updates and partnerships to enhance connectivity within the community;

WHEREAS, a public hearing was held by the Planning Commission on March 5, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California to consider revisions to Chapters 20.49 (Wireless Telecommunication Facilities) and 21.49 (Wireless Telecommunication Facilities). A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2026-006 by a unanimous vote (6 ayes, 0 nays, 1 absent) recommending the City Council approve revisions to Chapters 20.49 (Wireless Telecommunication Facilities);

WHEREAS, the City Council held a public hearing on June 9, 2026, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapters 20.62 (Public Hearings) and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

WHEREAS, it is in the public interest for the City to update its regulations in a manner consistent with applicable law, including establishing reasonable regulations to promote and protect the City's aesthetic values by regulating the time, place, and manner of installation of personal wireless facilities.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way) is hereby added to Title 13 (Streets, Sidewalks and Public Property) of the Newport Beach Municipal Code as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

Section 2: Chapter 20.49 (Wireless Telecommunications Facilities) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code is hereby amended as set forth in Exhibit "B," which is attached hereto and incorporated herein by reference.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 5: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, the adoption of this ordinance is exempt from the provisions of CEQA under Class 3, section 15303. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. This action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment.

Section 6: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 7: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414 and shall become final thirty (30) days after adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 9th day of June 2026, and adopted on the 14th day of July 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

_____
Lauren Kleiman, Mayor

ATTEST:

_____
Lena Shumway, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

_____
Aaron C. Harp, City Attorney

Attachments: Exhibit A - Chapter 13.22 of the NBMC
Exhibit B - Chapter 20.49 of the NBMC

EXHIBIT "A"

CHAPTER 13.22
PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF- WAY

Sections:

13.22.010. Purpose.
13.22.020. Definitions.
13.22.030. Applicability.
13.22.040. Departmental Standards, Forms, and Other Regulations.
13.22.050. Permits Required.
13.22.060. Permit Applications.
13.22.070. Applications Deemed Withdrawn.
13.22.080. Wireless Facility Permit Applications.
13.22.090. Section 6409(a) Permit Applications.
13.22.100. New Poles.
13.22.110. Permit Expiration and Deadlines.
13.22.120. Deemed Approved.
13.22.130. Radio Frequency Exposure Monitoring Requirements.
13.22.140. Maintenance Standards.
13.22.150. Expert Assistance.
13.22.160. Termination for Public Benefit.
13.22.170. Abandonment.
13.22.180. Revocation or Modification.
13.22.190. Preservation of City Rights.
13.22.200. Removal and Restoration.
13.22.210. Insurance, Indemnification, and Bonds.
13.22.220. Emergency Deployment.
13.22.230. Appeals.

13.22.010. Purpose.

The purpose of this chapter is to establish reasonable and uniform standards and procedures for personal wireless service facilities deployment, construction, installation, collocation, modification, operation, relocation, and removal within the public right-of-way, consistent with and to the extent permitted under federal and state law. The requirements of this chapter are intended and shall be applied to protect and promote public health, safety, and welfare; retain the aesthetic character of the City; and ensure that residents, visitors, businesses, and government services in the City have reliable access to the state-of-the-art wireless telecommunications networks. This chapter addresses batch processing standards for substantially similar broadband projects.

This chapter is not intended to, nor shall it be interpreted or applied to:

A. Prohibit or effectively prohibit any personal wireless service provider's ability to

provide personal wireless services;

B. Prohibit or effectively prohibit any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

C. Unreasonably discriminate among providers of functionally equivalent services;

D. Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions;

E. Prohibit any collocation or modification that the City may not deny under federal or state law; or

F. Otherwise authorize the City to preempt any applicable federal or state law or regulation.

13.22.020. Definitions.

The abbreviations, phrases, terms, and words used in this chapter shall have the meanings assigned to them in this section. Undefined phrases, terms or words in this section shall have the meanings assigned to them in 47 U.S.C. Section 702, as may be amended, and, if not defined therein, shall have their ordinary meanings. If any definition assigned to any phrase, term, or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition shall control.

"Antenna" means the same as defined in 47 C.F.R. Section 1.6002(b), as may be amended, which currently defines the term as an apparatus designed for the purpose of emitting radiofrequency radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

"Base station" means the same as defined in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which currently defines that term as structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed

wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the state or local government, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i)-(ii).

“Eligible facilities request” means the same as defined in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

“Existing” means the same as defined in 47 C.F.R. Section 1.6100(b)(5), as may be amended. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“Master license agreement” means a contractual agreement between the City, acting in its proprietary capacity, and an applicant that establishes the uniform terms, conditions, and procedures governing the use of City property or infrastructure within the public right-of-way to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities.

“Modify” means changing an existing personal wireless service facility in any manner including, but not limited to, increasing the power output of the personal wireless service facility and physical changes to the personal wireless service facility.

"OTARD" means an over-the-air reception device subject to 47 C.F.R. Section 1.4000 *et seq*., as may be amended, and which currently includes, without limitation, satellite television dishes not greater than one meter in diameter.

"Permittee" means the owner of a personal wireless service facility that has obtained permission through issuance of a wireless facility permit or Section 6409(a) permit to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities in the public right-of-way.

"Personal wireless services" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services."

"Personal wireless facility permit" means a permit issued pursuant to Section 13.22.080 by the City to install a personal wireless service facility at a specific location(s) in the City's public right-of-way.

"Personal wireless service facility(ies)" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended, which currently defines the term as facility(ies) that provide personal wireless services.

"Public right-of-way" means the same as defined in Section 13.20.020 of this Code, which currently defines the term as the improved or unimproved surface of the space above and below a City easement for public utility purposes, or street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use now or hereafter held by the City, however acquired.

"Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. No. 112-96, 126 Stat. 156 (Feb. 22, 2012), codified as 47 U.S.C. Section 1455(a), as may be amended.

"Section 6409(a) facility(ies)" or "6409(a) facility(ies)" means an eligible facility request approved pursuant to Section 6409(a).

"Section 6409(a) permit" or "6409(a) permit" means the City's formal authorization granted for an applicant's eligible facilities request.

"Site" means the same as 47 C.F.R. Section 1.6100(b)(6), as may be amended.

"Substantial change" or "substantially change the physical dimensions" means the same

as defined in 47 C.F.R. Section 1.6100(b)(7), as may be amended, which currently states that a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(a) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the thirty (30) feet is measured excludes any access or utility easements currently related to the site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station

equipment, unless the modification meets all of the criteria in subsections (i)-(v) or, as amended in 47 C.F.R. 1.6100(b)(7)(i)-(iv).

"Tower" means the same as defined in 47 C.F.R. Section 1.6001(b)(9), as may be amended, which currently defines the term as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

"Transmission equipment" means the same as defined in 47 C.F.R. Section 1.6100(b)(8), as may be amended, which currently defines the term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

"Unlicensed wireless service" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(iii), as may be amended, which currently defines the term as the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services as defined in 47 U.S.C. Section 303(v), as may be amended.

"Wireless facilities encroachment permit" means a temporary encroachment permit granted by the Public Works Director to utilize a limited portion of the public right-of-way for the installation of a personal wireless facility.

13.22.030. Applicability.

This chapter applies to any personal wireless service facility or 6409(a) facility in the public right-of-way as follows:

A. Any personal wireless service facility or 6409(a) facility proposed to be located within the public right-of-way.

B. Any application for a personal wireless service facility or 6409(a) facility for which an approval or permit has not been issued prior to the effective date of this chapter.

C. Exempt Facilities. Notwithstanding the foregoing, the provisions of this chapter

shall not apply to any:

1. Personal wireless service facility, 6409(a) facility, or equipment owned and operated by California Public Utilities Commission-regulated electric companies for use in connection with electrical power generation, transmission, and distribution facilities subject to California Public Utilities Commission General Order 131-E, as may be amended;

2. Personal wireless service facility or 6409(a) facility that is constructed for City use or by the City to exclusively provide unlicensed wireless services including Wi-Fi;

3. Personal wireless service facility or 6409(a) facility that is installed or operated under the direction of the City or a City contractor;

4. Personal wireless service facility or 6409(a) facility used solely for wireless-based reading of water, gas, or electric meters;

5. Amateur radio facility(ies);

6. OTARD antenna(s);

7. Entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement; and

8. Personal wireless service facility or 6409(a) facility, or portion thereof, that is preempted by, or would otherwise violate, applicable federal or state law. Notwithstanding the foregoing, an exempt personal wireless service facility or 6409(a) facility shall be subject to the Public Works Director's determination that it be designed to minimize the extent of non-conformity with this Code.

13.22.040. Departmental Standards, Forms, and Other Regulations.

The City Council authorizes the Public Works Director to develop and update from time to time the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations, permit application forms, checklists, informational handouts and other related documents to implement this chapter. The City Council further authorizes the Public Works Director to establish reasonable written rules and regulations, which may include, without limitation, regular hours for appointments with applicants and/or submittals without appointments, and inspection procedures, as the Public Works Director deems necessary or appropriate to organize, document, and manage the application, permitting, construction, and other processes related to personal wireless service facilities or 6409(a) facilities.

13.22.050. Permits Required.

A. Personal Wireless Facility Permit. A personal wireless facility permit shall be obtained prior to constructing, installing, modifying, collocating, relocating, or otherwise deploying a personal wireless service facility in the public right-of-way, except a 6409(a) facility regulated pursuant to Section 13.22.090 of this chapter. In the coastal zone, in addition to a wireless facility permit, a coastal development permit or de minimis waiver may be required for the deployment of a personal wireless services facility pursuant to Chapters 21.49 (Wireless Telecommunication Facilities) and 21.52 (Coastal Development Permit Review Procedures).

B. 6409(a) Permit. A 6409(a) permit shall be obtained for an eligible facilities request pursuant to Section 13.22.090 of this chapter.

C. Master License Agreement. Notwithstanding subsections (A) and (B) of this section, a personal wireless service facility or 6409(a) facility is exempt from obtaining a personal wireless facility permit or 6409(a) permit provided the applicant and City have entered into the master license agreement template adopted by the City Council and approved as to form by the City Attorney. Any personal wireless facility or 6409(a) facility subject to the master license agreement shall comply with all other provisions of this chapter.

D. Wireless Facilities Encroachment Permit. No work in the public right-of-way shall occur unless a wireless facilities encroachment permit has been issued by the Public Works Director for the work described therein.

E. Other Permits and Regulatory Approvals. The applicant shall obtain all other required permits and approvals from other City departments, and state and federal agencies.

F. Proprietary Approvals. Nothing in this chapter shall be deemed to waive any required approvals for siting of personal wireless service facilities on privately or publicly owned property or improvements.

G. Non-Exclusive Grant. No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the City for any purpose whatsoever.

13.22.060. Permit Applications.

A. Application Requirement. The City shall not accept, approve, or deny any personal wireless service facility or 6409(a) facility except upon a duly filed application pursuant to this chapter and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

B. Application Form and Fees. An application for a personal wireless service facility or 6409(a) facility request shall be filed with the Public Works Department on the appropriate forms, together with all required fees and/or deposits and all other information and materials specified by the Public Works Director for the application.

C. Any application proposing a new pole within the public right-of-way must include information to demonstrate that the new pole complies with the findings outlined in Section 13.22.100.

D. Batch Applications. An applicant may submit one batched application at a time, consisting of a maximum of fifty (50) separate personal wireless service facility applications. Each application in a batch shall meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch and the submittal of separate materials for each facility. Any incomplete application shall be deemed withdrawn in accordance with Section 13.22.070 of this chapter. A new batch or application for a site with an existing application is prohibited until the prior batched application has been denied, deemed withdrawn, or approved.

E. Wireless Facilities Encroachment Permit Applications. An application for a wireless facilities encroachment permit shall comply with the procedures stated in this chapter, and an application may be presented in person at any time that the Public Works counter is open to the public.

13.22.070. Applications Deemed Withdrawn.

If an application is deemed incomplete, the City shall notify the applicant in writing identifying the information needed to deem the application complete. The application shall be deemed withdrawn unless the applicant provides all required information within sixty (60) days of City's written notification of incompletion. If the applicant submits a written request for extension showing good cause prior to the sixtieth (60) day, the Public Works Director may grant a written extension of no more than an additional thirty (30) days.

13.22.080. Wireless Facility Permit Applications.

A. Decision Notices. Within five (5) days of the Public Works Director's approval, conditional approval, or denial of a personal wireless facility permit application, the Public Works Director shall transmit a written determination to the applicant and post the written determination on the City's website. For any denial notice, the Public Works Director shall include the grounds for denial of the application.

B. Required Determinations for Approval. The Public Works Director shall only approve or conditionally approve a duly filed application for a wireless facility permit if the Public Works Director determines that the project, as submitted or modified, conforms to all the following criteria:

1. The proposed personal wireless service facility complies with all applicable requirements described in this chapter and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations; and

2. The proposed personal wireless service facility complies with all other laws, including, without limitation, state and federal law.

The inability to make one (1) or more of the findings required in this chapter is grounds for denial of an application.

C. Conditional Approvals. The Public Works Director may impose reasonable condition(s) on any personal wireless service facility permit, deemed necessary or appropriate for the preservation of the public health and safety.

13.22.090. Section 6409(a) Permit Applications.

A. Decision Notices. Within five (5) days of the Public Works Director approval, conditional approval, or denial of a Section 6409(a) permit application, the Public Works Director shall transmit a written determination to the applicant. Additionally, within five (5) days of the Public Works Director approval, conditional approval, or denial of a 6409(a) permit application, the Public Works Director shall post the written determination on the City's website. For any denial notice, the Public Works Director shall state the grounds for denial of the application.

B. Required Determinations for Approval. The Public Works Director shall only approve or conditionally approve a duly filed application for a 6409(a) permit if the Public Works Director determines that the project, as submitted or modified, conforms to all the following criteria:

1. The personal wireless service facility where the proposed 6409(a) facility will be located complies with all applicable requirements described in this chapter and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations;

2. The personal wireless service facility and proposed 6409(a) facility complies with all other laws, including, without limitation, state and federal law;

3. The 6409(a) permit application meets the criteria of an eligible facilities request; and

4. The 6409(a) permit application does not substantially change the physical dimensions of a wireless tower or base station.

The inability to make one (1) or more of the determinations required in this chapter is grounds for denial of an application.

C. Conditional Approvals. As permitted by law, the Public Works Director may impose conditions on any 6409(a) permit for the preservation of public health and safety.

13.22.100. New Poles.

New poles in the public right-of-way to accommodate a personal wireless service facility that are not replacing an existing pole are prohibited unless the Public Works Director makes all of the following findings:

A. The facility qualifies as a personal wireless service facility as defined in this chapter;

B. The applicant provides a reasonable and clearly defined technical service objective to be achieved by the facility;

C. The applicant provides the Public Works Director with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective(s) to be achieved by the proposed facility; and

D. The applicant demonstrates that the proposed location and design is the least non-compliant configuration that shall reasonably achieve the applicant’s reasonable and clearly defined technical service objective(s) to be achieved by the proposed facility, which includes, without limitation, a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area.

13.22.110. Permit Expiration and Deadlines.

A. Wireless Facility Permits and 6409(a) Permits.

1. Expiration. Unless a shorter period is provided herein or if preempted by law, a personal wireless service facility permit or 6409(a) permit shall be valid for a period of ten (10) years from the date of issuance, unless such permit is terminated pursuant to Section 13.22.160, revoked pursuant to Section 13.22.180, or becomes null and void pursuant to subsection (A)(3) of this section. At the end of ten (10) years from the date of issuance, the personal wireless facility permit, or 6409(a) permit shall automatically expire.

2. Permit Renewal. A permittee may apply for a new personal wireless service facility permit or 6409(a) permit renewal no earlier than eighteen (18) months nor later than six (6) months prior to expiration of the expiring personal wireless facility

permit or 6409(a) permit. Said application and proposal shall comply with the City's Code and application requirements in effect at the time of said application.

3. Time to Obtain Wireless Facilities Encroachment Permit. For any personal wireless facility permit or 6409(a) permit granted under this chapter, the permittee shall obtain a wireless facilities encroachment permit to perform the work within one hundred eighty (180) days of issuance of the personal wireless facility permit or 6409(a) permit. Failure to obtain a wireless facilities encroachment permit pursuant to this section shall automatically render the personal wireless facility permit or 6409(a) permit null and void.

B. Wireless Facilities Encroachment Permit.

1. Time to Commence Work. For any wireless facilities encroachment permit granted under this chapter, the permittee shall commence work within one (1) calendar year from the date of issuance of the personal wireless facility permit or 6409(a) permit and complete the work within one hundred eighty days (180) from the date of commencement.

2. Extensions. The Public Works Director may grant a maximum of three (3) written extensions of time from the stated periods in subsection (B)(1) of this section, if the permittee provides good cause for the extension. An extension, if granted, may be for up to an additional sixty (60) days.

3. Permit Renewal. Before any work authorized under an expired wireless facilities encroachment permit may resume, the permittee shall file an application for a personal wireless service facility permit renewal or Section 6409(a) permit renewal pursuant to the Public Right-of-Way Wireless Facility Standards and Regulations. Renewal of a personal wireless service facility permit, or Section 6409(a) permit shall be subject to a renewal fee and the Public Right-of-Way Wireless Facility Standards and Policies in effect at the time of filing for the renewal.

13.22.120. Deemed Approved.

If an application is deemed approved by any rule of law or regulation, all applicable requirements of this chapter, including those requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations in effect at the time of the deemed approval, and any other applicable laws, including, without limitation, standard conditions of approval, shall automatically attach and apply as permit conditions to the personal wireless service facility or 6409(a) facility.

13.22.130. Radio Frequency Exposure Monitoring Requirements.

A. FCC Compliance. The City shall not approve any personal wireless service facility permit or 6409(a) permit that does not demonstrate planned compliance with the FCC's regulations concerning radio frequency exposure.

B. Pre-Installation Reporting. As part of any application required under this chapter, the applicant shall provide the City with a radio frequency electromagnetic energy report pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

C. Post-Installation Certification. Within thirty days (30) of commencing operation of a new or modified personal wireless service facility or 6409(a) facility, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the actual emissions from the personal wireless service facility or 6409(a) facility do not exceed that disclosed in the pre-installation report submitted pursuant to subsection (B) of this section.

13.22.140. Maintenance Standards.

Any personal wireless service facility or 6409(a) facility shall comply at all times with the following maintenance standards:

A. General Maintenance Standards. Any personal wireless service facility or 6409(a) facility shall be maintained in good condition, including ensuring the facilities are reasonably free of:

1. General dirt and grease;
2. Chipped, faded, peeling, and cracked paint;
3. Rust and corrosion;
4. Cracks, dents, and discoloration;
5. Missing, discolored, or damaged camouflage;
6. Graffiti, bills, stickers, advertisements, litter, and debris;
7. Broken and misshapen structural parts; and
8. Any damage from any cause.

B. Inspections, Reporting, and Correction of Deficiencies. The permittee of a personal wireless service facility or 6409(a) facility when directed by the City, shall perform an inspection of the facility and submit a report to the Public Works Department. Additionally, the permittee shall complete any maintenance concerns identified by the City within thirty (30) days of the City's written notice after which the City reserves the right to take any

action it deems necessary to rectify the issue, at the permittee's expense. The burden is on the applicant to demonstrate that the facility complies with the requirements herein and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

13.22.150. Expert Assistance.

If the City requires the services of a technical expert in processing any application received pursuant to this chapter, the applicant shall deposit a fee equal to the estimated cost of the consultant's services with the City. The City may require additional funds to cover the consultant's services required to process the application. If the actual fees exceed the amount deposited, the applicant shall pay the difference to the City. If the actual fees are less than the deposited fees, the applicant shall be refunded for the difference from the City. No permit for an approved project shall be issued until the applicant fully reimburses the City for the City's consultant costs required to process the application.

13.22.160. Termination for Public Benefit.

Notwithstanding the expiration dates provided in Section 13.22.110, any personal wireless facility permit or 6409(a) permit granted pursuant to this chapter may be terminated upon twelve (12) months' prior written notice to the permittee, or less time in the event of an emergency situation as determined by the City, if the personal wireless service facility or 6409(a) facility interferes or will interfere with any public work of improvement that impacts the public right-of-way. If a permit granted under this chapter is terminated pursuant to this section, any subsequent personal wireless service facility application within five hundred (500) feet will act as a replacement and shall not be subject to Section 13.22.100.

13.22.170. Abandonment.

A. Removal and Restoration Requirement. A personal wireless service facility or 6409(a) facility that is considered abandoned pursuant to Section 13.22.180(A)(3) shall be promptly removed and the area restored to its prior condition at the permittee's sole cost and expense within sixty (60) days. If there are two (2) or more users of a single facility, then the duty to remove all equipment shall apply unless the Public Works Director determines that removal of the abandoned personal wireless service facility or 6409(a) facility would not be in the public interest.

B. Notice of Intent to Abandon. The owner of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within thirty (30) days of ceasing or abandoning use.

C. Penalties for Failure to Comply. Failure to inform the Public Works Director of cessation of operations or abandonment of any personal wireless service facility or 6409(a) facility as required by this section shall constitute a violation of any approvals and be grounds for:

1. Revocation or modification of the permit;

2. Acting on any bond or other assurance required by this article or conditions of approval of the permit;

3. Removal of the facilities by the City at the owner's expense; and/or

4. Any other remedies permitted under this Code or by law.

13.22.180. Revocation or Modification.

In addition to any other remedies provided by law, any permit granted under this chapter may be revoked or modified for cause in accordance with the provisions of this section.

A. Initiation and Grounds for Revocation or Modification. When the Public Works Director has reason to believe that grounds exist for the modification or revocation of a personal wireless service facility or 6409(a) facility, the Public Works Director shall provide written notice by mail thereof to the permittee setting forth a statement of the facts and grounds. The permittee shall have fifteen (15) days from the date the notice is sent to submit a written response and supporting documentation to the Public Works Director prior to the Public Works Director rendering a decision. The Public Works Director may revoke or modify the personal wireless service facility or 6409(a) facility based on any of the following grounds:

1. The permittee obtained approval by means of fraud or misrepresentation of a material fact;

2. The permittee has failed to construct, or has expanded or altered the permitted facility in a manner that is inconsistent with that set forth in the permit;

3. The personal wireless service facility or 6409(a) facility has not been operational for six (6) months or more;

4. The permitted facility is out of compliance with any condition of a permit or provision of this chapter;

5. A substantive change of state or federal law or regulations materially affects a permittee’s authority to occupy or use the public right-of-way or the City’s ability to impose regulations relating to such occupation or use; or

6. The permitted facility is located on a utility pole or structure subject to removal

pursuant to a lawfully approved utility undergrounding district or other rule or regulation.

B. Appeal. The permittee may request an administrative review by the City Manager within fifteen (15) calendar days of service of the Public Works Director's decision, in accordance with Section 1.08.080, by filing an appeal with the City Clerk.

C. Hearing. The City Manager shall conduct a hearing within fifteen (15) calendar days of service of the appeal.

1. The City Manager may affirm, modify, or reverse the decision of the Public Works Director, or impose conditions or alternative remedies, based on the record and any additional information deemed relevant to the purposes of this chapter.

2. Decisions under this section shall be upheld if supported by substantial evidence in the record.

3. The City Manager may consider the totality of the circumstances and the purposes of this chapter in making determinations.

4. The City Manager may consider any relevant evidence, whether or not it would be admissible in a court of law.

5. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

6. Failure to Participate. Failure of the appellant to appear at the appeal hearing shall be deemed a withdrawal of the appeal and a waiver of the right to exhaust administrative remedies.

D. Notice of Action. A written determination of revocation or modification shall be served on the permittee within ten (10) days of such determination.

13.22.190. Preservation of City Rights.

A. Overview. The City at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the public right-of-way. Such actions may temporarily or permanently interfere with the personal wireless service facility or 6409(a) facility. The City shall in all cases, other than emergencies, give the applicant written notification of such planned, non-emergency actions no fewer than fourteen (14) days prior to such actions.

B. Summary Removal. If the Public Works Director determines that the condition or placement of a personal wireless service facility or 6409(a) facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of- way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, “exigent circumstances”), the Public Works Director may cause the personal wireless service facility or 6409(a) facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal, and all property removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick up the property within sixty (60) days, the personal wireless service facility or 6409(a) facility shall be treated as abandoned property subject to any disposal or reuse in the City’s sole discretion.

C. Non-Liability for Removal. If the City removes a personal wireless service facility or 6409(a) facility pursuant to subsection (B) of this section, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. The City has no obligation to restore the personal wireless service facility or 6409(a) facility. The permittee shall not have any claim if the City removes a personal wireless service facility or 6409(a) facility pursuant to Section subsection (B) of this section.

13.22.200. Removal and Restoration.

A. General Provisions. Upon the expiration date of the personal wireless service facility permit or 6409(a) permit, earlier termination or revocation of the permit or abandonment of the personal wireless service facility or 6409(a) facility, the permittee shall remove its personal wireless service facility or 6409(a) facility including appurtenances and restore the site to its natural condition except for any improvements to be retained by the City at its discretion. Any such retained improvements shall be purchased from the permittee for one dollar, and the parties will cooperate to effectuate this provision. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The personal wireless service facility or 6409(a) facility shall be removed from the property, at no cost or expense to the City.

B. Restoration. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within sixty (60) days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this

C. chapter. Upon a showing of good cause, an extension may be granted by the Public Works Director where circumstances are beyond the control of the permittee after expiration, earlier termination or revocation of the personal wireless service facility permit

or 6409(a) permit, or abandonment of the facility. Further failure to abide by the timeline provided in this section shall be grounds for:

1. Acting on any security instrument required by this chapter or conditions of approval of permit;

2. Removal of the personal wireless service facility or 6409(a) facility by the City at the permittee, owner, or operator's expense; and/or

3. Any other remedies permitted under this Code or under state or federal law.

13.22.210. Insurance, Indemnification and Bonds.

A. Insurance and Indemnification. Permittee, including its agents and contractors, shall comply with Chapter 1.07 of this Code prior to the issuance of any permit required by this chapter.

B. Bond. Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's Office, which shall be in effect until the personal wireless service facility or 6409(a) facility, is fully and completely removed and the site returned to its original condition. The security instrument coverage shall include, but not be limited to, removal of the facility. The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

13.22.220. Emergency Deployment.

In the event of an officially-declared federal, state, or local emergency, the Public Works Director, City Manager, or their designees may approve the installation and operation of a temporary personal wireless service facility (e.g., a cell on wheels, or "COW"), which is subject to such reasonable conditions that the City deems necessary.

13.22.230. Appeals.

A. Appeals. Decisions or determinations made by the Public Works Director pursuant to Section 13.22.100 or Section 13.22.180(A) may be appealed to the City Manager by any aggrieved applicant.

B. Decision Final. Notwithstanding subsection (A) of this section, all other decisions or determinations of the Public Works Director provided under this chapter shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

EXHIBIT "B"

CHAPTER 20.49
PERSONAL WIRELESS SERVICE FACILITIES

Sections:

20.49.010. Purpose.
20.49.020. Definitions.
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20.49.040. Site Location Preference and Prohibited Locations.
20.49.050. Permits Required.
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20.49.080. Decisions.
20.49.090. Standard Conditions of Approval.
20.49.100. Temporary Personal Wireless Service Facilities.
20.49.110. Removal and Abandonment of Wireless Facilities.

20.49.010. Purpose.

The purpose of this chapter is to establish reasonable and uniform standards and procedures for personal wireless service facilities deployment, construction, installation, collocation, modification, operation, relocation and removal on all property other than the public right-of-way, consistent with and to the extent permitted under federal and state law. The requirements of this chapter are intended to, and should be applied to, protect and promote public health, safety and welfare; retain the aesthetic character of the City; and ensure that residents, visitors, businesses, and government services in the City have reliable access to the state-of-the-art wireless telecommunications networks.

This chapter is not intended to, nor shall it be interpreted or applied to:

A. Prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;

B. Prohibit or effectively prohibit any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;

C. Unreasonably discriminate among providers of functionally equivalent services;

D. Deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions;

E. Prohibit any collocation or modification that the City may not deny under federal or state law; or

F. Otherwise authorize the City to preempt any applicable federal or state law or regulation.

20.49.020. Definitions.

The abbreviations, phrases, terms and words used in this chapter shall have the meanings assigned to them in this section or as may be appropriate, in Chapter 20.70, as may be amended, unless context indicates otherwise. Undefined phrases, terms or words in this section shall have the meanings assigned to them in 47 U.S.C. Section 702, as may be amended, and, if not defined therein, shall have their ordinary meanings. If any definition assigned to any phrase, term or word in this section conflicts with any federal or state mandated definition, the federal or state-mandated definition shall control.

“Accessory equipment” means any equipment serving or being used in conjunction with antennas that have been established for the purpose of providing personal wireless services up to the point of connection with a larger fiber optic or power network. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, wires, conduits, equipment buildings, cabinets, storage sheds, shelters, vaults, or other structures.

“Administrative Clearance” or “AC” means a ministerial, non-discretionary approval issued by the Review Authority for a Class 1 facility or 6409(a) facility.

“Antenna” as used in this chapter, means the same as defined in 47 C.F.R. Section 1.6002(b), as may be amended, which currently defines the term as an apparatus designed for the purpose of emitting radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

“Base station” means the same as defined in 47 C.F.R. Section 1.6100(b)(1), as may be amended, which currently defines that term as structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.6100(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term

includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.6100(b)(1)(i)-(ii) that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the state or local government, does not support or house equipment described in 47 C.F.R. Section 1.6100(b)(1)(i)-(ii).

“City-owned” or “City-held trust property” means all real property and improvements owned, operated or controlled by the City, other than the public right-of-way, within the City’s jurisdiction, including but not limited to City Hall, police and fire facilities, recreational facilities, parks, beaches, and libraries.

“Collocation” means (a) for the purposes of any eligible facilities request, the same as defined by 47 C.F.R. Section 1.6100(b)(2), as may be amended, which currently defines the term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, “collocation” as defined herein, effectively means “to add” and does not necessarily refer to more than one (1) personal wireless service facility installed at a single site; and (b) for all other purposes, has the same definition as is found in 47 C.F.R. Section 1.6002(g), as may be amended, which defines the term as (1) mounting or installing an antenna facility on a pre-existing structure; and/or (2) modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

“CPUC” means the California Public Utilities Commission established in the California Constitution, Article XII, Section 5, or its duly appointed successor agency or agencies.

“Distributed antenna system” or “DAS” means a network of one (1) or more antennas and fiber optic nodes typically mounted to streetlight poles, or utility structures, which provide access and signal transfer services to one (1) or more third-party wireless service providers. DAS also includes the equipment location, sometimes called a “hub” or “hotel” where the DAS network is interconnected with third-party wireless service providers to provide the signal transfer services.

“Eligible facilities request” means the same as defined in 47 C.F.R. Section 1.6100(b)(3), as may be amended, which currently defines that term as any request for modification of an existing tower or base station that does not substantially change the physical

dimensions of such tower or base station, involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

“Existing” means the same as defined in 47 C.F.R. Section 1.6100(b)(5), as may be amended. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

“FAA” means the Federal Aviation Administration or its duly appointed successor agency.

“Facility class(es)” refers to the classes of personal wireless service facilities and the attendant support equipment, which are categorized as follows:

1. Class 1 (Stealth/Screened): a stealth personal wireless service facility with antennas mounted on an existing or proposed nonresidential building or other structure not primarily intended to be an antenna support structure where antennas and support equipment, including the base station, are fully screened from public view.

2. Class 2 (Visible Antennas): a personal wireless service facility with antennas mounted on an existing non-residential building, structure, pole, light standard, utility tower, wireless tower and/or lattice tower outside of the public right-of-way.

3. Class 3 (Public Right-of-Way Installations): a personal wireless service facility with antennas installed on a structure located in the public right-of-way, regulated by Chapter 13.22.

4. Class 4 (Freestanding Structure): a personal wireless service facility with antennas mounted on a new freestanding structure, including but not limited to a faux tree, a monopole or lattice tower, constructed for the sole or primary purpose of supporting the personal wireless service facility.

5. Class 5 (Temporary): a facility including associated support equipment that is installed at a site on a temporary basis pursuant to a limited term permit or in connection with a special event upon the approval of a special events permit pursuant to Chapter 11.03 .

“FCC” means the Federal Communications Commission or its duly appointed successor agency.

“Feasible” or “feasibly” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, physical, legal and technological factors.

“Lattice tower” means a freestanding open framework structure used to support antennas, typically with three or four support legs of open metal crossbeams or crossbars.

“Monopole” means a single freestanding pole or pole-based structure solely used to act as or support a telecommunication antenna or antenna arrays.

“OTARD” means an over-the-air reception device subject to 47 C.F.R. Section 1.4000 *et seq.,* as may be amended, and which currently includes, without limitation, satellite television dishes not greater than one meter in diameter.

“Permittee” means the owner of a personal wireless service facility that has obtained permission through issuance of a permit pursuant to this chapter to construct, install, modify, collocate, relocate, or otherwise deploy personal wireless service facilities on private property.

“Personal wireless services” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which currently defines the term as commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

“Personal wireless service facility(ies)” or “facility(ies)” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(ii), as may be amended, which currently defines the term as facility(ies) that provide personal wireless services.

“Public right-of-way” means the same as Section 13.20.020 of this Code, which currently defines the term as the improved or unimproved surface of and the space above and below a City easement for public utility purposes, or street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use now or hereafter held by the City, however acquired.

“Review authority” means the Community Development Director, Zoning Administrator, Planning Commission, or City Council, depending on the type of facility class proposed.

“RF” means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.

“Section 6409(a)” means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act, Pub. L. No. 112-96, 126 Stat. 156 (Feb. 22, 2012), codified as 47 U.S.C. Section 1455(a), as may be amended.

“Section 6409(a) facility(ies)” or “6409(a) facility(ies)” means an eligible facility request approved pursuant to Section 6409(a).

“Stealth” or “stealth facility” means a personal wireless service facility in which the antenna, and the support equipment, are completely hidden from view such as in a monument, cupola, pole-based structure, or other concealing structure which either mimics, or which also serves as, a natural or architectural feature. Concealing structures which are obviously not such a natural or architectural feature to the average reasonable observer do not qualify within this definition. For example, an artificial tree shall not be considered to be a stealth facility.

“Substantially change” or “substantially change the physical dimensions” means the same as interpreted by applicable courts and in 47 C.F.R. Section 1.6100(b)(7), as may be amended, which currently states that a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent (10%) or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;

(a) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings’ rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves

installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than thirty (30) feet in any direction. The site boundary from which the thirty (30) feet is measured excludes any access or utility easements currently related to the site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the modification meets all of the criteria in subsections (i)-(v) or as amended in 47 C.F.R. Section 1.6100(b)(7)(i)-(iv).

“Support equipment” means the physical, electrical and/or electronic equipment included within a personal wireless service facility used to house, power, and/or contribute to the processing of signals from or to the facility’s antenna or antennas, including but not limited to a base station, cabling, air conditioning units, equipment cabinets, pedestals, and electric service meters. Support equipment does not include DAS, antennas or the building or structure to which the antennas or other equipment are attached.

“Temporary personal wireless service facilities” means portable wireless communication facilities intended or used to provide personal wireless services on a temporary or emergency basis, such as a large-scale special event in which more users than usual gather in a confined location or when a disaster disables permanent personal wireless service facilities. Temporary personal wireless service facilities include, without limitation, cells-on-wheels sites-on-wheels, cells-on-light-trucks, or other similarly portable wireless communication facilities not permanently affixed to the site or land upon which it is located.

“Tower” means the same as defined in 47 C.F.R. Section 1.6100(b)(9), as may be amended, which currently defines the term as any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

“Transmission equipment” means the same as defined in 47 C.F.R. Section 1.6100(b)(8), as may be amended, which currently defines the term as equipment that

facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

“Unlicensed wireless service” means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(iii), as may be amended, which currently defines the term as the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in 45 U.S.C. Section 303(v).

“Utility tower” means an open framework structure (see lattice tower) or steel pole used to support electric transmission facilities.

20.49.030. Applicability.

A. Applicable Facilities. This chapter applies to any personal wireless service facility within the City and all applications and requests for approval to construct, install, modify, collocate, relocate or otherwise deploy personal wireless service facilities in the City, unless exempted pursuant to subsection (B) of this section.

B. Exempt Facilities. Notwithstanding subsection (A) of this section, the provisions of this chapter shall apply to any of the following:

1. Personal wireless service facility proposed in the public right-of-way which shall be governed by Chapter 13.22;

2. Amateur radio facility(ies);

3. OTARD antenna(s);

4. Personal wireless service facility installed completely indoors and not visible to the public intended to extend signals for personal wireless services in a personal residence or a business (such as a femtocell or indoor distributed antenna system);

5. Personal wireless service facility or equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power generation, transmission and distribution facilities subject to CPUC General Order 131-E, as may be amended;

6. Personal wireless service facility or associated infrastructure that is

developed, installed, managed, or operated by the City, for the City, or under the City's direction, or located on City-owned or City-held trust property, or in which the City maintains a legal or equitable interest and installed pursuant to a lease, license, franchise agreement or other agreement between the City and any third party (whether public or private); and

7. Personal wireless service facility, or portion thereof, that is preempted by, or would otherwise violate, applicable federal or state law. Notwithstanding the foregoing, an exempt personal wireless facility shall be subject to the Director's determination that it be designed to minimize the extent of the non-conformity with the Code.

The exemptions provided herein shall not exempt the same personal wireless service facility from the requirements in Title 15.

C. Requests for Approval Pursuant to Section 6409(a). Any written request to collocate, replace or remove transmission equipment at an existing tower or base station submitted under Section 6409(a) shall require an AC. If a facility does not satisfy the requirements of a 6409(a) facility, the facility shall be reviewed pursuant to the review procedures in Table 4-1 of Section 20.49.050.

D. Legal Nonconforming Facility. Any personal wireless service facility that was lawfully constructed, erected, or approved prior to <DATE OF EFFECTIVENESS>, that is operating in compliance with all applicable laws, and which facility does not conform to the requirements of this chapter shall be deemed a legal nonconforming facility. Legal nonconforming facilities shall comply at all times with the laws, ordinances, regulations, and any conditions of approval in effect at the time the facility was approved, and any regulations pertaining to legal, nonconforming uses or structures that may be applicable pursuant to provisions of this Code or federal and state laws as they may be amended.

20.49.040. Site Location Preference and Prohibited Locations.

A. Preferred Locations. To limit the adverse visual effects of and proliferation of new or individual personal wireless service facilities in the City, the following list establishes the order of preference of facilities, from the most preferred (1) to least preferred (4).

1. Collocation of a new personal wireless service facility at an existing facility.

2. Class 1.

3. Class 2 and Class 3.

4. Class 4.

B. Prohibited Locations. Personal wireless service facilities are prohibited in the following locations:

1. On properties zoned for single-unit or two-unit residential development including equivalent designations within a planned community district or specific plan district except if located on common area lots developed with community facilities, landscape lots, or private streets.

2. On properties zoned for multi-unit residential development or mixed-use development including equivalent planned community districts or specific plan districts with a maximum of four (4) allowable dwelling units.

3. In the Open Space (OS) Zoning District, unless facilities are collocated on an existing utility tower within a utility easement area or collocated on another existing facility.

20.49.050. Permits Required.

Permit Required. Unless exempted pursuant to Section 20.49.030(B), any personal wireless service facility shall require a MUP, CUP, LTP, or AC as provided in Table 4-1, unless exempt pursuant to Section 20.49.040(B). Notwithstanding the permits identified in Table 4-1, any application for a facility that proposes to exceed the maximum height limit of the applicable height limit area in which the facility is located pursuant to Section 20.30.060(C)(2) shall require approval of a CUP by the Planning Commission.

Table 4-1
Permit Requirement for Personal Wireless Service Facilities

Facility Class	Permit
Class 1	AC
Class 2	MUP
Class 3	See Chapter 13.22
Class 4	CUP
Class 5	LTP or See Chapter 11.03

A. Permit Review Procedures. An application for a MUP, CUP, or LTP shall be reviewed in accordance with Chapter 20.52 and Section 20.49.080.

B. Emergency Communications Review. At the time an application is submitted to the Community Development Department, a copy of the plans, map, and emission standards shall be sent to the Chief of Police. The Chief of Police shall review the plan's potential conflict with emergency communications. The review may include a pre-installation test of the personal wireless service facility to determine any interference. If the Police Department determines that the proposal has a high probability that the facility will interfere with emergency communications devices, the applicant shall work with the Police Department to avoid interference.

C. Other Permits and Regulatory Approvals. In addition to any permit required under this chapter, the applicant shall obtain all other required permits and other regulatory approvals from the City, and state and federal agencies. Any permit granted under this chapter shall be subject to the conditions and/or other requirements in any other required permits or other regulatory approvals.

D. Proprietary Approvals. Nothing in this chapter shall be deemed to waive any required proprietary approvals for siting of personal wireless service facilities on privately or publicly owned property or improvements.

20.49.060. Permit Applications.

A. Application Requirement. Except for a 6409(a) facility, the City shall not accept, approve, or deny any personal wireless service facility subject to this chapter except upon a duly filed application pursuant to Chapter 20.50 and any other written rules developed by the Director.

B. Minimum Application Content. Any application for a personal wireless service facility shall be filed with the Community Development Department on the appropriate form, together with all required fees and/or deposits and all other information and materials specified by the Director for the application.

C. Applications Deemed Withdrawn. To promote efficient review and timely decisions by the City, if an application is deemed incomplete, the City shall notify the applicant in writing identifying the information needed to deem the application complete. The application shall be deemed automatically withdrawn without prejudice if the applicant fails to provide all required information within sixty (60) days of the City's written notice of incompletion. If the applicant submits a written request for extension showing good cause prior to the sixtieth (60th) day, the Director may grant a written extension of no more than an additional thirty (30) days. Delays due to circumstances outside the applicant's reasonable control shall be considered good cause to grant the extension.

20.49.070. Design Standards.

A. Generally Applicable Development Standards. Any new personal wireless service facility, or collocation or modification to an existing personal wireless service facility not subject to Section 6409(a) shall conform to the following generally applicable development standards.

1. Concealment. The personal wireless service facility is concealed to blend the equipment and other improvements into the natural and/or built environment consistent with the underlying zoning district and surrounding area.

2. Public View Protection. The personal wireless service facility, whether approved by administrative or discretionary review, complies with Section 20.30.100. Additionally, any potential impact(s) from a new or modified personal wireless service facility to public views that are not identified by the City's General Plan Natural Resources Element shall be evaluated to determine if inclusion in the element would be appropriate. If deemed appropriate for inclusion, the potential impacts to such public views shall be considered.

3. Height. The personal wireless service facility does not exceed the maximum allowable height limit for flat structures pursuant to Section 20.30.060(C)(2) unless the review authority approves a CUP and makes all of the required findings in Section 20.49.080(C) to exceed the maximum height limit by no more than fifteen (15) feet. The personal wireless service facility shall comply with height restrictions or conditions, if any, required by the FAA, and shall comply with Section 20.30.060(E) as may be in force at the time the personal wireless service facility is permitted or modified.

4. Setbacks. The personal wireless service facility complies with all required setbacks for the zoning district in which the facility is proposed.

5. Noise. The personal wireless service facility and all accessory and transmission equipment comply with all noise regulations, including, without limitation, Chapter 10.26, and shall not exceed either individually or cumulatively, the applicable ambient noise limits. The review authority may condition the project to incorporate appropriate noise-baffling materials and/or design strategies to meet the applicable noise limit.

6. Landscaping. The personal wireless service facility application includes landscape features when proposed in a landscaped area. The review authority may condition additional landscaping to screen or conceal the facility from public view and/or avoid or mitigate potential adverse impacts on adjacent properties.

The permittee shall be responsible for maintenance of and replacement of all landscaping.

7. Security Measures. The personal wireless service facility incorporates reasonable and appropriate security measures, such as fences, walls and anti-climbing devices, to prevent unauthorized access, theft and vandalism. Security measures shall be designed to enhance concealment to the maximum extent possible. The review authority may require additional concealment elements deemed necessary to blend the security measures and other improvements into the natural and/or built environment.

8. Backup Power Sources. The review authority may condition permanent backup power sources and/or generators. The City strongly favors non- and low-polluting backup power sources such as fuel cells and natural gas generators and strongly disfavors backup power sources that pollute such as diesel and gasoline generators. Any permanent backup power sources and/or generator shall be located as far away from sensitive receptors as feasible.

9. Lights. Exterior lighting of the personal wireless service facility shall be limited to: (a) lighting required under FAA, FCC or other applicable governmental regulations; and (b) timed or motion-sensitive lights for security and/or worker safety. All exterior lights permitted or required shall be installed in locations and within enclosures that avoid illumination impacts on other properties to the maximum extent feasible. Aircraft warning lighting required by the FAA or FCC shall be shielded from the interior of any human-occupied structure's views to the maximum extent feasible.

10. Signs and Advertising. The personal wireless service facility shall include discrete signage that continuously and accurately identifies the equipment, the permittee's site name or identification number, as well as a local or toll-free number to the permittee's network operations center. The personal wireless service facility shall not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended by the FCC, CPUC, or other United States or state governmental agencies.

11. Future Collocations. The personal wireless service facility is designed and sited in a manner that contemplates future collocations and facilitates the integration of additional equipment into the proposed facility or associated structures with no or negligible visual changes to its outward appearance to the greatest extent feasible.

12. Utilities. All cables and connectors for telephone, primary electric and

other similar utility services will be routed underground to the extent feasible in conduits large enough to accommodate future collocated facilities. The review authority shall not approve new overhead utility lines or service drops merely because undergrounding would increase the project cost.

13. Compliance with Laws. The personal wireless service facility is designed and sited in compliance with all applicable federal, state and local laws, regulations, rules, restrictions and conditions, which include, without limitation, the California Building Standards Code, General Plan and any applicable specific plan, and this Code.

14. Nonconformities. A proposed or modified personal wireless service facility shall not create any new or increased nonconformity as defined in this Title 20, such as, but not limited to, a reduction in and/or elimination of required parking, landscaping, or loading zones unless relief is sought pursuant to applicable Zoning Code procedures.

B. Design Standards by Facility Class. In addition to the general design standards set forth in subsection (A) of this section, any new personal wireless service facility, or collocation or modification to an existing personal wireless service facility not subject to Section 6409(a) shall conform to the following class-specific design standards.

1. Class 1 (Stealth/Screened) Installations.

a. All personal wireless service facility components, including all antennas, antenna panels, cables, wires, conduit, mounting brackets, and support equipment, shall not be visible in any direction (360 degrees) from a public right-of-way or adjacent residential property, as may be seen from a point six (6) feet above ground level so that all equipment is adequately screened from public view(s) including at higher elevations, and mounted either inside the building or structure, or behind screening elements and not on the exterior face of the building or structure.

b. Screening materials shall match in color, size, proportion, style, and quality with the exterior design and architectural character of the structure and the surrounding visual environment. The review authority may condition additional screening to avoid adverse impacts to views from land or buildings at higher elevations.

c. When a personal wireless service facility is proposed within an existing or new architectural feature such as a steeple, religious symbol, tower, cupola, clock tower, sign tower, etc., the facility shall be

architecturally compatible with the existing structure or building.

2. Class 2 (Visible) Installations.

a. Building or structure mounted antennas shall be painted or otherwise coated to match or complement the predominant color of the structure on which they are mounted and shall be compatible with the architectural texture and materials of the building to which the antennas are mounted. No cables, wires, conduit, mounting brackets or any other associated support equipment shall be visible.

b. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.

3. Class 3 (Public Right-of-Way) Installations. A facility within the public right-of-way shall comply with Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way).

4. Class 4 (Freestanding Structure) Installations.

a. The installation of new lattice towers or monopoles with visible antennas or antenna arrays is strongly discouraged due to the negative visual effects of such facilities. Preferred monopole designs include fully screened antennas without visible brackets, cables, or conduit. Additionally, any lattice tower or monopole should be sited in the least obtrusive location as practicable.

b. The construction of new freestanding structures such as signs, monoliths, pyramids, light houses, or other similar vertical structures shall be designed and sited to appropriately complement a site and screen all elements of the personal wireless service facility.

c. The installation of artificial rocks shall match in scale and color with other rock outcroppings in the general vicinity of the proposed site. An artificial rock screen may not be considered appropriate in areas that do not have natural rock outcroppings.

d. The installation of artificial trees or shrubbery is strongly discouraged if they appear unnatural to the average reasonable observer. When an artificial tree or shrubbery is proposed, it shall be designed for and located

in a setting that is compatible with the proposed screening method. Such installations shall be situated so as to utilize existing natural or manmade features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening. All antennas and antenna supports shall be contained within the canopy of the tree design or other vegetation comparable to that being replicated by the proposed screening elements. Finally, new comparable living vegetation may be conditioned to enhance the artificial tree or shrubbery screening elements.

e. Flagpoles shall not exceed twenty-four (24) inches in width at the base of the flagpole and shall not exceed twenty (20) inches in width at the top of the flagpole.

5. Class 5 (Temporary) Installations. A temporary personal wireless service facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary by the review authority, the appropriate screening methods will be determined through the application review and permitting process in consideration of the temporary nature of the facility.

6. Support Equipment. All support equipment associated with the operation of any personal wireless service facility shall be placed or mounted in the least visually obtrusive location practicable and shall be screened from view.

a. Building-Mounted Personal Wireless Service Facilities. For building or structure mounted antenna installations, support equipment for the facility may be located inside the building, in an underground vault, or on the roof of the building that the facility is located on; provided, that both the equipment and any screening materials are architecturally compatible and/or painted the color of the building, roof, and/or surroundings.

b. Roof-Mounted Personal Wireless Service Facilities. All screening materials for roof-mounted facilities shall be of a quality and design compatible with the architecture, color, texture and materials of the building to which it is mounted. The review authority may condition additional screening to avoid adverse impacts to views from land or buildings at higher elevations.

c. Freestanding Personal Wireless Service Facilities. For freestanding facilities installations, not mounted on a building or structure, support equipment for the facility may be visually screened by locating the support equipment in a fully enclosed building, underground vault, or security

enclosure consisting of walls and/or landscaping.

d. Landscaping. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surrounding area.

e. Screen Enclosures. Screening enclosures shall be made of non-reflective material and painted to blend with surrounding materials and colors. Additionally, screening enclosures shall utilize graffiti-resistant and climb-resistant vinyl-clad chain link with a “closed-mesh” design with no more than one-inch gaps or an alternate enclosure design approved by the review authority.

f. Undergrounding and Venting. If placed in an underground vault, flush-to-grade vents, or alternatively, vents may extend no more than twenty-four (24) inches above the finished grade and shall be screened from public view .

20.49.080. Decisions.

A. Notice.

1. Hearing Notices. An application for a MUP, CUP, or LTP shall require public notice in accordance with Chapters 20.52 and 20.62 prior to a public hearing and decision on any application for a personal wireless service facility.

2. Decision Notices. After the review authority approves, conditionally approves or denies an application for a personal wireless service facility or before the FCC timeframe for review expires (whichever occurs first), the review authority shall send a written determination to the applicant and any other party entitled to receive notice.

B. General Findings for Approval. The review authority may approve or conditionally approve an application for a personal wireless service facility only after first making the applicable required findings for a MUP or CUP pursuant to Section 20.52.020, or LTP pursuant to Section 20.52.040, along with each of the following findings:

1. The proposed personal wireless service facility is visually compatible with the surrounding neighborhood;

2. The proposed personal wireless service facility complies with height, location and design standards, as provided in this chapter;

3. The proposed personal wireless service facility complies with all applicable development standards described in Section 20.49.070;

4. The applicant demonstrates that the proposed facility complies with all applicable FCC rules and regulations for human exposure to RF emissions;

5. The applicant demonstrates a good-faith effort to identify and evaluate more-preferred locations and potentially less-intrusive designs; and

6. The applicant has provided the review authority with a meaningful comparative analysis that reasonably shows less-intrusive alternative locations and designs identified in the administrative record are either technically infeasible or not potentially available.

C. Findings to Increase Height. The review authority may approve or conditionally approve an application for a personal wireless service facility to exceed the maximum allowable height by no more than fifteen (15) feet only after making the findings set forth in subsection (B) of this section, the applicable required findings for a MUP or CUP pursuant to Section 20.52.020, or LTP pursuant to Section 20.52.040, and each of the following findings:

1. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed personal wireless service facility and existing adjacent developments or public spaces;

2. Establishment of the personal wireless service facility at the requested height is necessary to provide service;

3. The personal wireless service facility complies with the height restrictions or conditions, if any, required by the FAA; and

4. The personal wireless facility complies with Section 20.30.060(E).

D. Conditional Approvals. The review authority may impose any reasonable conditions on any MUP, CUP or LTP related and proportionate to the subject matter in the application, as the review authority deems necessary or appropriate to promote and ensure conformance with the General Plan, any applicable specific plan and all applicable provisions in this Code.

E. Appeals. Except for an AC, any appeal of the decision of the review authority of an application for a personal wireless service facility shall be processed in compliance with Chapter 20.64. Notwithstanding the foregoing, the environmental effects from RF emissions that comply with all applicable FCC regulations shall not be grounds for an appeal.

20.49.090. Standard Conditions of Approval.

In addition to all other conditions adopted by the review authority and required by this Code, all personal wireless service facilities, whether approved by the approval authority or deemed approved by the operation of law, shall be automatically subject to the following:

A. Approved Plans. Before the permittee submits any applications to the Building Division, the permittee must incorporate the permit, all conditions associated with the permit and the approved photo simulations into the project plans (the “Approved Plans”). The permittee must construct, install and operate the facility in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the facility, must be submitted in a written request subject to the Director’s prior review and approval, who may refer the request to the original review authority if the Director finds that the requested alteration, modification or other change implicates a significant or substantial land-use concern.

B. Build-Out Period. In accordance with Section 20.54.060, the permit shall automatically expire two (2) years from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and/ or operate the approved facility, which includes, without limitation, any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the facility or its use. The Director may grant one (1) written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension received by the City prior to the automatic expiration date in this condition.

C. Maintenance. The permittee shall at all times keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the Approved

Plans and all conditions of the permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within forty- eight (48) hours after the permittee receives notice or otherwise becomes aware through its own staff including contractors that such graffiti or other vandalism occurred.

D. Compliance with Laws. The permittee shall comply at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law applicable to the permittee, the subject property, the facility or any use or activities in connection with the use authorized in the permit. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.

E. Inspections; Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but shall not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee shall be permitted to supervise the City or its designee while such inspection or emergency access occurs.

F. Contact Information. The permittee shall furnish the City Planning Division with accurate and up-to-date contact information for the facility, which includes, without limitation, direct telephone number and/or an email address. The permittee shall keep such contact information up to date at all times.

G. Insurance and Indemnification. The permittee shall meet all insurance requirements and defend, indemnify and hold harmless the City pursuant to Chapter 1.07.

H. Revocation/Modification of Permit. The original review authority may revoke or modify the permit based upon noncompliance with the Code or any approval conditions in accordance with Chapter 20.68.

I. Duty to Retain Records. The permittee shall maintain complete and accurate copies of all permits and other regulatory approvals (the records) issued in connection with the personal wireless service facility, which includes, without limitation, the approval, the Approved Plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. If the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a

reasonable time after a written request from the City, any ambiguities or uncertainties that would be resolved through an inspection of the missing records shall be construed against the permittee.

20.49.100. Temporary Personal Wireless Service Facilities.

A. Temporary Personal Wireless Service Facilities—Non-Emergencies. The Zoning Administrator may approve or conditionally approve an LTP for a temporary personal wireless service facility for a period between four (4) days and ninety (90) days, inclusive, in accordance with Section 20.52.040, only when the Zoning Administrator finds all the following:

1. The proposed temporary personal wireless service facility shall not exceed fifty (50) feet in overall height above ground level;

2. The proposed temporary personal wireless service facility complies with all setback requirements applicable to the proposed location;

3. The proposed temporary personal wireless service facility shall not involve any excavation or ground disturbance;

4. The proposed temporary personal wireless service facility shall be compliant with all generally applicable public health and safety laws and regulations, which include, without limitation, maximum permissible exposure limits for human exposure to RF emissions established by the FCC;

5. The proposed temporary personal wireless service facility shall not create any nuisance or violate any noise limits applicable to the proposed location;

6. The proposed temporary personal wireless service facility shall be identified with a sign that clearly identifies the site permittee and contains a working telephone number to a live person who can exert power-down control over the antennas;

7. The proposed wireless temporary personal wireless service facility shall be removed within five (5) days after the expiration of the temporary use permit;

8. The applicant has not received any other temporary use permit for substantially the same location within the previous ninety (90) calendar days; and

9. The applicant has not sought approval for any permanent personal wireless service facility in substantially the same location within the previous three hundred sixty-five (365) days.

B. Temporary Personal Wireless Service Facilities—Emergencies.

1. The Director may approve or conditionally approve the placement and operation of a temporary personal wireless service facility within the City for more than three (3) days without a limited term permit only when a duly-authorized federal, state, county or City official declares an emergency within the City, or a region that includes the City in whole or in part at the location of the temporary personal wireless service facility.

2. The temporary personal wireless service facility shall prominently display upon it a legible notice identifying the entity responsible for the placement and operation of the temporary personal wireless service facility.

3. Any temporary personal wireless service facilities placed pursuant to this subsection (B) shall be removed within by the permittee: (a) five (5) days after the date the emergency is lifted; or (b) upon three (3) days' written notice from the Director or City Manager; or (c) within one (1) hour if required for public safety reasons by City police or fire officials (whichever occurs first). If the temporary facility is not removed as required in this subsection (B), the City may elect to remove and either store or dispose of the temporary facility at the sole cost and risk of the permittee.

C. Temporary Personal Wireless Service Facilities—Construction.

1. The Director may approve or conditionally approve a temporary personal wireless service facility without a limited term permit only if they coincide with an active building permit for construction on the same site. This exception applies only when necessary to maintain pre-existing coverage while a permanent facility is being impacted by construction.

2. The temporary personal wireless service facility shall prominently display upon it a legible notice identifying the entity responsible for the placement and operation of the temporary personal wireless service facility.

3. The proposed temporary personal wireless service facility shall not exceed fifty (50) feet in overall height above ground level.

4. Any temporary personal wireless service facility placed pursuant to this subsection (C) shall be removed, at no cost to the City, by the permittee within: (a) five (5) days after the date the relevant building permit receives final inspection; (b) upon three (3) days' written notice from the Director or City Manager; or (c) within one (1) hour if required for public safety reasons by City police or fire officials

(whichever occurs first). If the temporary facility is not removed as required in this subsection (C), the City may elect to remove and either store or dispose of the temporary facility at the sole cost and risk of the permittee.

D. By placing a temporary personal wireless service facility pursuant to this section, the entity or person placing the temporary personal wireless service facility agrees to and shall meet all insurance requirements and defend, indemnify and hold harmless the City pursuant to Chapter 1.07.

20.49.110. Removal and Abandonment of Wireless Facilities.

A. Discontinued Use. Any permittee who intends to discontinue use of a personal wireless service facility shall notify the Director by certified mail no less than thirty (30) days prior to such discontinuation of use. The permittee or owner of the affected real property shall have ninety (90) days from the date of discontinuation, or a reasonable additional time as may be approved by the Director, within which to complete one (1) of the following actions:

1. Reactivate use of the personal wireless service facility.

2. Transfer the rights to use the personal wireless service facility to another permittee and the new permittee commences use within a reasonable period of time as determined by the Director.

3. Remove the personal wireless service facility and restore the site.

B. Abandonment. Any personal wireless service facility that is not operational for six (6) months or more and has not been removed in accordance with subsection (A) of this section shall be deemed abandoned. Upon a finding of abandonment, the City shall provide notice to the permittee last known to use such facility and, if applicable, the owner of the affected real property, providing thirty (30) days to complete one of the following actions:

1. Reactivate use of the personal wireless service facility;

2. Transfer the rights to use the personal wireless service facility to another permittee who has agreed to reactivate the facility within thirty (30) days of the transfer; or

3. Remove the personal wireless service facility and restore the site.

C. Removal by City.

1. The City may remove an abandoned personal wireless service facility,

repair any and all damage to the premises caused by such removal, and otherwise restore the premises to comply with applicable codes at any time after thirty (30) days following the notice of abandonment.

2. If the City removes an abandoned personal wireless service facility, the City may, but shall not be required to, store the removed facility or any part thereof. The owner of the premises upon which the abandoned facility was located and all prior permittees of the facility shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the City promptly after demand therefore is made. In addition, the City Council, at its option, may utilize any financial security required in conjunction with granting the permit as reimbursement for such costs. Also, in lieu of storing the removed facility, the City may convert it to the City's use, sell it, or dispose of it in any manner deemed by the City to be appropriate.

D. City Lien on Property. Until the cost of removal, repair, restoration, and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the personal wireless service facility was located for the full amount of all costs incurred by the City for the removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the Orange County Recorder, with the costs of filing, processing, and release of such City lien being added to the other costs listed in this subsection.

Attachment B

Draft Personal Wireless Service Facilities in the Public Right-of-Way
Standards and Regulations

Public Right-of-Way
Personal Wireless Service Facility
Standards and Regulations

Originally Published by the City of Newport Beach
Public Works Department
on <MONTH> <DAY>, <YEAR>, and Last Updated on
<MONTH> <DAY>, <YEAR>

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Approved By:

_____

Dave Webb, Director
Public Works Department

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CHAPTER 1: INTRODUCTION AND WHAT'S NEW

On July 14, 2026, the Newport Beach City Council adopted the following to comprehensively update regulations for personal wireless facilities in the Newport Beach Municipal Code (NBMC):

- Ordinance No. 2026-07, modifying Title 20 (Planning and Zoning) of the NBMC to remove public right-of-way installations from its purview;
- Ordinance No. 2026-07, creating new Chapter 13.22 (Personal Wireless Service Facilities in the Public Right-of-Way);
- Resolution No. 2026-41, authorizing the submittal of an amendment to the Local Coastal Program Implementation Plan to incorporate complementary revisions in Title 21 (Local Coastal Program Implementation Plan); and
- A Master License Agreement Template for personal wireless service facilities within the public right-of-way.

Importantly, no updated regulations are effective yet in the Coastal Zone. In the Coastal Zone, additional approvals may be required. Applicants should anticipate a Coastal Development Permit or de minimis waiver, as applicable, pursuant to Section 21.49.020 (Permit and Agreement Required).

As this is the initial version of this document, subsequent versions will include updates to this Chapter that reflect what changes have been made with any new versions.

These standards are published on the City's website here <INSERT LOCATION>. You are encouraged to check this website regularly for updates.

For questions regarding this document, contact the Public Works Department at pwinfo@newportbeachca.gov or 949-644-3311. Only the Public Works Director is authorized to provide formal interpretations of these Standards. This document does not create vested rights. Applicants are strongly encouraged to confirm current requirements at the time of submittal.

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CHAPTER 2: PURPOSE AND AUTHORITY

2.1 PURPOSE

These Standards and Regulations ("Standards") establish reasonable and uniform technical, submittal, construction, and operational requirements for personal wireless service facilities and Section 6409(a) eligible facilities requests in the public right-of-way ("PROW"), consistent with and to the extent permitted under federal and state law and NBMC Chapter 13.22.

2.2 AUTHORITY AND RELATIONSHIP TO THE NBMC AND OTHER REQUIREMENTS

A. These Standards are issued under the authority of NBMC 13.22.040 and may be updated at the discretion of the Public Works Director.
B. These Standards are intended to implement (not replace) NBMC Chapter 13.22. Where there is any inconsistency, NBMC and applicable law control (see NBMC 13.22.020 conflict clause and 13.22.010 purpose limitations).
C. Where an applicant/permittee has executed a Master License Agreement ("MLA") with the City, the facility must also comply with the MLA and any Amendment(s).
D. Applicants remain responsible for obtaining all other required City, state, and federal approvals (NBMC 13.22.050(E)).

2.3 LIMITATIONS

The Standards are not intended to, nor shall be interpreted or applied to:

1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
2) prohibit or effectively prohibit any personal wireless service provider's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulations;
3) unreasonably discriminate among providers of functionally equivalent services;
4) deny any request for authorization to place, construct, or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions;
5) prohibit any collocation or modification that the City may not deny under federal or California state law; or
6) otherwise authorize the City to preempt any applicable federal or California state law or regulation.

2.4 DEFINED TERMS

Capitalized terms not defined in these Standards have the meanings set forth in NBMC 13.22.020 and, where applicable, the executed MLA.

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CHAPTER 3: APPLICABILITY AND EXEMPTIONS

3.1 APPLICABILITY

These Standards apply to any personal wireless service facility or 6409(a) facility proposed to be located within the public right-of-way, and to applications not approved prior to the effective date of Chapter 13.22 (NBMC 13.22.030).

Please note, personal wireless service facilities not within the public right-of-way are overseen by the City's Community Development Department.

3.2 EXEMPT FACILITIES

The following facilities are exempt from Chapter 13.22 and, therefore, these Standards shall not apply:

1) Personal wireless service facility, 6409(a) facility, or equipment owned and operated by California Public Utilities Commission-regulated electric companies for use in connection with electrical power generation, transmission, and distribution facilities subject to California Public Utilities Commission General Order 131-E, as may be amended;
2) Personal wireless service facility or 6409(a) facility that is constructed for City use or by the City to exclusively provide unlicensed wireless services including Wi-Fi;
3) Personal wireless service facility or 6409(a) facility that is installed or operated under the direction of the City or a City contractor;
4) Personal wireless service facility or 6409(a) facility used solely for wireless-based reading of water, gas, or electric meters;
5) Amateur radio facility(ies);
6) OTARD antenna(s);
7) Entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement; and
8) Personal wireless service facility or 6409(a) facility, or portion thereof, that is preempted by, or would otherwise violate, applicable federal or state law. Notwithstanding the foregoing, an exempt personal wireless service facility or 6409(a) facility shall be subject to the Public Works Director's determination that it be designed to minimize the extent of non-conformity with this Code.

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CHAPTER 4: CITY CONTACTS, FORMS, CHECKLISTS, AND SUBMITTAL FORMAT

4.1 DEPARTMENTAL FORMS AND CHECKLISTS

The Public Works Department will publish and maintain the following, which are incorporated by reference into these Standards:

- Application forms for: (i) Wireless Facility Permit; (ii) Section 6409(a) Permit; (iii) Wireless Telecommunications Encroachment Permit
- Fee/deposit schedule references

(Authorized by NBMC 13.22.040 and 13.22.060)

4.2 SUBMITTAL FORMAT (MINIMUM REQUIREMENTS)

Unless otherwise required by the City, all application packages must include:

A. One searchable PDF of the complete application package;
B. Separate plan set PDFs (stamped when required);
C. A CAD/GIS-compatible location file for each site (e.g., SHP/KML/CSV) [City to specify]; and
D. Demonstrated compliance with all requirements described in Sections 8 through 13 of these Standards.

4.3 PRE-SUBMITTAL COORDINATION (RECOMMENDED)

Applicants are strongly encouraged to request a pre-submittal meeting for:

- New pole proposals (see NBMC 13.22.100)
- Unusual power solutions or ground equipment
- Any site in constrained areas (high pedestrian volumes, narrow sidewalks, complex utilities, etc.)

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CHAPTER 5: PERMITTING OVERVIEW

5.1 PERMIT TYPES AND MASTER LICENSE AGREEMENT

Three permits regulate personal wireless service facilities in the public right-of-way (NBMC 13.22.050):

1) 6409(a) Permit: Required for requests seeking approval to modify a personal wireless service facility pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act (codified as Title 47 USC section 1455 and implemented pursuant to Title 47 CFR Section 1.40001). A 6409(a) Permit is a pseudo-entitlement permit; it is not an authorization to perform work in the public right-of-way.

2) Wireless Facility Permit: Required to construct, install, modify, collocate, relocate, or otherwise deploy a personal wireless service facility in the public right-of-way except eligible facilities requests that qualify for a 6409(a) Permit. A Wireless Facility Permit is a pseudo-entitlement permit; it is not an authorization to perform work in the public right-of-way.

3) Wireless Telecommunications Encroachment Permit or "Encroachment Permit": Required to perform work in the public right-of-way. An Encroachment Permit is a permit to construct and is only valid in connection with a 6409(a) Permit, Wireless Facility Permit or Master License Agreement.

4) Master License Agreement or "MLA" Option: A contractual agreement between the City, acting in its proprietary capacity, and an applicant that establishes the uniform terms, conditions and procedures governing the use of City property or infrastructure within the public right-of-law to construct, install, modify, collocate, relocate or otherwise deploy personal wireless service facilities. If an MLA is executed, a facility may be exempt from obtaining the Personal Wireless Facility Permit or 6409(a) Permit but must still comply with Chapter 13.22 and these Standards. [NBMC 13.22.050(C) & (D)]

WHAT THE MASTER LICENSE AGREEMENT DOES AND DOESN'T DO:

Does authorize facilities to locate within the City's public right-of-way.
Does provide proprietary license terms.
May satisfy the City's "permit required" item for Wireless Facility Permit/6409(a) Permit when NBMC 13.22.050(C) applies.
Doesn't eliminate need for an encroachment permit to do work.
Doesn't waive other approvals.

5.2 BATCHED APPLICATIONS

Batched applications are permitted as described in NBMC 13.22.060(D) for substantially similar designs only and must comply with the following:

1) Maximum 50 sites per batch;

2) Each site must be complete on its own and include its own fee/materials;
3) Incomplete sites may be deemed withdrawn per NBMC 13.22.070; and
4) A new batch (or a new application for a site with an existing application) is not accepted until the prior batch is approved/denied/withdrawn.

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CHAPTER 6: PERMITTING PROCESSES

6.1 6409(A) PERMITS AND WIRELESS FACILITY PERMITS

The 6409(a) Permit and Wireless Facility Permit processes involve the following steps:

1) Permit Application;
2) Administrative Review;
3) Determination and Permitting; and
4) Obtain Wireless Telecommunications Encroachment Permit, If Approved.

6.1.1 Step 1: Permit Application

A permit application and all required materials shall be submitted to the City. The applicant shall submit the correct type of application for the work proposed. The latest permit applications are available on the City's website at www.newportbeachca.gov as well as at the City's Permit Center counter, located on the first floor in Bay C at City Hall. The applicant is responsible for ensuring that the latest version of the application is submitted at the time of submittal appointment. Applications not submitted on the most current form will not be processed.

6.1.2 Step 2: Administrative Review

The City will review the application. If an application is incomplete, the City shall notify the applicant of the information needed in order to deem the application complete in the notification. If the City issues a written incompleteness notice, the applicant must supply all required information within 60 days (plus a possible 30-day good-cause extension) or the application is deemed withdrawn (NBMC 13.22.070).

6.1.3 Step 3: Determination and Permitting

Upon completing its review, the City will issue a timely determination regarding the application. If the City issues an approval determination, the applicant shall sign the determination and return a copy to the Public Works Department. In practice, the City's written determination/Statement of Official Action serves as the City's written authorization, and (for Wireless Facility Permits) is posted to the City website per NBMC timelines.

Approved documents will be kept on file with the City. Approved construction documents will be released to the permittee when a Wireless Telecommunications Encroachment Permit is issued.

6.1.4 Step 4: Obtain Wireless Telecommunications Encroachment Permit, If Approved

If the Wireless Facility Permit application or 6409(a) Permit application is approved, the applicant shall then obtain a Wireless Telecommunications Encroachment Permit to perform the approved work. Refer to Section 4.2 for steps to obtain a Wireless Telecommunications Encroachment Permit.

6.2 WIRELESS TELECOMMUNICATIONS ENCROACHMENT PERMIT

A Wireless Telecommunications Encroachment Permit ("Encroachment Permit") must be obtained after receiving a Wireless Facility Permit, 6409(a) Permit, or through an executed MLA, to perform work in the public right-of-way.

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The Encroachment Permit process involves the following steps:

1) Satisfy Prerequisite Conditions of Approval;
2) Permit Application and Issuance; and
3) Construction and Inspection.

6.2.1 Step 1: Satisfy Prerequisite Conditions of Approval

The approved Wireless Facility Permit or 6409(a) Permit associated with the Encroachment Permit application contain conditions of approval. Some conditions of approval must be satisfied prior to issuance of an Encroachment Permit. Ensure that these conditions have been satisfied prior to or at the time of applying for an Encroachment Permit.

6.2.2 Step 2: Permit Application and Issuance

A permit application and all required materials shall be submitted to the City. The applicant shall submit the correct type of application for the work proposed. The latest permit applications are available on the City's website at www.newportbeachca.gov as well as at the City's Permit Center counter in Bay C. Applications not submitted on the most current form will not be processed.

Staff will verify that all required materials are present with the application, including prerequisite conditions of approval. Once verified, an Encroachment Permit will be issued.

The City will also provide stamped, approved construction documents and an Encroachment Permit Inspection Card at time of permit issuance.

6.2.3 Step 3: Construction and Inspection

Upon receiving an Encroachment Permit, the permittee shall comply with the procedures set forth on the Encroachment Permit Inspection Card.

6.3 ENCROACHMENT PERMIT RENEWAL

If the Encroachment Permit expires, a request for an Encroachment Permit Renewal may be submitted. The Encroachment Permit renewal application contains the following conditions of approval:

1) A request must be submitted within 30 days of the expiration date.
2) Limited to one Renewal request per issued Encroachment Permit.
3) The deadline to commence work is 45 days from the issuance of the Encroachment Permit.

The renewal of the Telecommunications Encroachment Permit involves the following Steps:

1) Permit Application and Issuance
2) Construction Inspection

6.3.1 Step 1: Permit Application and Issuance

A permit application and all required materials shall be submitted to the City. The applicant shall submit the correct type of application for the work proposed. The latest permit applications are available on the City's website at https://www.newportbeachca.gov/government/departments/public-works/permits as well as at

the City's Permit Center counter. The applicant is responsible for ensuring that the latest version of the application is submitted at the time of submittal appointment. Applications not submitted on the most current form will not be processed.

Staff will verify that all required materials are present with the application, including prerequisite conditions of approval. Once verified, an Encroachment Permit renewal will be issued.

The City will also provide stamped, approved construction documents and an Encroachment Permit Inspection Card at time of permit renewal issuance.

6.3.2 Step 2: Construction and Inspection

Upon receiving an Encroachment Permit renewal, the permittee shall comply with the procedures set forth on the Encroachment Permit Inspection Card.

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CHAPTER 7: CONSTRUCTION NOTICING

7.1 PUBLIC WORKS INSPECTOR TO DETERMINE CONSTRUCTION NOTICING BOUNDARIES, FORM AND CONTENTS

As stated on the Encroachment Permit Inspection Card, the first required inspection for any Wireless Encroachment Permit is a preconstruction meeting. During the mandatory preconstruction meeting, the City's Public Works Inspector will evaluate the permitted scope of work. Based on the scope of work and anticipated impacts to the community, the Public Works Inspector will establish the required construction noticing boundaries.

The Public Works Inspector shall review and approve the form and contents of the notice.

7.2 CONSTRUCTION NOTICING REQUIREMENTS

The permittee shall provide construction notices to all residences, businesses, and other properties within the boundaries set by the Public Works Inspector pursuant to section 7.1. Noticing requirements are typically confirmed at the preconstruction meeting associated with the encroachment permit.

The construction notice shall be posted in a conspicuous location at all residences and businesses (such as the front door) a minimum of three (3) calendar days in advance of the proposed construction activity. When posting at multi-tenant buildings, posting of the notice at the main entry point to the building is considered acceptable if the notice is posted in a conspicuous location.

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CHAPTER 8: MINIMUM REQUIREMENTS FOR INSTALLATIONS ON STREETLIGHTS

8.1 APPLICABILITY

Wireless Facility Permit and 6409(a) Permit applications that involve a streetlight shall comply with the requirements set forth in this chapter as well as all other applicable requirements set forth in these Standards.

8.2 MAXIMUM OFFSET FOR REPLACEMENT STREETLIGHTS

If an existing streetlight is proposed to be replaced with a replacement streetlight, the centerline to centerline distance between the existing and proposed streetlights shall be the minimum technically possible, but in no event shall the offset exceed 3 feet unless approved by the Public Works Department. If offset exceeds 3 feet, applicants should be prepared to provide lighting/engineering justification.

8.3 LIGHTING STUDY REQUIREMENTS

The primary and paramount purpose of streetlighting is to provide lighting and illumination of roadways, sidewalks, and other public spaces. In keeping with this purpose, the City requires lighting studies for certain applications that involve a streetlight. Given the number of ways that streetlights may be installed, configured, or otherwise deployed, the City may modify the requirements set forth in this chapter to ensure and verify that adequate lighting and illumination exist at a project location. All lighting study analysis must be in accordance with ANSI/IES RP-8 guidelines and recommendations for roadway lighting (and any subsequent updates/editions).

Unless facilities are being installed on an existing streetlight, a lighting study must be prepared and provided.

8.4 CITY-OWNED STREETLIGHTS

8.4.1 Applicability

Applications that involve City-owned streetlights shall comply with this section.

8.4.2 Compliance with Current Streetlight Standard

When a wireless facility is proposed on a City streetlight, the applicant shall be responsible for bringing the existing streetlight at the proposed project location up to the City's current streetlight standard in effect at that location. To confirm the current streetlight standard in effect at a proposed installation location, contact the Public Works Department.

The applicant may be required to furnish and install replacement streetlight luminaires, mast arms, a streetlight pole, a new foundation, and other appurtenant facilities in order to ensure that the replacement streetlight complies with the City's current streetlight standard in effect at the project location.

For a list of streetlight standards, see "Series 200 – Street Lights" on the City's website here: https://www.newportbeachca.gov/government/departments/public-works/standard-drawings-275

8.4.3 Structural Analysis

The applicant shall provide a structural analysis stamped and sealed by a qualified, California licensed civil or structural engineer, demonstrating that the streetlight structure on which the wireless facility is proposed can structurally support the proposed wireless facility and all other appurtenances attached to the streetlight structure in accordance with applicable design codes. Appurtenant structures shall include, but not be limited to:

1) Existing signage installed on the pole (e.g., street name signs, regulatory/warning signs) at the project location (if the proposed streetlight will replace an existing streetlight);
2) Luminaire(s) and mast arms(s); and
3) One 18" w x 36" h street banner. The top of the banner shall be assumed to be mounted approximately 1 ft from the top of the streetlight.

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CHAPTER 9: RADIO FREQUENCY EMISSIONS REPORT REQUIREMENTS

9.1 PRE-INSTALLATION REPORTING

All applications for personal wireless service facilities are required to submit documentation that demonstrates that the proposed facility will be compliant with the FCC's regulations concerning radio frequency emissions [NBMC 13.22.130(b)].

The radio frequency emissions report shall:

1) Be specific for the application site; no "generic" emissions reports shall be accepted.
2) Be sealed and signed by a qualified, California licensed electrical professional engineer;
3) Certify and demonstrate that the proposed facility will comply with applicable federal radio frequency exposure standards and exposure limits regarding uncontrolled general population exposure;
4) Include the makes, model numbers, actual frequencies, and power levels (in watts of effective radiated power, or W ERP) for all existing and proposed antennas at the site;
5) Provide color-coded exhibits that show the location and orientation of the transmitting antennas, nearby buildings and structures, and boundaries of:
    a) Areas with radio frequency electromagnetic energy exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) at the plane at which the antenna is transmitting; and
    b) Areas with radio frequency electromagnetic energy exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) at ground-level elevation.

Additionally, all applications for personal wireless service facilities are required to submit a completed "Optional Checklist for Local Government To Determine Whether a Facility is Categorically Excluded" contained in Appendix A of the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the proposed facility will be "categorically excluded" as that term is used by the FCC. This form can be found online at http://wireless.fcc.gov/siting/FCC_LSGAC_RF_Guide.pdf (link subject to change).

RF compliance is required for City approval. Reports must be site-specific and demonstrate planned FCC compliance.

9.2 POST-INSTALLATION REPORTING

Within 30 days of commencing operation of a new or modified facility, permittee must provide a certification under penalty of perjury that actual emissions do not exceed the pre-installation report. [NBMC 13.22.130(C)]

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CHAPTER 10: PHOTOSIMULATIONS

As part of any Wireless Facility Permit or 6409(a) Permit application filed with the City, the applicant shall furnish a minimum of two photographic visual simulations (photosims) of the proposed facility. The photosims shall be provided at two different angles and comply with the following requirements:

1) Provide an existing image of the project location adjacent to the photosim to demonstrate a "before and after" of the project location.
2) Be rendered in full color.
3) Be high quality. Grainy, pixelated, or otherwise low-quality photosims will not be approved.

Photosims should reflect the least intrusive concealment approach feasible for the site context.

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CHAPTER 11: CONSTRUCTION DOCUMENT REQUIREMENTS

11.1 INTENT AND APPLICABILITY

The intent of this section is to establish requirements to ensure that the City is provided with construction documents that fully detail the proposed work related to a personal wireless service facility; provide sufficient context of the built and natural environment surrounding the work location; ensure protection of City assets (e.g., street trees and utilities); and safeguard public health, safety, and welfare. Given the number of ways that construction documents are prepared, the City may modify the requirements set forth below to meet the overall intent of this section.

These requirements apply to all construction documents submitted to the City as part of a Wireless Facility Permit application, 6409(a) Permit application, or an MLA, if applicable.

11.2 GENERAL

Construction documents shall bear the following note regarding code compliance in addition to any other code compliance information:

All work and materials shall be performed and installed in accordance with the latest editions and supplements of the following codes as adopted by the City of Newport Beach. Nothing in these plans is to be construed to permit work not conforming to these codes.

1) California General Order 95
2) Standard Specifications for Public Works Construction (Greenbook)
3) Standard Plans for Public Works Construction (SPPWC)
4) 2025 California Building Standards Code (Cal. Code Regs., Title 24)
5) Caltrans Standard Plans for traffic striping and markings
6) The California Manual on Uniform Traffic Control Devices
7) 2010 ADA Standards for Accessible Design
8) Newport Beach Municipal Code

Do not refer to codes that have not been adopted by the State of California or City of Newport Beach.

Note: For excavation being proposed in the public right of way, ensure that the excavation being proposed on the site plan follows 13.20.100 (Excavations).

11.3 AMERICANS WITH DISABILITIES ACT AND LOCAL ACCESSIBILITY REQUIREMENTS

In no event may a personal wireless service facility or related work violate Americans with Disabilities Act (ADA) requirements. Applicants shall fully demonstrate ADA compliance on the project plans (site plan, elevation plan, etc.) in accordance with the 2010 ADA Standards for Accessible Design and any locally adopted policies pertaining to required ADA access and clearances.

11.4 FINAL POWER DESIGN REQUIRED

The final power design for the wireless facility shall be included with the construction documents and reflected on the site/elevation plans. Deferral of the final power design or inclusion of a power design as “for reference only” is not permitted. The applicant shall include all relevant final power

design drawings from Southern California Edison or the relevant power provider as part of the construction documents.

11.5 FUTURE WORK

The permitting of "future" work in construction documents is prohibited. All future work shall be permitted separately when the work is actually proposed. For example, proposing the installation of future equipment not intended to be installed when the construction documents are permitted for construction is prohibited. If shown on the plans, future work shall be notated as "Under Separate Permit."

11.6 REQUIRED NOTES AND DETAILS

11.6.1 General

Construction documents shall include the following:

1) Work in Public Right-of-Way General Notes
2) City of Newport Beach Contact List

11.6.2 Work That Proposes Excavation

Construction documents that propose any type of excavation work in the public right-of-way shall include the following:

1) Excavation Work in Public Right-of-Way General Notes;
2) City of Newport Beach Standard Drawing STD 106-C Parkway Utility Trench Detail; and
3) Any other City of Newport Beach Standard Details that are relevant to the work proposed.

The items above can be found on the City's website:
https://www.newportbeachca.gov/government/departments/public-works/standard-drawings-275

Note: In the absence of a City standard, use the Greenbook and SPPWC.

11.7 WORK NEAR CITY TREES

Any work near City trees within the right-of-way shall comply with NBMC Chapter 13.08 (Planting). Construction documents that propose work adjacent to a City tree shall conspicuously bear the following note on the title sheet:

Work proposed in these plans is proximate to a City tree. Contact the City of Newport Beach Municipal Operations Department at 949-644-3055 for tree protection requirements.

11.8 PROFESSIONAL ENGINEER CERTIFICATION

Note: The requirements below are summarized from California Business and Professions Code (BPC) section 6735. In the event of conflict between the requirements of the BPC and these Standards, the BPC shall prevail.

All civil engineering construction document sheets that are permitted or that are to be released for construction shall bear the stamp/seal, signature, and date of signing and sealing/stamping of the civil engineer in responsible charge. Civil engineering specifications, calculations, and reports that have multiple pages shall bear the signature, seal/stamp, and date of signing and sealing/stamping

of the civil engineer in responsible charge on the title sheet, cover sheet, or signature sheet, at a minimum.

If the applicant submits an application with documents requiring professional engineer certification, and such certification is missing or the documents contain interim notations such as "for plan check only" or "for review only," the City will review the application, but deem such submission as incomplete (and therefore count as a round of review). Failure to submit properly sealed documents for which a professional engineer certification is required shall be a cause of denial of an application.

11.9 FORM, SCALE, AND DIMENSIONS

Construction documents shall be submitted to the City in the form identified below.

1) During plan check, plans shall be plotted on 11" x 17" sheets. The sheets shall be downsized from full-size 24" x 36" sheets and plotted at half scale (e.g., 24" x 36" scale: 1 in = 10 ft, 11" x 17" scale: 1 in = 20 ft)
2) As built plans shall be submitted as a digital (i.e., not scanned) PDF file in full 24" x 36" size.
3) A note providing the 11"x17" plot scale and 24"x26" scale shall be conspicuously printed on the plans.
4) Site plan(s) and elevation plan(s) shall be scaled.
5) The title sheet shall include two 4.5" W x 3" H or one 4.5" W x 6" H clear space for City approval stamps.

11.10 GENERAL CONTENT

Construction documents shall include the following information:

1) Legend, if necessary
2) Nearest legal address adjacent to the proposed installation. Use NB GIS MAP (https://nbgis.newportbeachca.gov/NewportHTML5Viewer/?viewer=newportbeachgis), the City's official mapping platform, to determine nearest legal address. It may differ from the addresses provided in mapping services like Google Maps.
3) Site name/ID
4) Project description that sufficiently and accurately describes the work proposed in the construction documents
5) Latitude and longitude coordinates of the wireless facility (NAD83 datum)
6) Vicinity map
7) ADA compliance information to ensure the proposed work will comply with applicable ADA requirements.

11.11 SITE AND ELEVATION PLANS

A site plan and elevation shall be included that shows the project location, depicts the proposed work, and provides sufficient context of the built and natural environment surrounding the project location. Required elements to be shown on the plans may include:

1) Improvements within the public right-of-way, including, but not limited to:
    a. Streets
    b. Sidewalks
    c. Curbs

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    d. Parkways (include symbology to denote as landscape or hardscape)
    e. Trees
    f. Parking meters
    g. Street furniture (e.g., bus stops, newsracks, streetlights)
    h. ADA ramps and features
    i. Driveways
    j. Medians
    k. Substructure elements (e.g., pull boxes, gas/water/electrical utilities)
2) All structures, equipment, conduits related to the personal wireless service facility (existing and proposed), including, but not limited to:
    a. Pull boxes
    b. Power and fiber points of connection (must be notated on plans as "Power POC" and "Fiber POC," respectively)
    c. Conduits
    d. Antenna
    e. Directional antennas shall be accompanied by a conspicuously shown azimuth with an arrow pointing in the direction of the azimuth.
    f. Radios
    g. Concealment elements
3) Proposed conduits, pullboxes, etc. are routed in a logical fashion and consistent with any final power design documents.
4) Right-of-way boundaries
5) Parcel property lines; addresses and APNs included on parcels in the immediately vicinity to the proposed project location.
6) Dimensioned locations of all equipment relative to ground level, including, but not limited to:
    a. Concealment elements
    b. FCC radio frequency signage as prescribed the by electromagnetic energy report
    c. Antenna(s)
    d. Radio(s)
    e. Foundation
    f. All other equipment
7) Existing equipment/structures in the public right-of-way to be replaced or otherwise modified shall be appropriately notated (e.g., existing wooden utility pole to be re-set to be straight.)
8) For excavations proposed at major intersections provide a profile plan of your proposed conduit run and the existing utilities in the area, showing clearances will be met per City of Newport Beach standards.

Site plans and elevations plans shall be consistent with one another. An enlarged site plan is also encouraged to detail the scope of work.

11.12 EQUIPMENT AND SIGNAGE DETAILS

Equipment and signage details shall be included for all equipment and signage proposed to be used in conjunction with the wireless facility. Equipment and signage details need not be scaled but shall be fully dimensioned to ascertain the size and volume of all equipment. Details shall include the full specifications of the equipment. Mounting/attachment details shall also be included as part of the equipment details.

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11.13 RADIO FREQUENCY REPORT RECOMMENDATIONS AND 24-HOUR CONTACT SIGNAGE

The construction documents shall incorporate the recommendations of the radio frequency electromagnetic energy report, including appropriate signage. If not already provided by the recommendations of the radio frequency electromagnetic energy report, the construction documents shall include signage bearing the site ID and a 24-hour telephone number for any maintenance, emergency, or other operations issues pertaining to the personal wireless service facility.

Details of all signage shall be included in the construction documents in accordance with the "Equipment and Signage Details" section.

11.14 ADDITIONAL REQUIREMENTS FOR REPLACEMENT OF CITY STREETLIGHTS

11.14.1 Applicability

Construction documents that propose the replacement of an existing streetlight with a new streetlight shall include the additional information described in this section. The requirements in this section are intended to supplement the requirements in Chapter 7 of these Standards. In the event of conflict, the more stringent requirement shall prevail.

11.14.2 Required Notes

Include the following notes in a conspicuous location:

1) Contractor shall coordinate with the Public Works Inspector to salvage the existing streetlight pole to be removed and shall deliver it to an authorized location within the City limits at the direction of the Public Works Inspector. In the event that the Public Works Inspector determines the pole cannot be salvaged, the contractor shall dispose of the pole. The City shall not bear any cost for disposal or salvage of the streetlight pole.
2) Contractor shall fully remove existing streetlight foundation.
3) Contractor shall relocate signage on existing pole to new pole.
4) Contractor shall furnish and install all necessary conduit, pull boxes, and other ancillary equipment necessary to connect replacement streetlight to City's streetlight network and provide luminaire power.
5) All existing streetlight infrastructure adjacent to new streetlight installations shall be upgraded to meet City standards including, but not limited to, pull boxes, conduits/sweeps, and conductors.
6) Contractors working on or around high-voltage infrastructure must be Qualified Electrical Workers and must be certified through NFPA 70E, "Standard for Electrical Safety in the Workplace" training (4 hours).
7) All pull boxes serving power to streetlights shall read "STREET LIGHT, HIGH VOLTAGE" and letters shall be block letters at least ½" in height. Pull boxes shall be securely fastened and set in place. Replacement pull box lids on high-voltage circuits shall be Eisel Enterprises No. 3.5 or 5 pull box or pre-approved equal reinforced concrete pull box and cover. Coordinate all pull box upgrades with the Public Works Inspector before any installation takes place.
8) Deenergizing, energizing and cutover operations on streetlighting circuitry, especially high-voltage circuits, shall be coordinated with the Public Works Inspector at all applicable phases of work. Work requirements on the high-voltage system shall be conveyed to the

contractor during the pre-construction meeting by the Public Works Inspector and signed off by the City on the Construction Work Plan (see section 10.14.4). Contractor shall not cut, splice, remove, connect or re-connect any high-voltage wiring until all proper measures are in place and satisfactory to the Public Works Inspector.

9) All streetlighting conduits on 120 V circuits shall be 1-1/4" diameter schedule 40 PVC conduit.
10) All streetlighting conduits on high-voltage(5000 V) circuits shall be 2" diameter galvanized rigid conduit.
11) On plans showing streetlighting improvements on high-voltage circuits, please add this note:

CONTRACTOR TO SUBMIT A CONSTRUCTION WORK PLAN (SEE SECTION 11.14.4) FOR CITY APPROVAL AND COORDINATE WITH THE FOLLOWING CITY PERSONEL WHEN WORKING ON HIGH VOLTAGE (5000 V) LUMINAIRE POWER. THIS SHALL TAKE PLACE BEFORE ANY WORK TAKES PLACE ON THE CIRCUIT.

11.14.3 Plans

Show the following elements on the plans:

1) Dimension centerline to centerline offset from existing to proposed streetlight location. If streetlight is proposed to be removed and replaced in same location, include a notation to indicate such.
    a. Maximum: 5 feet
2) Dimension from face of curb to center of replacement streetlight pole.
    a. Minimum: 20 inches.
3) For luminaire power, show and call out new conduit run from the streetlight pull box to streetlight [labeled as "SL"] with the following note:
    a. New CSM power trench with (1) 1-1/4" dia sch 40 conduit for luminaire. [120 V]
    b. New CSM power trench with (1) 2" dia galvanized rigid conduit for luminaire. [5000 V]. Call out all high-voltage conduits on the plan.
4) Add the following notes in appropriate location on elevation plan:
    a. Existing streetlight pole and type (concrete, steel, etc.) to be removed and replaced.
    b. Existing foundation to be removed and replaced.
    c. Existing signage on streetlight pole to be removed and replaced.
    d. Existing pull boxes to be upgraded (as required per Section 10.14.2)
5) The existing luminaire type is noted on the plans. If the existing luminaire is HPS, provide the wattage.
6) The streetlight proposed reflects the City's current streetlight standard in effect at that location.

11.14.4 Construction Work Plan (Required for Work on High Voltage Circuits).

1) CONTRACTOR TO SUBMIT A CONSTRUCTION WORK PLAN FOR CITY APPROVAL AND COORDINATE WITH THE FOLLOWING CITY PERSONELL WHEN WORKING ON HIGH VOLTAGE (5000 V) LUMINAIRE POWER. THIS SHALL TAKE PLACE BEFORE ANY WORK TAKES PLACE ON THE CIRCUIT.

2) Construction Work Plan to be submitted to the City before the preconstruction meeting via email.
3) Construction Work Plan to include:

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a. Scope of work – description and schedule.
b. Prerequisite activities.
c. Permit documents.
d. Design drawings (approved), shop drawings, submittals; traffic control plans.
e. Work process – step by step list of how the work will be executed in the field. For example:
    i. Pre planning action plan - Mark out all dig alert limits – XYZ staff;
    ii. Field Work Plan; safety orientation, pre-excavation checklist, post signage, set up traffic control per approved plans, pothole,
    iii. Communication with City prior to working on the high voltage circuit.
    iv. City to XYZ; Who is performing splice, remove, connect or re-connect of any high-voltage wiring?
    v. Installation of conduit, foundation pole;
    vi. Circuit work
    vii. Restoration work.
    viii. Demobilize;
    ix. Final inspection;
f. Materials
g. Equipment/tools
h. Supervision and contract information
i. Job hazard analyses
j. Inspection Plan
k. Training required and copies of certification for NFPA 70E. (Contractors working on or around high-voltage infrastructure must be Qualified Electrical Workers and must be certified through NFPA 70E, "Standard for Electrical Safety in the Workplace" training (4 hours).

11.15 ADDITIONAL REQUIREMENTS FOR NEW STREETLIGHTS

Please consult with the Public Works Department for additional requirements for construction documents proposing a wireless facility on a new streetlight where no streetlight currently exists.

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CHAPTER 12: SITE LOCATION SELECTION AND JUSTIFICATION REQUIREMENTS

12.1 OVERVIEW

The intent of this section is to establish requirements to ensure that the City is provided with adequate information to understand the basis for siting a personal wireless service facility at a particular location, and to assess whether other nearby locations may be more suitable for the wireless service facility.

Given the number of ways that this information can be presented, the City may modify the requirements set forth below if the overall intent of this section is met.

12.2 LEAST INTRUSIVE SITE REQUIRED

Personal wireless service facilities shall be sited in locations that are least intrusive to the surrounding community uses. In general, the City prefers that personal wireless service facilities be sited at intersections, away from residential uses, and at locations that preserve scenic views.

In addition to the proposed location, an applicant must provide a minimum of three (3) nearby alternative locations for the proposed project including at least one location at an intersection or away from residential uses.

All locations shall be shown on a street map of the City and bounded by a circle or oval. If an applicant is unable to provide three (3) nearby alternatives locations, the applicant must provide a technically detailed justification for not meeting this City requirement. Given that wireless sites are anticipated to be placed then operated for decades, cost alone may not be sufficient to eliminate alternatives. Applicants must provide technical feasibility and availability rationale to exclude an alternative that meets the City's siting preferences.

In reviewing the applicant's site location selection and alternatives information provided pursuant to this Chapter, the City will determine which of the siting location is the least intrusive.

For proposals involving a new pole, applicants should also be prepared to address the comparative analysis needed for the City's new pole findings. [NBMC 13.22.100]

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CHAPTER 13: DESIGN STANDARDS

13.1 OVERVIEW

The following design standards apply to personal wireless service facilities in the City. City staff are available to meet with wireless carriers and their representatives to discuss appropriate design standards and requests to modify these requirements. The intent of these designs standards is to establish objective camouflage and concealment elements for personal wireless service facilities. The Public Works Director may waive or impose additional standards to meet the intent of this chapter and if doing so is conducive to the site being the least intrusive, maximally blending with the natural and built environment of the City, and protecting the aesthetic character of the City.

13.2 GENERAL REQUIREMENTS

The following requirements shall apply to all personal wireless service facilities in the public right-of-way:

1) Personal wireless service facilities shall comply with Newport Beach Municipal Code Chapter 10.26 (Community Noise Control).
2) All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures to the satisfaction of the City.
3) The personal wireless service facility shall be of the least intrusive design possible and occupy the least amount of space in the right-of-way possible but in no event shall exceed the limits prescribed in these design standards.
4) A facility shall not be located within any portion of the public right-of-way that interferes or may interfere with City and emergency operations, and pedestrian and vehicular access.
5) Vaults and pull boxes shall be installed flush to grade and installed per the applicable requirements as stated in the Standard Specifications for Public Works Construction and the Standard Plans for Public Works Construction.
6) Signage that serves a public/occupational safety function shall be exempt from the design standards.
7) Lighting
    a. No facility may be illuminated unless specifically required by the Federal Aviation Administration (FAA) or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.
    b. Legally-required lightning arresters and beacons shall be included when calculating the height of facilities.
    c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhood.
    d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and must install lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The City may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.

13.2.1 Above Ground Meter Facilities

The City's typical expectation is below-grade power solutions; above-ground metering is generally discouraged and may be considered only through pre-submittal coordination.

If an applicant would prefer to utilize an above ground meter facility, the applicant may elect to enter a voluntary pre-submittal phase with the City to consider the request. The City may, at its discretion, approve a request for an above ground meter facility if the meter facility would serve several personal wireless service facilities and would be compatible to the surrounding community in which it is installed. If an applicant's request is denied or the applicant does not elect to enter a voluntary pre-submittal phase with the City, the applicant shall receive power via a below-grade WTR as described above.

13.3 CITY-OWNED STREETLIGHTS

The following design standards shall apply to all personal wireless service facilities on City-owned streetlights.

13.3.1 General Requirements

1) If an existing streetlight is proposed to be replaced with a new streetlight to accommodate the personal wireless service facility, the replacement streetlight shall conform to the City's current adopted streetlight standard for that location.
    a. When considering the compatibility and suitability of a proposed replacement streetlight to the City's current adopted streetlight standard at that location, the City shall evaluate the proposed replacement streetlight's size, height, color, materials, finishes, style, and quality/durability of construction.
    b. To confirm if a replacement streetlight is acceptable to the City at a specific project location, applicants may consult with Public Works Department staff prior to submitting an application.
    c. The centerline of the replacement streetlight shall be a minimum of 20 inches from the face of the curb.
    d. The replacement streetlight shall be offset at the minimum distance technically possible from the existing streetlight.
2) If a new City streetlight is proposed where none currently exists, the new streetlight shall conform to the City's current adopted streetlight standard for that location.
    a. When considering the compatibility and suitability of a proposed new streetlight to the City's current adopted streetlight standard at that location, the City shall evaluate the proposed new streetlight's size, height, color, materials, finishes, style, and quality/durability of construction.
    b. To confirm if a new streetlight is acceptable to the City at a specific project location, applicants must consult with Public Works Department staff prior to submitting an application.
    c. The centerline of the new streetlight shall be a minimum of 20 inches from the face of the curb.
3) All ventilation on the streetlight structure must be via flush vents. Vents must be designed to maximally blend with the overall streetlight structure.
4) All shrouds be colored to match the proposed streetlight pole.
5) All equipment shall be installed in shrouds as permitted herein and below grade.
6) No exposed cable, wires, conduit, etc. of any kind are permitted. All cables, wires, conduits, etc. shall be fully concealed within the shrouds, pole, and below grade.
7) Streetlight Pull boxes must read "STREET LIGHTING, HIGH VOLTAGE" for all circuitry 600 V or more. Add APWA, Caltrans or equivalent standard detail to the plans. [PW Green Book 405-1 Pull Boxes]

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13.4.2 Acceptable Configurations

The City is responsible for the proactive maintenance of an inventory of over 20 different types of streetlights and lighting fixtures, with an approximate total of 5,900 units. Given the variety of streetlight types within its public right-of-way, Acceptable configurations will be determined through the individual review of the Wireless Facility Permit or MLA, as applicable. In general, the City requires the least intrusive and most stealth installations technically feasible. Photographs of existing installations on City streetlight are provided below for reference as exemplary installations.





Figures 1 (left) and 2 (right), existing installations on East Bay Avenue/Alvarado Place and 22nd Street/Newport Boulevard.

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CHAPTER 14: STANDARD CONDITIONS OF APPROVAL

All Wireless Facility Permits/6409(a) Permits shall be subject to the following conditions of approval, even if said approval is by operation of law, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Public Works Director.

1) Within thirty (30) days of transmittal of this Statement of Official Action, the project applicant shall sign a copy of this determination and return the document to the Public Works Department. Failure to return this Statement of Official Action within thirty (30) days shall constitute grounds for potential revocation of this determination.

2) This approval is issued for the specific design configuration, including camouflage and concealment elements, as described in the Findings section of this Statement of Official Action, as shown in the approved construction documents, and as shown in the approved photosims. In the event of a conflict between the Findings, construction documents, and photosims, the most restrictive requirement shall govern and be considered part of the camouflage and concealment elements of the site.

3) This approval is for those plans bearing a stamp of approval from the City of Newport Beach dated [Month] [DD], [YYYY], inclusive of any exceptions noted thereon. Permittee shall build in strict compliance to the approved plans. No deviation from the approved plans shall be permitted without authorization from the City of Newport Beach.

4) Permittee shall obtain an Encroachment Permit within one hundred eighty (180) days of the date of this Wireless Facility Permit/6409(a) Permit or the permit shall automatically become null and void. Permittee shall provide the following information of the contractor performing the work prior to obtaining a Wireless Telecommunications Construction Permit:
    a. Point of contact, company, address, phone number, email
    b. California Contractor State License Board number
    c. Newport Beach business license number
    d. Certificate of insurance acceptable to the City's Risk Manager (see Exhibit A of the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations (Standards) for insurance requirements)

    All licenses and certificates of insurance shall be valid through the duration of the Encroachment Permit.

5) Permittee shall comply with all Encroachment Permit inspection procedures established by the Public Works Department.

6) Permittee shall not connect the personal wireless service facility approved in this Wireless Facility Permit/6409(a) Permit to a personal wireless service network (e.g., a wireless carrier's network) until receiving final inspection approval on the related Encroachment Permit from the Public Works Department.

7) The permittee shall submit as-built drawings within (90) days after installation of the facility. As-built drawings shall be in an electronic format acceptable to the City.

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8) The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator.

9) The permittee shall notify the City in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The Public Works Director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the FCC.

10) At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

11) If a nearby property owner registers a noise complaint, the City shall forward the same to the permittee. Said compliant shall be reviewed and evaluated by the permittee. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of Newport Beach Municipal Code Chapter 10.26. The matter shall be reviewed by the Public Works Director. If the Public Works Director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the Public Works Director may impose conditions on the project to achieve said objective.

12) The permittee shall assume full liability for damage or injury caused to any property or person by the facility.

13) The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within thirty (30) days of being notified of the need for such repairs by the City, the City may revoke the permit.

14) Permittee, including its agents and contractors, shall comply with Chapter 1.07 of the NBMC prior to the issuance of any permit required by this chapter.

15) Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's Office, which shall be in effect until the personal wireless service facility or 6409(a) facility, is fully and completely removed and the site returned to its original condition. The security instrument coverage shall include, but not be limited to, removal of the facility. The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and pursuant to the requirements set forth in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.

16) Permittee shall comply with the insurance requirements as set forth in Exhibit A of the Standards for the duration of the permit. Permittee shall furnish proof of insurance prior to issuance of an Encroachment Permit.

17) Permittee shall obtain all other required prior permits and other regulatory approvals from other City departments, and state and federal agencies prior to issuance of an Encroachment Permit to perform the work. This Wireless Facility Permit/6409(a) Permit and any subsequent Wireless Telecommunications Construction Permit shall be subject to the conditions and/or other requirements in any other required prior permits or other regulatory approvals from other City departments, and state and federal agencies.

18) Within thirty (30) days of the anniversary date of this Wireless Facility Permit/6409(a) Permit, the permittee shall provide to the Public Works Director a post-installation certification confirming, under penalty of perjury, that the personal wireless service facility is compliant with FCC regulations concerning radio frequency emissions.

19) Within thirty (30) days of the anniversary date of this Wireless Facility Permit/6409(a) Permit, the permittee shall routinely inspect the personal wireless service facility to ensure that it is maintained in good condition, including without limitation ensuring the facilities are reasonably free of: general dirt and grease; chipped, faded, peeling, and cracked paint; rust and corrosion; cracks, dents, and discoloration; missing discolored, or damaged camouflage; graffiti, bills, stickers, advertisements, litter, and debris; broken and misshapen structural parts; and any damage from any cause. Permittee shall obtain all necessary permits and regulatory approvals prior to performing any maintenance activity on the personal wireless service facility.

20) Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the permit prior to permit issuance.

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Exhibit A: Insurance Requirements

Insurance requirements typically follow the City's MLA template limits, but applicants should confirm current requirements with the City's Real Property Division.

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Attachment C

Master License Agreement Template

MASTER LICENSE AGREEMENT BETWEEN THE CITY OF NEWPORT BEACH AND <LICENSEE> FOR WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY

This MASTER LICENSE AGREEMENT ("Master License") is entered into between the City of Newport Beach, a California municipal corporation and charter city ("City"), and <Licensee>, a California <entity type> ("Licensee") on this _____ day of _____, 20__ ("Effective Date"). City and Licensee are each a "Party" and together the "Parties" to this Master License.

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City;

B. City is the fee title owner of certain Streetlight(s), as defined in Section 1 below, located within the Public Right-of-Way in the City of Newport Beach, California;

C. Licensee has requested to install, maintain, access, and operate wireless facilities in the Public Right-of-Way as specified in this Master License;

D. Newport Beach Municipal Code Section 13.22.050 establishes that wireless facilities may be exempt from the City's wireless permit requirements when the applicant has entered into a Master License Agreement;

E. City Council Policy L-23 establishes the rates for wireless facilities located in the Public Right-of-Way; and

F. City is willing to make approved locations within the City of Newport Beach available to Licensee on a non-exclusive basis via Amendment(s), and subject to the terms, conditions of this Master License.

NOW THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. DEFINITIONS

1.1 "Amendment" means an agreement executed by the Parties in substantially the same form as Exhibit "A" describing and depicting the License Area(s) on which Licensee is authorized to install a Wireless Facility. The Amendment form may be modified in the future without amendment to this Agreement. In the event of a discrepancy or inconsistency between the term and conditions of a particular Amendment and this Agreement, the terms and conditions of this Agreement shall govern and control.

1.2 "FCC" means the Federal Communications Commission or successor entity.

1.3 "License Area" means, individually, that specific portion of the Public Right-of-Way authorized by the City for the installation, operation, and maintenance of Wireless Facilities.

1.4 "Light Fixture" means the City-owned lighting unit mounted to a pole, including the lamp, housing, and photocells.

1.5 "NBMC" means the Newport Beach Municipal Code.

1.6 "Public Right-of-Way" means the improved or unimproved surface of and the space above and below a City easement for public utility purposes, or street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use now or hereafter held by City, however acquired.

1.7 "Regulatory Approvals" means licenses, permits, and other approvals necessary from the City, state and federal agencies for Licensee to install, operate, and maintain the Wireless Facilities on the License Area, including any applicable permits relating to Wireless Facilities or encroachments.

1.8 "Licensee Streetlight" means a streetlight furnished by Licensee, in accordance with Section 8 of this Master License.

1.9 "Standards and Regulations" means the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations published by the City's Public Works Director, as may be amended from time to time.

1.10 "Streetlight" or "City-owned Streetlight" means any streetlight owned and operated by the City within the Public Right-of-Way, including the City Pole, a standard-design concrete, fiberglass, or metal pole owned by the City that features a mast arm for electrolier support and is used for streetlighting purposes, together with the Light Fixture (luminaire), photocell, meter pedestal, pull box, and any other associated City-owned electrical components and structures used in the operation of the streetlight.

1.11 "Temporary Streetlight" means a standard design streetlight of equal version to surrounding Streetlights that is temporary in nature.

1.12 "Wireless Facility(ies)" means facilities for the provision of personal wireless services as defined in 47 U.S.C. Section 322(c)(7)(C)(i), as may be amended from time to time.

1.13 "Wireless Facilities Encroachment Permit" means a temporary encroachment permit granted by the Public Works Director to utilize a limited portion of the Public Right-of-Way for the installation of a Wireless Facility pursuant to NBMC Section 13.22.060(E).

2. LICENSE

2.1 Grant of Non-Exclusive License. City grants a non-exclusive license to Licensee to install, operate, maintain, and remove Licensee's own Wireless Facilities within the Public Right-of-Way, pursuant to the terms and conditions of this Master License and any executed Amendments.

2.2 No Authorization Over Private Property. Nothing in this Agreement grants Licensee any right or authority to install, place, maintain, or permit the placement of any Wireless Facilities or support equipment on private property, even if such private property lies within the Public Right-of-Way, unless and until Licensee (i) obtains all approvals and authorizations required from the private property owner, and (ii) secures any required written authorization from the City, including, as applicable, a Wireless Facility Encroachment Permit.

2.3 License Grant is Conditional. The Master License granted herein is subject to the terms, covenants and conditions hereinafter set forth, and Licensee covenants, as a material part of the consideration for this Master License, to keep and perform each and every term, covenant and condition of this Master License.

3. USES

3.1 Use is Only For Wireless Facilities. Licensee shall use the License Area(s) for the sole purpose of constructing, installing, operating, maintaining, and securing Wireless Facilities to provide wireless telecommunications service.

3.2 No Expansion Without Authorization. Licensee shall not intensify, expand, modify, or alter its Wireless Facilities, operating frequencies, or use of the License Area without the City's prior written consent and the issuance of all required Regulatory Approvals. Except as expressly permitted under this Master License, Licensee shall not make any alterations, additions, or structural improvements to License Area, including painting, or installing unauthorized lighting, decorations, signs, lettering, advertising media, or other visual displays—without the prior written approval of the City.

3.3 Safety Signage Authorized. Notwithstanding the restrictions in Section 3.2, Licensee shall place warning and safety signage on or about the Wireless Facilities as strictly required by federal, state, or local regulations (including FCC radiofrequency exposure guidelines). The type, size, and precise placement of all such required signage must be clearly depicted on the City-approved construction drawings and permit sets.

4. PERMITS AND APPROVALS

4.1 Regulatory Approvals Required. All Wireless Facilities shall be installed pursuant to a fully executed Amendment under Section 5 of this Agreement. Each Amendment is expressly contingent upon Licensee obtaining, at its sole cost and expense, all applicable certificates, permits, entitlements, environmental reviews, studies, and other approvals required by any federal, state, or local authority to construct, install, operate, maintain, repair, and remove the Wireless Facilities within the Licensed Areas.

All such activities must strictly comply with: (1) the approved "Plans and Specifications" attached to the applicable Amendment; (2) Regulatory Approvals; (3) the Newport Beach Municipal Code (NBMC), including Chapter 13.22 and City Council Policies, as may be amended from time to time; and (4) the requirements outlined in the Standards and Regulations.

4.2 Proof of Regulatory Approvals Must be Given to City. Licensee shall provide the City's Public Works Director with a copy of all Regulatory Approvals that are required to enable Licensee to install and operate a Wireless Facility at each Licensed Area. Licensee shall submit all required items along with the processing fee, as outlined in Section 7.1, below.

5. AMENDMENT TO MASTER LICENSE AGREEMENT

5.1 Requesting Specific Licensed Areas. Licensee shall submit to the Public Works Director a proposed list of locations ("Site List") identifying the specific City-owned locations targeted for Wireless Facility installation or replacement, along with a description and depiction of each proposed site ("License Area Depiction") to be licensed under an Amendment to this Master License. The submission of a proposed Site List does not grant any right to access the Public Right-of-Way or obligate the City to execute an Amendment.

5.2 Requests Must Comply with Regulatory Approvals. The review and approval of the Site List and each License Area Depiction shall be conducted in compliance with the requirements and procedures set forth Section in 4.1 of this Master License.

5.3 Exhibit A is Exemplar Amendment Form. The Parties shall execute an Amendment to this Master License once the Site List and License Area Depiction is approved by City. The Amendment shall be effective and incorporated into this Master License once the Amendment is fully executed by the Parties. A sample form of the Amendment is attached hereto as Exhibit "A."

5.4 Requests for More Area. Should the Licensee determine a location on the Site List is no longer necessary, or wish to obtain a License Area for a location not on the Site List, Licensee shall be responsible for obtaining the necessary Regulatory Approvals for any site where they wish to install Wireless Facilities, and execute an Amendment to the Master License adding the new License Area(s) or removing the existing location(s).

5.5 Installations only onto Site List. Licensee shall only install Wireless Facilities within the License Area(s) identified on the Site List, incorporated into this Master License by a fully executed Amendment to Master License.

5.6 Conditions Allowed. The Public Works Director may impose reasonable condition(s) on Licensed Areas(s) and/or Wireless Facilities approved via an Amendment, deemed necessary or appropriate for the preservation of the public health and safety.

5.7 Time to Commence Work. For any Amendment issued under this Master License, Licensee shall (a) commence the work within one hundred eighty (180) days after the Amendment effective date, and (b) diligently prosecute the work to completion and complete the work no later than one hundred eighty (180) days after the date work commences. If Licensee fails to commence or complete the work by the applicable deadline (as such deadline may be extended in writing pursuant to this Section), the applicable License Area shall, without further notice or action by the City, be automatically removed from the Site List, and the Amendment shall be deemed modified accordingly. Notwithstanding the foregoing, the Public Works Director may, at their sole discretion, extend either or both of the foregoing one hundred eighty (180) day periods upon written request by Licensee. Any extension shall be effective only if granted in writing by the Public Works Director and may be conditioned as the City deems appropriate.

5.8 Signature Authority. The City Manager is authorized to execute Amendments on the City's behalf with the approval as to form by the City Attorney.

6. TERM

6.1 Initial Term. The initial term of the license granted hereunder ("Initial Term") shall commence on the Effective Date and continue for a period of ten (10) years. After the Effective Date, this Master License shall not be revoked or terminated except as expressly provided in this Master License.

6.2 Renewal Terms. This Master License shall automatically be extended on the same terms and conditions as set forth in this Master License, for up to two (2) successive terms of five (5) years (each, a "Renewal Term"), unless at least thirty (30) calendar days prior to the expiration of the Initial Term or the applicable Renewal Term, the Licensee notifies the City in writing of their intention not to extend this Master License. Notwithstanding the above, this Master License shall not be automatically extended if Licensee has defaulted in the performance of any term or condition of the Master License and has failed to cure such default after notice as provided in this Master License. "Term" shall refer to the Initial Term and all Renewal Terms (if applicable), unless expressly stated elsewhere within this Master License.

6.3 Term of Amendments. Each Amendment shall become effective and commence its initial term ("Amendment Initial Term") on the first day of the month following its full execution. The Amendment Initial Term shall be ten (10) years. The term shall automatically extend for up to two (2) successive five (5) year periods (each, an "Amendment Extension Term"), unless either Party delivers a written notice of non-renewal at least thirty (30) calendars days prior to the expiration of the then-current term. Notwithstanding the timelines above, all individual Amendment(s) executed between the Parties under this Master License shall automatically expire concurrently with the expiration or termination of this Master License.

7. FEES

7.1 Processing Fee. For each Amendment, Licensee shall pay City a nonrefundable document preparation fee in the amount of _____ and 00/100 ($_____), as adjusted from time-to-time in accordance with the City's then current fee schedule. This amount shall be paid upon request to prepare an Amendment and prior to execution of the Amendment by the Parties.

7.2 Annual License Fee. Licensee shall pay an annual License Fee, as defined in Section 7.3 below, for each License Area identified in the applicable Amendment's Site List. The City Council may amend the License Fee, from time to time, including during the Amendment Initial Term or Amendment Extension Term, and any such amendment shall apply retroactively, to the extent permitted by applicable law. The obligation to pay the License Fee shall begin on the "License Fee Commencement Date," which shall be the effective date of the Amendment (i.e., the date that the Amendment is fully executed by the Parties). For invoicing purposes, the initial "License Year" for an approved Amendment shall begin on its respective License Fee Commencement Date and end on the immediately following June 30. Each subsequent License Year shall run concurrently with the City's fiscal year from July 1 through June 30.

7.3 License Fee. Within forty-five (45) days of the License Fee Commencement Date, Licensee shall pay to the City the pro-rata License Fee amount covering the period from the License Fee Commencement Date through June 30. Thereafter, the Licensee shall pay the City the annual License Fee for each Amendment on or before July 1 of each License Year as set forth in the License Fee Schedule attached to each Amendment ("License Fee").

7.4 License Fee Adjustments. The License Fee shall adjust each July of each License Year to reflect increases or decreases in the cost of living as indicated by the Consumer Price Index annually as described below. The License Fee shall be adjusted if the Consumer Price Index for the Los Angeles – Long Beach – Anaheim, CA, All Urban Consumers, All Items (CPI-U), Not Seasonally Adjusted ("Index"), as published by the United States Department of Labor, Bureau of Labor Statistics ("Bureau"), increases or decreases over the term of this Lease. The initial "Base Period Index" shall be the index for the month of March (thus, March 2026, which equals 352.221). The initial Base Period Index shall be compared with the Index for the same calendar month for each subsequent License Year ("Comparison Index"). The Comparison Index used for a given year's adjustment calculation will become the Base Period Index for purposes of the next annual fee adjustment calculation. If the Comparison Index is higher or lower than the Base Period Index, the annual license fee for the next License Year shall be increased or decreased by the amount of such percentage change. Should the Bureau discontinue the publication of the above Index, or publish same less frequently, or alter same in some other manner, then the Parties shall adopt a substitute Index or substitute procedure which reasonably reflects and monitors consumer prices.

7.5 Impact of Change of FCC Rules. In the event the FCC 2018 Order provisions related charges for small Wireless Facilities use of the Public Right-of-Way,

are determined to be invalid, removed, stayed, or altered in a significant manner by the FCC or a court of competent jurisdiction, either party to this Master License may request that the Parties meet and confer as to whether the License Fee provisions in this Master License should be modified. If after good faith negotiation the Parties are unable to reach an agreement regarding the License Fee to be paid hereunder, the License Fee for each Licensee Area, shall revert to the fee schedule approved by the City Council.

7.6 Rates for Non-Small Wireless Facilities. For non-small Wireless Facilities in the Public Right-of-Way, the annual License Fee shall be determined based on the California Department of General Services ("DGS") published telecommunications lease rates.

7.7 Method of Payment. All License Fee payments shall be made in lawful money of the United States of America and shall be paid to City in person or by United States' mail, or overnight service, at the Cashier's Office located at 100 Civic Center Drive, P.O. Box 1768, Newport Beach, California, 92658, or to such other address as City may from time to time designate in writing to Licensee. If requested by City, Licensee shall make payments electronically (at www.newportbeachca.gov) or by wire transfer (at Licensee's cost). Licensee assumes all risk of loss and responsibility for late charges and delinquency rates if payments are not timely received by City regardless of the method of transmittal.

7.8 Delinquent Payments. A ten percent (10%) penalty shall be added to the License Fee if not received by City July 1st of each License Year. In addition, an unpaid License Fee shall accrue interest on the amount due at the rate of ten percent (10%) interest per annum from the date due and payable by the terms of this Master License until paid in full. All late charges and interest payments hereunder, shall, as incurred, become a License Fee due under this Master License.

7.9 Adjustment of License Fee Upon Modification. Except for Small Wireless Facilities (as defined in 47 C.F.R. § 1.6002(l)), modifications to Licensee's Wireless Facilities and/or any License Area(s) may increase the value of this Master License. To the extent any such modification requires an amendment to this Amendment or results in the use of additional License Area, the Parties agree that the License Fee shall be adjusted to reflect the additional area utilized and the then-current DGS rate applicable to the Wireless Facilities. Any such adjustment shall be determined in connection with Licensee's request for City approval of the proposed modification and shall be mutually agreed to by the Parties as a condition precedent to the City's approval of the expanded or modified use.

8. REPLACEMENT OF STREETLIGHTS

8.1 Licensee's Cost to Replace Streetlights. If the Wireless Facilities require replacement of a City-owned Streetlight, Licensee shall be responsible for all costs to remove the existing Streetlight and design, procure, and install a Licensee Streetlight. A Licensee Streetlight shall comply with the City's Standards and Regulations (as

determined by the City) and shall remain the Property of Licensee for the duration of the term.

8.2 72 Hours to Replace Streetlight. The existing Streetlight shall remain in operating condition until such time a Licensee Streetlight is installed. Licensee shall have seventy-two (72) hours to complete the installation of a Licensee Streetlight once the existing Streetlight is removed.

8.2 Coordination of Streetlight Removal. If Licensee removes a Streetlight or Temporary Streetlight, Licensee shall use its best efforts to remove the Streetlight or Temporary Streetlight in a manner whereby the Streetlight or Temporary Streetlight can be reused. The Streetlight or Temporary Streetlight and or any components removed by the Licensee shall remain the property of the City. Licensee shall contact the Municipal Operations Director or his/her designee at (949) 644-3055 at least five (5) working days prior to removal for instructions on where to deliver the Streetlight or Temporary Streetlight along with the components upon removal. Streetlight(s) or Temporary Streetlight(s) and any associated components and equipment must be returned by Licensee to the location designated by the City the same day of removal.

9. CONSTRUCTION

9.1 Strict Compliance with Plans is Required. Subject to Section4.1, Licensee is authorized to install Wireless Facilities within the License Area(s) covered by an Amendment only in strict compliance with the Plans and Specifications approved by the City under that Amendment.

9.2 Encroachment Permit Required. Licensee shall obtain a Wireless Facilities Encroachment Permit as provided in Chapter 13.22 of the NBMC before commencing any work in the Public Right-of-Way.

9.3 Coordination of Installation Work. Licensee shall be responsible for coordination of its installation work to avoid any interference with existing utilities, substructures, facilities, or Streetlight operations. Licensee shall be the City's point of contact for all of Licensee's Wireless Facilities installation and except in case of emergency, all communications concerning all engineering, construction, and installation issues relating to Licensee's Wireless Facilities.

9.4 Compliance with Construction and Traffic Laws. During installation, alteration, repair, and maintenance of Wireless Facilities, Licensee must abide by all reasonably adopted and applied City construction regulations, including, but not limited to construction hours, waste management, noise abatement, and traffic management ordinances and regulations. Licensee must pay all parking fees and citation fines incurred by Licensee and its contractors for vehicle parking. The City will not pay or void any citations or reimburse Licensee for traffic citations or fines.

9.5 All Costs Borne by Licensee. All work associated with the construction, installation, operation, maintenance, repair, utility provisioning, and removal of the

Wireless Facilities shall be performed at Licensee's sole cost, expense, and liability. This responsibility includes, without limitation, all municipal permit fees, engineering fees, and costs incurred to secure necessary Regulatory Approvals.

9.6 Professional Work Required. Licensee shall install the Wireless Facilities and perform all other work relating to the Wireless Facilities in a good, safe, and workmanlike manner and in accordance with industry standards. All work within the Licensed Area(s) shall be performed only by properly qualified and trained personnel and, where required by law, by duly licensed contractors.

9.7 Protection of Damage to City Property. Licensee shall protect the Streetlights and City facilities from any damage or injury arising from: (a) any work performed by or on behalf of Licensee in connection with the construction, installation, operation, inspection, maintenance, repair, reconstruction, replacement, relocation, or removal of its Wireless Facilities; or (b) the failure, deterioration or collapse of such Wireless Facilities.

9.8 Failure to Repair. Without limitation of any other remedy available hereunder or at law or in equity, if Licensee fails to repair or refinish any such damage, City may, at its sole discretion, but not be required to, repair or refinish such damage and Licensee shall reimburse City of all costs and expenses incurred in such repair or refinishing within thirty (30) calendar days of receipt of invoice from City.

9.9 Performance Bond. Prior to the installation of any Wireless Facility, Licensee shall submit to the City and, throughout the Term and for ninety (90) calendar days thereafter, maintain in effect a faithful performance bond, in the form attached hereto as Exhibit "B," letter of credit, or other security (collectively, "Security"), in an amount determined by the City's Public Works Director, at their discretion, to ensure and secure Licensee's faithful compliance with the conditions of this Master License, including, without limitation, costs of repairs and costs of removal of the Wireless Facilities upon expiration or termination of this Master License should Licensee fail to do so. The City's Public Work's Director may require, at their discretion, such Security to be provided on a per–License Area basis and/or as a single master Security covering all License Areas. The Security shall remain in effect throughout the Term of this Master License plus ninety (90) calendar days thereafter. The Security shall in no way limit the liability or obligations of Licensee or its insurers under this Master License. If the funds represented by the Security become exhausted or are otherwise drawn down, Licensee shall immediately replenish and/or replace the Security in the amount required by the Public Works Director, to restore the required Security.

9.10 Notice of Completed Installations. Upon the installation of each Wireless Facility, Licensee shall promptly furnish to City a current list and map that identifies the exact location of each of the Wireless Facilities. This information shall be provided in a format that is compatible with City's geographic information system.

10. ALTERATIONS

Except as expressly authorized by a fully executed Amendment under Section 5, Licensee shall not make or permit any alteration, modification, addition, replacement, upgrade, relocation, or other change to the Licensed Area or to any Wireless Facilities or other equipment, structures, or appurtenances located in, on, attached to, or appurtenant to the Licensed Area (collectively, "Alterations"). Any Alteration shall require (i) an amendment to the applicable Amendment to this Master License identifying and approving the proposed Alteration(s), and (ii) Licensee's compliance with all requirements of Section 4.1, at Licensee's sole cost and expense. Licensee shall not commence any Alteration until such Amendment is fully executed and all applicable Regulatory Approvals are obtained. All Alterations shall be performed in accordance with Section 9.6 above.

11. MAINTENANCE AND REPAIR OBLIGATIONS

11.1 Licensee Maintenance. Licensee shall keep and maintain all Wireless Facilities, including Licensee's Streetlight, in commercially reasonable condition and in accordance with any applicable maintenance requirements required by the Standards and Regulations, Chapter 13.22 of the NBMC, or reasonably imposed by the Public Works Director, including but not limited to, periodic sonic (ultrasonic) testing of Licensee's Streetlight to verify structural integrity and to confirm that the pole is not eroding, corroding, cracked, or otherwise compromised. Licensee shall obtain all required permits and prior approvals from the City for all maintenance work subject to the terms of this Agreement.

11.2 City's Maintenance. City shall only be responsible for the Light Fixture, and any associated City-owned electrical components and structures associated with the operation of the Light Fixture. In the interest of the safety of its employees, City may require Licensee to temporarily power down Licensee's Wireless Facilities where City is conducting activities within any RF compliance area.

11.3 Licensee's Repair Obligations. Licensee shall, at its sole cost and expense and to the satisfaction of City: (a) remove, repair or replace any of its Wireless Facilities or Licensee Streetlights that are damaged or become detached; and/or (b) repair any damage to the Public Right-of-Way, municipal facilities or other property, whether public or private, caused by Licensee, its agents, employees or contractors in their actions relating to attachment, operation, repair or maintenance of the Wireless Facilities or Licensee Streetlight. If Licensee does not remove, repair or replace such damage, the City shall have the option, upon thirty (30) days prior written notice to Licensee, to perform or cause to be performed such removal, repair, or replacement on behalf of Licensee and shall charge Licensee for the actual costs incurred by the City. Notwithstanding the foregoing, if such damage creates an immediate safety hazard, the City may immediately complete such work on behalf of Licensee and will notify Licensee as soon as practicable. Upon the receipt of a demand for payment by the City, Licensee shall, within ten (10) days of such receipt, reimburse the City for such costs. The terms of this provision shall survive the expiration, completion or earlier termination of this Master License Agreement.

11.4 Replacement of Licensee Streetlights. If either Party becomes aware of damage to a Licensee Streetlight, it shall notify the other Party's Emergency Contact as soon as practicable, and the Parties will use reasonable efforts to coordinate any necessary response. Subject to obtaining the requisite approvals from the Cit, Licensee may, at its sole cost and expense, repair or replace the pole with a like-kind pole and may reinstall its Wireless Facilities after the pole is repaired or replaced. During repair or restoration, City may temporarily install a City Streetlight or install improvements to make the License Area safe pending permanent repair or replacement by Licensee.

12. RELOCATION

Licensee understands and acknowledges that City may require Licensee to relocate one or more of its Wireless Facilities. Upon one hundred eighty (180) days prior written notice to Licensee, Licensee shall, at its sole cost and expense, either (i) relocate such Wireless Facility or (ii) amend the Site List to remove the License Area from the Amendment in accordance with Section 5 herein and remove such Wireless Facility, whenever Licensor reasonably determines that the relocation is needed for any of the following purposes: (a) if required for the construction, modification, completion, repair, relocation, or maintenance of a City or other public agency project; (b) because the Wireless Facility is interfering with or adversely affecting City's facilities and Licensee fails to cure such interference to the City's satisfaction as outlined in Section 14; or (c) to protect or preserve the public health or safety. In any such case, City shall use reasonable efforts to afford Licensee a reasonably equivalent alternate location. If Licensee shall fail to relocate or remove any Wireless Facility as requested by the Licensor in accordance with the foregoing provision, City shall be entitled to remove or relocate the Wireless Facilities at License's sole cost and expense, without further notice to Licensee. Licensee shall reimburse the City for the City's actual, reasonable costs and expenses incurred in performing any such removal or relocation work, including any reasonable storage costs for Licensee's property following removal, within thirty (30) days after Licensee's receipt of the City's written demand for payment.

13. UTILITIES

13.1 Separate Meters. The Wireless Facilities shall be separately metered. Licensee shall, at its sole cost and expense, pay for all utility services required to operate the Wireless Facilities, including all ongoing use charges, and shall install, connect (if already available), and maintain such utilities as required by the City, including undergrounding where required. Prior to commencing any utility work in the Public Right-of-Way, Licensee shall obtain an encroachment permit from the City's Public Works Department and submit plans for City review and approval.

13.2 Use of City Electricity. Alternatively, subject to City's prior written authorization, Licensee may tap into City's power source within the applicable License Area where Licensee's Wireless Facilities are proposed to be located. Licensee shall pay to City a monthly fixed fee for the use of the City's Utility services, which the Parties agree shall initially be One Hundred Dollars ($100.00) per License Area ("Utility Use Fee"). City, upon not less than thirty (30) days' notice to Licensee, may increase or decrease the

Utility Use Fee commensurate with costs incurred by City for Licensee's use of City provided utilities. City's costs incurred for Licensee's use of City provided utilities shall be determined in City's sole and absolute discretion, and Licensee agrees not to dispute the accuracy of any fee charged hereunder, either during the Term of the Agreement or at any time thereafter, on the basis that it exceeds the cost(s) actually incurred by City for Licensee's use of City provided utilities, unless it is undeniable that such fees are at least five times higher than the City's actual costs.

13.3 Licensee Responsibility for Power-Related Damage. Licensee's use of City electricity as provided in Section 13.2 is at Licensee's sole risk. Licensee shall be solely responsible for, and shall promptly repair or replace (at Licensee's sole cost and expense) any damage to City property, City equipment, the License Area, or any third-party property caused by or resulting from power surges, spikes, interruptions, backfeed, harmonics, grounding issues, or other electrical disturbances arising out of or related to Licensee's connection to or use of City electricity, use of the License Area, or the installation, operation, maintenance, or malfunction of Licensee's Wireless Facilities or equipment.

14. INTERFERENCE WITH CITY WIRELESS FACILITIES

14.1 Compliance with RF Regulations. Licensee agrees that its operation of the Wireless Facilities shall at all times comply with all FCC requirements and shall not cause any direct or indirect interference with the City's own wireless communications facilities, including but not limited to public safety transmissions, police and fire communications, water or sewer internal or external radio signals and communications, as they now exist or may from time-to-time hereafter exist ("City's Facilities").

14.2 Correction of RF Interference. In the event of any interference with City Police or Fire Department public safety communications, Licensee shall work with the affected department(s) to correct the interference within twenty-four (24) hours of City's written or telephone notice to Licensee. In the event of interference with City's Wireless Facilities including wireless communications system or external radio signals and communications other than Police or Fire Department, Licensee shall work with City to correct the interference within seventy-two (72) hours of City's written or telephone notice to Licensee. If it is determined the interference is caused by Licensee's Wireless Facilities and if Licensee is unable to correct interference to City's satisfaction, Licensee shall cease its operation of the interfering Wireless Facilities immediately, until the cause of the interference is corrected to City's satisfaction. If the interference is not corrected to City's satisfaction, the Wireless Facilities shall be removed and/or relocated in accordance with Section 12 above. If Licensee fails to correct any interference, City may, in addition to and without compromising any other available remedy cut off power to Licensee's Wireless Facilities in the manner set forth in this Master License after notifying of City's intent to cut off power.

14.3 Written City Approval Required. Prior to making any changes to the frequency or operating conditions approved by any permit issued by the City, Licensee shall submit plans for the proposed changes to City for its review and approval. Licensee

agrees to fund any studies required to ensure that any contemplated changes will be compatible with the City's Wireless Facilities. No change shall occur prior to the City's written approval. Notwithstanding the foregoing, replacement of equipment with like-kind equipment by Licensee shall not be considered a change to operating conditions hereunder.

15. EMERGENCY

15.1 City Right to Power Down During Emergency. Licensee understands that the Wireless Facilities are located on a public structure or on public property and emergency situations may develop from time-to-time that require power to the Wireless Facilities to be immediately shut off and thereby interfere or temporarily terminate the Licensee's use of its Wireless Facilities. Notwithstanding any other provision in this Master License, Licensee agrees that if such a situation occurs, and/or there are frequency interferences of any nature between City's Police or Fire Department public safety communications equipment or City's facilities affecting operation of sewer or water service and that of Licensee in a manner that threatens public health or safety, City shall have the right to immediately shut off power to the Wireless Facilities and any equipment of Licensee's located in the License Area(s) for the duration of the emergency. Licensee shall reimburse City for all actual, reasonable costs and expenses incurred by City in connection with taking these emergency actions, including but not limited to labor, equipment use and contractor fees within thirty (30) days of receiving an itemized invoice. However, City agrees to use reasonable efforts to provide notice to Licensee prior to shutting-off power to the Wireless Facilities. Licensee agrees not to hold City responsible or liable for and shall protect, defend, indemnify and hold City harmless for any damage, loss, claim or liability of any nature suffered as a result of the loss of the use of the Wireless Facilities or other communication facilities by the shut off of power, as permitted hereunder.

15.2 Labeling of Master Power Switch. Licensee agrees to install a clearly marked and accessible master power "cut-off" switch on the Wireless Facilities for the purpose of assisting City in such an emergency.

15.3 No Effect on Termination of Agreement. Unless otherwise specifically provided in a notice of termination of this Master License, City's exercise of the right to shut off any power to the Wireless Facilities pursuant to this Master License is not intended to constitute a termination of this Master License by either Party and such event is a risk accepted by the Licensee. Licensee and City shall meet after the City determines that an emergency situation has ended to establish the time and manner in which power shall be restored.

15.4 Declaring Emergency. City shall have the right to determine what constitutes an "emergency situation" pursuant to this Section.

16. ACCEPTANCE OF CONDITION OF LICENSE AREA

Licensee accepts use of the License Area(s) in an "as is" condition, with no

warranty, express or implied from the City as to any latent, patent, foreseeable and unforeseeable condition of the License Area(s), including their suitability for the use intended by Licensee. To the best of City's knowledge, License Area(s) have not been used for generation, storage, treatment or disposal of Hazardous Substances as defined in this Master License. The Licensee has conducted its own appropriate due diligence investigation of the License Area(s) prior to its execution of this Master License or any Amendment hereto, or will do so prior to its installation of Wireless Facilities within the License Area(s).

17. NO INTEREST IN PROPERTY

Nothing herein shall be deemed to create a lease, or easement of any property right, or to grant any, possessory or other interest in License Area(s), or any Public Right-of-Way, except for a revocable real property license to access and use the Wireless Facilities within the License Area(s) for the term and on the conditions set forth in this Master License and any applicable Amendment(s).

18. RESERVATION OF RIGHTS

Licensee understands, acknowledges and agrees that any and all authorizations granted to Licensee under this Master License are non-exclusive and shall remain subject to all prior and continuing regulatory and propriety rights and powers of City to regulate, govern and use City property, as well as any existing encumbrances, deeds, covenants, restrictions, easements, dedications and other claims of title that may affect City property.

19. INSPECTION

City shall be entitled, at any time, to inspect Licensee's Wireless Facilities and License Area(s) for compliance with the terms of this Master License, and with all applicable Federal, State and local (including those of the City) government regulations, as they may be amended from time to time.

20. CITY RETENTION RIGHTS

Licensee's right to use the License Area(s) during the term of this Master License shall be subordinate and junior to the rights of City to use and occupy the Streetlights, Licensee Streetlights, and License Area(s) for any purpose that does not interfere with Licensee's use of the Streetlights and License Area(s) as provided herein.

21. LICENSEE'S RETENTION OF TITLE

Title to the Wireless Facilities placed on the Streetlights, Licensee's Streetlights and License Area(s) by Licensee shall be held by Licensee or its equipment lessors, successors, or assigns. The Wireless Facilities shall not be considered fixtures.

22. SURRENDER

22.1 Obligation Upon Surrender. Within sixty (60) calendar days after the expiration or termination of this Master License, Amendment(s), or relocation or termination of a specific License Area, Licensee at its sole cost and expense, shall: (a) remove the Wireless Facilities; (b) remove the Licensee Streetlight in the License Area and restore the Streetlight; (c) restore the License Area to a condition satisfactory to and approved in writing by City; and (d) vacate the License Area. Any Wireless Facilities that are not removed by Licensee within the time frames set forth in this Section may be declared abandoned and disposed of by the City in accordance with Section 12.2.

22.2 Abandonment. At its option, the City may deem any items of Licensee's Wireless Facilities that remain in the License Area after the applicable time period(s) set forth in Section 22.1 above to be abandoned, and in such case, the City may dispose of the abandoned Wireless Facilities in any lawful manner after expiration of a sixty (60) calendar day period initiated by a City written notice to Licensee to remove the Wireless Facilities. Should Licensee fail to restore the License Area(s) to a condition satisfactory to and approved in writing by City, City may perform such work or have such work performed by others and Licensee shall reimburse City within thirty (30) calendar days for all direct and indirect costs associated with such work upon receipt of an invoice for such costs. Licensee agrees that California Civil Code Sections 1980 *et seq*. and similar provisions of the Civil Code addressing abandoned property by residential or commercial tenants do not apply to any abandoned Equipment.

23. ASSIGNMENT

23.1 No Assignment Without City Permission. All of the terms and provisions of this Master License shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns. This Master License and the rights and obligations of Licensee shall not be assigned, transferred, or hypothecated (collectively, "transferred"), in whole or in part, without the express written consent of the City Manager or his/her designee. Any attempted transfer in violation of this Section shall be null and void. Except as provided below, the transfer of the rights and obligations of Licensee to any successor in interest or entity acquiring more than fifty percent (50%) or more of Licensee's stock or assets, shall be deemed an assignment requiring consent. Licensee shall provide City at least thirty (30) calendar days advance written notice of any proposed transfer.

23.2 Process to Request Assignment. If Licensee desires at any time to effect a transfer, it shall first deliver to City: (a) a written request for approval; (b) the name, address and most recent financial statements of the proposed transferee; (c) the proposed instrument of assignment or sublease, which in the case of assignment shall include a written assumption by the assignee of all obligations of this Master License arising from and after the effective date of assignment; and (d) any other information requested by the City Manager to assist him/her in making their decision.

23.3 When Approval Not Required. Notwithstanding Section 23.1 above, Licensee may, without prior approval from time-to-time, do any of the following:

23.3.1 Security Interests. Grant to any person or entity a security interest in some or all of Licensee's Wireless Facilities which lien shall be subordinate and junior to this Master License. A security interest shall not include the Streetlights or other City property, and does not imply approval of any other use of the Wireless Facilities or License Area(s); and

23.3.2 Transfer to Affiliates. Assign its rights hereunder: (i) to any entity which has, directly, or indirectly, a fifty percent (50%) or greater interest in Licensee (a "Parent") or in which Licensee or a Parent has a fifty percent (50%) or greater interest (an "Affiliate"); (ii) to any entity with which Licensee and/or any Affiliate may merge or consolidate; (iii) to a buyer of substantially all of the outstanding ownership units or assets of Licensee or any Affiliate; or (iv) to the holder or transferee of the FCC license under which the Wireless Facilities is operated, upon FCC and, if applicable, California Public Utilities Commission approval of any such transfer. Any such assignment shall be conditioned upon and not be effective until Licensee cures any defaults under this Master License and the assignee signs and delivers to City a document in which the assignee accepts responsibility for all of Licensee's post, current and future obligations under the Master License.

23.4 Assignments Do Not Release Liability. No assignment by the Licensee shall release Licensee from continuing liability under this Master License with the exception of a buyout of the Licensee by another entity that formally assumes all past, current and future obligations of the Licensee under this Master License.

23.5 No Third-Party Use Without City Approval. Except for Licensee's engagement of duly qualified contractors and subcontractors solely to perform installation, construction, operation, inspection, maintenance, repair, replacement, relocation, or removal work for the Wireless Facilities, Licensee shall not sublease, license, rent, share, resell, or otherwise grant access to, or permit the use or occupancy of, any Wireless Facilities, Streetlight, or License Area by any third party (including, without limitation, any carrier, operator, tower company, neutral host, or other communications provider), nor permit any colocation or third-party equipment attachment (each, "Third-Party Use"), without the City's prior written approval. Any attempted Third-Party Use without such approval shall be null and void and shall constitute a material breach.

24. TAXES

24.1 Possessory Interest Taxes. Licensee recognizes and understands that this Master License may create a possessory interest subject to property taxation and that Licensee may be required to pay possessory interest taxes. (See Rev. & Tax. Code, Sections 107–107.9.) Licensee further recognizes and understands that any sublicense or assignment permitted under this Master License and any exercise of any option to renew or extend this Master License may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created under this Master License.

24.2 Payment on Taxes. Licensee agrees to pay taxes of any kind, including possessory interest taxes that are assessed on Licensee's license interest created by any Amendment(s) entered into by Licensee and City pursuant to this Master License as well as excises, licenses, permit charges, and assessments based on Licensee's usage of the License Area that may be imposed upon Licensee by any applicable laws, if any, when the same become due and payable and before delinquency. Licensee agrees not to allow or suffer a lien for any taxes to be imposed upon the License Area without promptly discharging the same, provided that Licensee, if so desiring, will have a reasonable opportunity to contest the validity or amount of the same using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction and to the extent allowed by law. The City will provide Licensee with copies of all tax and assessment notices on or including the License Area promptly, along with sufficient written documentation detailing any assessment increases attributable to Licensee's Wireless Facilities, but in no event later than thirty (30) days after receipt by the City.

24.3 Right to Challenge Tax Determination. Licensee shall be responsible for any taxes and assessments attributable to and levied upon Licensee's Wireless Facilities. Licensee agrees not to allow or suffer a lien for any such taxes to be imposed upon City facilities without promptly discharging the same, provided that Licensee, if so desiring, will have a reasonable opportunity to contest the validity or amount of the same using such administrative, appellate or other proceedings as may be appropriate in the jurisdiction and to the extent allowed by law.

25. DEFAULT

25.1 Default by Licensee. The occurrence of any one or more of the following events shall constitute a default and material breach of this Master License by Licensee:

25.1.1 Failure of Licensee to pay License Fee due hereunder within ten (10) calendar days after written notice from City;

25.1.2 Any failure by Licensee to perform any of the other terms, conditions or covenants of this Master License to be observed or performed by Licensee after thirty (30) calendar days written notice from City;

25.1.3 Licensee becoming insolvent or filing any debtor proceedings, or should any adjudications in bankruptcy be rendered against Licensee, or should Licensee take or have taken against it, in any court pursuant to any statute either of the United States or of any State, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Licensee's property, and should the same not be discharged within one hundred twenty (120) calendar days thereafter;

25.1.4 Licensee permitting the License Area to become vacant or unoccupied for thirty (30) consecutive calendar days after written notice to Licensee (except for vacancies caused by any *force majeure* or by remodeling, reconstruction, alteration or repairs permitted under this Master License); or

25.1.5 The appointment of a trustee or receiver to take possession of substantially all of the assets of Licensee located at the License Area or Licensee's interest in this Master License or the License Area, where possession is not restored within thirty (30) calendar days.

25.2 Failure to Cure. Except for the payment of License Fee, if the nature of Licensee's default or breach under this Master License is such that more than thirty (30) calendar days are reasonably required for its cure, then Licensee shall not be deemed to be in default or breach if Licensee commences such cure within such thirty (30) calendar day period and diligently proceeds with such cure to completion.

25.3 Remedies. In the event of a default or breach by Licensee and Licensee's failure to cure such default or breach, City may at any time and with or without notice do any or more of the following:

25.3.1 Re-enter the portion of the License Area giving rise to the Default, remove all persons and property, and repossess and enjoy such License Area.

25.3.2 Terminate this Master License and Licensee's right of possession of the License Area. Such termination shall be effective upon City's giving written notice and upon receipt of such notice; Licensee shall immediately surrender possession of the License Area to City.

25.3.3 Exercise any other right or remedy which City may have at law or equity.

25.4 City's Right to Cure Licensee's Default. Upon continuance of any material default beyond applicable notice and cure periods, City may, but is not obligated to, cure the default at Licensee's cost. Except as otherwise expressly provided in this Master License with respect to the time for payment, if City pays any money or performs any act required of, but not paid or performed by, Licensee after notice, the payment and/or the reasonable cost of performance shall be due as additional License Fee not later than thirty (30) days after service of a written demand accompanied by supporting documentation. No such payment or act shall constitute a waiver of default or of any remedy for default or render City liable for any loss or damage resulting from performance.

25.5 Waiver of Rights. Licensee waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 or 1179, or under any other present or future law, in the event Licensee is evicted or City takes possession of the License Area by reason of any default by Licensee.

26. TERMINATION

26.1 Notice of Termination. This Master License is not a lease; it is a license to use City-owned property. As such, the Parties hereby acknowledge and agree that City, as the licensor, may revoke this Master License at will and at any time during the Term, for any reason, with or without cause, by giving thirty (30) calendar days' written notice to the Licensee. However, City agrees that City will not exercise its right to revoke this

Master License at will unless City determines, in its sole discretion, that Licensee is in default of this Master License as set forth in Section 25 or the City determines in accordance with all applicable laws that Licensee's continued use of the License Area adversely affects or poses a threat to public health and safety, constitutes a verified and material public nuisance, or interferes with the City's Streetlights, or utilities. The decision of whether to revoke the Master License when the basis of the revocation is an event of default as set forth in Section 25, shall be in the City's sole and absolute discretion.

26.2 Termination for Cause. In the event of City's material breach of any material obligation contained in this Master License and City's failure to cure such material breach within thirty (30) calendar days of receiving Licensee's written notice thereof, Licensee may terminate this Master License or Amendment to use a specific License Area upon thirty (30) calendar days' prior written notice to City. Notwithstanding the above, if the nature of City's material breach under this Master License is such that more than thirty (30) calendar days are reasonably required for its cure, then City shall not be deemed to be in material breach if City commences such cure within such thirty (30) calendar day period and diligently proceeds with such cure to completion.

26.3 Terminating Use of Specific License Area Without Cause. Except as otherwise expressly provided in this Master License, termination of use of a specific License Area for any reason other than City's uncured material breach shall be effective only upon a written amendment to the applicable Amendment executed by the City that removes such location from the Site List and, if applicable, the License Area Depiction. Licensee shall remain liable for, and shall pay, all License Fees and other fees attributable to the applicable License Area through the date Licensee removes the Wireless Facilities from such License Area.

26.4 Surrender Obligations Apply. Any termination is subject to the Licensee complying with the surrender obligations of this Master License.

27. MULTIPLE COMPANIES

The Parties recognize that this Master License contemplates installation and use by multiple entities or companies, other than City, seeking to place Wireless Facilities in or about the License Area(s). Licensee shall use its best efforts to coordinate its activities with those other entities to reduce the costs of all such parties and to avoid interference with each such party's realizations of benefits of this and similar licenses, but in no way shall Licensee sublease or authorize use of Licensee's Streetlight or License Area by another entity/carrier without the City's express written consent. If City deems reasonably necessary, City shall coordinate any such cooperative efforts. City will not enter into a subsequent Master License with another entity to place Wireless Facilities on Licensee's Streetlight or in proximity to the License Area, if Licensee has shown to City's satisfaction, after compliance with this Section, that additional Wireless Facilities are technically incompatible with the operation of the Wireless Facilities under this Master License.

28. INDEMNIFICATION

To the fullest extent permitted by law, Licensee shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers, and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a "Claim;" collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to actions authorized by this Master License, any breach of the terms and conditions of this Master License, any latent or patent defects in design and construction of Licensee's Streetlight, Wireless Facilities, or work thereon conducted under this Master License including, without limitation, defects in workmanship or materials or Licensee's presence or performance of duties on the License Area and/or Licensee's Streetlights (including the negligent and/or willful acts, errors and/or omissions of Licensee, its principals, officers, agents, employees, vendors, suppliers, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

Notwithstanding the foregoing, nothing herein shall be construed to require Licensee to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Master License. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Licensee. This Section shall survive the termination of this Master License.

29. INSURANCE

Without limiting Licensee's indemnification of City, and prior to commencement of work under this Master License or any Amendment to the Master License, Licensee shall obtain, provide and maintain at its own expense during the term of this Master License, policies of insurance of the type and amounts described in Exhibit "C," for each Licensee Streetlight, Wireless Facilities and/or License Area.

30. HAZARDOUS MATERIALS

30.1 Hazardous Materials Prohibited. From the date of execution of this Master License throughout the Term, Licensee shall not use, store, manufacture or maintain within the License Area(s) any Hazardous Materials except (i) in such quantities and types found customary in construction, repair, maintenance and operations of Wireless Facilities approved by this Master License, (ii) natural gas, petroleum and petroleum products contained within regularly operated motor vehicles. Licensee shall handle, store and dispose of all Hazardous Materials it brings onto the License Area in accordance with applicable laws.

30.2 Definition: Hazardous Materials. For purposes of this Master License, the term "Hazardous Materials" means: (i) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq*. ("CERLCA"); the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq*.; the Resource Conversation and Recovery Act, 42 U.S.C. Section 6901 *et seq*. ''RCRA''); the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq*.; the Clean Water Act, 33 U.S.C. Section 1251 *et seq*.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100 *et seq*.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, Health and Safety Code Sections 78000 *et seq*.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Sections 25249.5 *et seq*.; California Health and Safety Code Sections 25280 *et seq*. (Underground Storage of Hazardous Substances); the California Hazardous Waste of Concern and Public Safety Act, Health and Safety Code Sections 25169.5 *et seq*.; California Health and Safety Code Sections 25501 *et seq*. (Hazardous Materials Response Plans and Inventory); or the Porter-Cologne Water Quality Control Act, Water Code Sections 13000 *et seq*., all as they, from time-to-time may be amended or re-codified, (the above-cited statutes are here collectively referred to as the "Hazardous Substances Laws") or any other Federal, State or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect; (ii) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory, including but not limited to negligence, trespass, intentional tort, nuisance, waste or strict liability or under any reported decisions of a state or federal court; (iii) petroleum or crude oil; and (iv) asbestos.

30.3 Indemnity for Hazardous Materials. Notwithstanding any contrary provision of this Master License, and in addition to the indemnification duties of Licensee set forth in Section 28, Licensee agrees to indemnify, defend with counsel reasonably acceptable to City, protect, and hold harmless the City, its officials, officers, employees, agents, and assigns from and against any and all losses, fines, penalties, claims, damages, judgments, or liabilities, including, but not limited to, any repair, cleanup, detoxification, or preparation and implementation of any remedial, response, closure or other plan of any kind or nature which the City, its officials, officers, employees, agents, or assigns may sustain or incur or which may be imposed upon them in connection with the use of the License Area provided under this Master License, arising from or attributable to the storage or deposit of Hazardous Materials on or under the License Area by Licensee or its agents, employees, or contractors. This Section is intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 USC Section 9607(e), and California Health and Safety Code Section 25364, to insure, protect, hold harmless, and indemnify City for any claim pursuant to the Hazardous Substance Laws or the common law.

30.4 No Third-Party Hazardous Materials. City agrees that City will not, and will not authorize any third party to use, generate, store, or dispose of any Hazardous Materials on, under, about or within the License Area(s) in violation of any law or

regulation. City and Licensee each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities, claims and/or costs arising from any breach of any representation, warranty or Master License contained in this Section. This Section shall survive the termination of this Master License. Upon expiration or earlier termination of this Master License, Licensee shall surrender and vacate the License Area(s) and deliver possession thereof to City, in accordance with the terms of this Agreement, free of any Hazardous Materials released into the environment at, on or under the License Area(s) that are directly attributable to Licensee.

31. EMINENT DOMAIN

If all or any part of the License Area is permanently taken in the exercise of the power of eminent domain or any transfer in lieu thereof, the following will apply:

31.1 Area Subject to Taking. As of the date of taking, the affected Amendment will terminate as to (i) the part so taken, and the License Fee under the affected Amendment will be ratably reduced to account for the portion of the License Area taken, or (ii) at Licensee's election, the Amendment as a whole.

31.2 Award From Taking. The City will be entitled to any award paid or made in connection with the taking. Licensee will have no Claim against the City for the value of any unexpired Term of any Amendment or otherwise except that Licensee may claim any portion of the award that is specifically allocable to Licensee's relocation expenses or loss or damage to Licensee's Wireless Facilities.

31.3 Release. The parties understand and agree that this Section is intended to govern fully the rights and obligations of the parties in the event of a permanent taking. Licensee and the City each hereby waives and releases any right to terminate this Master License in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure (partial termination of lease and court order terminating lease, respectively) and under any similar Laws to the extent applicable to this Master License.

31.4 Temporary Taking. A taking that affects any portion of the License Area for less than 90 days will have no effect on the affected Amendment, except that Licensee will be entitled to an abatement in the License Fee to the extent that its use of the License Area is materially impaired. In the event of any such temporary taking, Licensee will receive that portion of any award, if any, that represents compensation for the use or occupancy of the License Area by Licensee during the Term up to the sum of the License Fees and additional fees payable by Licensee for the period of the taking, and the City will receive the balance of the award.

32. COMPLIANCE WITH LAWS

Licensee, at its sole cost, shall observe, construct, install, operate, and maintain all Wireless Facilities in strict compliance with all laws, statutes, ordinances, rules, and regulations promulgated by any governmental agency and applicable to the License Area(s), or the use thereof, including all radio frequency safety standards, Americans with

Disability Act requirements, applicable zoning ordinances, building codes and environmental laws. This includes, without limitation, the provisions of the NBMC and all applicable Standards and Regulations, as well as any specific requirements governing the placement, size, quantity, shape, color, camouflage, installation, relocation, modification, and removal of Wireless Facilities. Licensee shall not occupy or use the License Area(s) or permit any portion of the License Area(s) to be occupied or used for any use or purpose that is unlawful in part or in whole, or deemed by City to be disreputable in any manner or extra hazardous on account of fire.

33. NOT SUBJECT TO CEQA

This Master License is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. Further, this Master License is exempt from the provisions of CEQA under Class 3, Section 15303. Class 3 exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

34. NOT AGENT OF CITY

Neither anything in this Master License nor any acts of Licensee shall authorize Licensee or any of its employees, agents or contractors to act as agent, contractor, joint venturer or employee of City for any purpose.

35. NO THIRD-PARTY BENEFICIARIES

City and Licensee do not intend, by a provision of this Master License, to create in any third party, any benefit or right owed by one Party, under the terms and conditions of this Master License, to the other Party.

36. NOTICES AND EMERGENCY NUMBERS

All notices and other communications required or permitted to be given under this Master License, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the Party intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

To City:

City Manager
City of Newport Beach

100 Civic Center Drive
Newport Beach, CA 92660

With a copy to:

Real Property Division
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Public Works Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

City's emergency contact:

City of Newport Beach
Utilities Department
Phone: 949-644-3011

To Licensee:

_____
_____
_____

Licensee's emergency contact:

_____
_____

Phone: _____

37. CITY BUSINESS LICENSE

Licensee shall obtain and maintain during the duration of this Master License, a City business license as required by the NBMC.

38. TIME IS OF THE ESSENCE

Time is of the essence for this Master License.

39. STANDARD PROVISIONS

39.1 Waiver. The waiver by either Party of any breach or violation of any term, covenant or condition of this Master License, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any License Fee, performance, or other consideration which may become due or owing

under this Master License, shall not be deemed to be a waiver of any preceding breach or violation by the other Party of any term, condition, covenant of this Master License or any applicable law, ordinance or regulation.

39.2 Integrated Contract. This Master License represents the full and complete understanding of every kind or nature whatsoever between the Parties hereto related to the subject matter herein, and all preliminary negotiations and licenses of whatsoever kind or nature are merged herein. No verbal license or implied covenant shall be held to vary the provisions herein.

39.3 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Master License and the exhibits attached hereto, the terms of this Master License shall govern.

39.4 Interpretation. The terms of this Master License shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of the Master License or any other rule of construction which might otherwise apply.

39.5 Amendments. This Master License may be modified or amended only by a written document executed by both Licensee and City and approved as to form by the City Attorney.

39.6 Severability. If any term or portion of this Master License is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Master License shall continue in full force and effect.

39.7 Controlling Law and Venue. The laws of the State of California shall govern this Master License and all matters relating to it and any action brought relating to this Master License shall be adjudicated in a court of competent jurisdiction in the County of Orange.

38.8 Exhibits. All exhibits referenced and attached to this Master License are incorporated by reference.

38.9 Equal Opportunity Employment. Licensee represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age.

38.10 No Attorney's Fees. In the event of any dispute or legal action arising under this Master License, the prevailing Party shall not be entitled to attorney's fees.

38.11 No Damages. Licensee acknowledges that City would not enter into this Master License if it were to be liable for damages (including, but not limited to, actual damages, economic damages, consequential damages, lost profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use) under, or relating to, this Master License or any of the matters referred to in this Master License, including,

without limitation, any and all plans, permits, licenses or regulatory approvals, and CEQA documents. Accordingly, Licensee covenants and agrees on behalf of itself and its successors and assigns, not to sue City (either in its capacity as licensor in this Master License or in its capacity as the City of Newport Beach) for damages (including, but not limited to, actual damages, economic damages, consequential damages, lost profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use) or monetary relief for any breach of this Master License by City or for any dispute, controversy, or issue between City and Licensee arising out of or connected with this Master License or any of the matters referred to in this Master License, including, without limitation, any and all plans, permits, licenses or regulatory approvals, CEQA documents, or any future amendments or enactments thereto, the Parties agreeing that declaratory relief, injunctive relief, mandate and specific performance shall be Licensee's sole and exclusive judicial remedies.

38.12 Counterparts. This Master License may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

38.13 Power to Enter Into Master License. The individuals executing this Master License represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Master License on behalf of the respective legal entities of the Licensee and the City.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Master License to be executed in duplicate on the dates indicated below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date:_____

By:_____
Aaron C. Harp
City Attorney

ATTEST:
Date:_____

By:_____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
Seimone Jurjis
City Manager

LICENSEE: <Licensee>, a California <entity type>
Date:_____

By:_____
_____
_____

Date:_____

By:_____
_____
_____

[END OF SIGNATURES]

Attachments:

Exhibit A: Form of Amendment to Master License with Site List
Exhibit B: Faithful Performance Bond
Exhibit C: Insurance Requirements

Exhibit "A"
FORM OF AMENDMENT TO MASTER LICENSE WITH SITE LIST

AMENDMENT NO. ___ TO MASTER LICENSE AGREEMENT BETWEEN THE CITY OF NEWPORT BEACH AND _____ FOR THE INSTALLATION OF WIRELESS FACILITIES

THIS AMENDMENT NO. ___ TO MASTER LICENSE AGREEMENT ("Site License Agreement No. ___") is made and entered into as of this _____ day of _____, 20__ ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and _____, a _____ ("Licensee"), and is made with reference to the following:

RECITALS

A. On _____, 20__, City and Licensee entered into a Master License Agreement ("Master License") allowing Licensee to attach, install, operate, maintain, and remove Wireless Facilities as permits are obtained from the City.

B. The parties desire to enter into this Amendment No. __, pursuant to Section 5 of the Master License, to itemize specific locations on the Site List, attached hereto as Exhibit 1, to be licensed to Licensee on a nonexclusive basis under the terms and conditions of the Master License.

C. The parties further desire to enter into this Amendment No. __, pursuant to Section 5 of the Master License, to identify the specific License Area(s) in the License Area Description and Depiction, attached hereto as Exhibit 2, to be exclusively licensed to Licensee for installation of its Wireless Facilities under the terms and conditions of the Master License.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. EXCLUSIVE SITE LIST

This Amendment, the Site List attached hereto as Exhibit 1 and the License Area Description and Depiction attached hereto as Exhibit 2, as outlined in Section 5 of the Master License, shall be effective and incorporated into the Master License once fully executed by the parties.

2. PLANS AND SPECIFICATIONS

Licensee shall construct, install, operate, and maintain the Wireless Facilities within the License Area in strict accordance with the Plans and Specifications attached hereto as Exhibit 3. Any deviation from the Plans and Specifications shall comply with Section 10 of the Master License.

3. LICENSE FEE SCHEDULE

The Licensee shall pay the City the annual License Fee for each License Area on or before July 1 of each License Year as set forth in the License Fee Schedule attached hereto as Exhibit 4.

4. INTEGRATED CONTRACT

Except as expressly modified herein, all other provisions, terms, and covenants set forth in the Master License shall remain unchanged and shall be in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment No. __ to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date:_____

By:_____
City Attorney

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
City Manager

ATTEST:
Date:_____

By:_____
City Clerk

LICENSEE:
_____,
a _____
Date:_____

By:_____
_____
_____

Date:_____

By:_____
_____
_____

[END OF SIGNATURES]

Attachments: Exhibit 1 – Site List
Exhibit 2 – License Area Description and Depiction
Exhibit 3 – Plans and Specifications
Exhibit 4 – License Fee Schedule

EXHIBIT 1
SITE LIST

EXHIBIT 2
LICENSE AREA DESCRIPTION AND DEPICTION

EXHIBIT 3
PLANS AND SPECIFICATIONS

Exhibit 4
LICENSE FEE SCHEDULE

Exhibit "B"
FAITHFUL PERFORMANCE BOND

CITY OF NEWPORT BEACH
BOND NO. _____

FAITHFUL PERFORMANCE BOND

The premium charges on this Bond is $ _____.

WHEREAS, the City of Newport Beach, State of California, has entered into a Master License Agreement with _____ hereinafter designated as the "Principal," a license to install the Wireless Facility described and depicted in Attachment 1 at the designated location and area as further described and depicted in Attachment 2 (the "License Area"), in the City of Newport Beach, in strict conformity with the Master License and any Amendment thereto on file with the office of the City Clerk of the City of Newport Beach, which is incorporated herein by this reference.

WHEREAS, Principal has executed or is about to execute the Master License Agreement or any Amendment thereto and the terms thereof require the furnishing of a Bond for the faithful performance of the Master License Agreement.

NOW, THEREFORE, we, the Principal, and _____ _____, duly authorized to transact business under the laws of the State of California as Surety (hereinafter "Surety"), are held and firmly bound unto the City of Newport Beach, in the sum of _____ Dollars and __/100 ($_____) lawful money of the United States of America, said sum being equal to 100% of the estimated cost of repairs and removal of the Wireless Facilities under the Master License and any Amendment thereto, to be paid to the City of Newport Beach, its successors, and assigns; for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors, or assigns, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal, or the Principal's heirs, executors, administrators, successors, or assigns, fail to abide by, and well and truly keep and perform any or all the covenants, conditions, and agreements in the Master License and any Amendment thereto and any alteration thereof made as therein provided on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to its true intent and meaning, or fails to indemnify, defend, and save harmless the City of Newport Beach, its officers, employees and agents, as therein stipulated, then, Surety will faithfully perform the same, in an amount not exceeding the sum specified in this Bond; otherwise this obligation shall become null and void.

As a part of the obligation secured hereby, and in addition to the face amount specified in this Performance Bond, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City, only in the event City is required to bring an action in law or equity against Surety to enforce the obligations of this Bond.

Surety, for value received, stipulates and agrees that no change, extension of time, alterations or additions to the terms of the Master License and any Amendment thereto or to the covenants, conditions, and agreements to be performed thereunder shall in any

way affect its obligations on this Bond, and it does hereby waive notice of any such change, extension of time, alterations or additions of the Master License Agreement and any Amendment thereto.

This Faithful Performance Bond shall be extended and maintained by the Principal in full force and effect for the Term of the Master License plus ninety (90) calendar days thereafter.

In the event that the Principal executed this bond as an individual, it is agreed that the death of any such Principal shall not exonerate the Surety from its obligations under this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____,20___.

_____	_____
Name of Contractor (Principal)	Authorized Signature/Title
_____	_____
Name of Surety	Authorized Agent Signature
_____	_____
Address of Surety	Print Name and Title
_____	
Telephone	

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date:_____

By:_____
Aaron C. Harp
City Attorney

NOTARY ACKNOWLEDGMENTS OF
CONTRACTOR AND SURETY MUST BE ATTACHED

Attachments: Attachment 1 – Description and Depiction of Wireless Facility
Attachment 2 – Description and Depiction of License Area

Attachment 1
Description and Depiction of Wireless Facility

Attachment 2
Description and Depiction of License Area

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss*.
On _____, 20_____ before me, _____,
Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____} *ss*.
On _____, 20_____ before me, _____,
Notary Public, personally appeared _____,
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature (seal)

Exhibit "C"

Insurance Requirements

1. Provision of Insurance. Without limiting Licensee's indemnification of City, and prior to commencement of entry upon the License Area by Licensee or Licensee's agents, representatives, consultants, contractors and/or subcontractors, Licensee shall obtain, provide and maintain at its own expense during the term of this Agreement policies of insurance of the type and amounts described below and in a form satisfactory to City. Licensee agrees to provide insurance in accordance with requirements set forth here. If Licensee uses existing coverage to comply and that coverage does not meet these requirements, Licensee agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Self-Insurance. Notwithstanding the above, Licensee shall have the right to self-insure in accordance with the coverages required in this Exhibit. In the event Licensee elects to self-insure, Licensee shall be obligated to include City as an additional insured, and in addition to the provisions set forth in Sections 4-6, the following provisions shall apply:

   A. City shall promptly provide Licensee written notice of any claim, demand, or lawsuit, for which it seeks coverage pursuant to this Section, and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, or lawsuit;

   B. City shall not settle any such claim, demand, or lawsuit without prior written notice to Licensee; and

   C. City shall fully cooperate with Licensee in the defense of such claim, demand, or lawsuit.

4. Coverage Requirements.

   A. Workers' Compensation Insurance. Licensee and Licensee's agents, representatives, consultants, contractors and/or subcontractors, shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California.

   B. General Liability Insurance. Licensee and Licensee's agents, representatives, consultants, contractors and/or subcontractors, shall

maintain commercial general liability insurance, and if necessary excess/umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount of two million dollars and 00/100 ($2,000,000) per occurrence, four million dollars and 00/100 ($4,000,000) general aggregate. The policy shall cover liability arising from License Area, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with no endorsement or modification limiting the scope of coverage for liability assumed under a contract per coverage under ISO CGL form 00 01 or equivalent.

C. Automobile Liability Insurance. Licensee and Licensee's consultants, contractors and/or subcontractors shall maintain commercial automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Licensee or all activities of Licensee's consultants, contractors and/or subcontractors arising out of or in connection with work to be performed on the License Area, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars and 00/100 ($1,000,000) combined single limit each accident.

D. Builder's Risk Insurance. During construction, Licensee shall require that Licensee's construction contractors and subcontractors maintain Builders Risk insurance or an installation floater as directed by City, covering damages to the work for the improvements being constructed by or on behalf of Licensee with limits equal to one hundred percent (100%) of the replacement cost value of the work, with coverage to continue until final acceptance of the work by Licensee and City. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

E. Excess/Umbrella Liability Insurance. If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this contract, then said policies shall be "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all the insurance requirements stated in this contract, including, but not limited to, the additional insured, primary & non-contributory and waiver of subrogation insurance requirements stated herein. No insurance policies maintained by the City, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Licensee's or Licensee's construction contractor's and subcontractor's primary and excess/umbrella liability policies are exhausted.

5. Endorsements: Policies shall contain or be endorsed to contain the following provisions:

A. Additional Insured Status. City, its City Council, boards and commissions, officers, agents, volunteers and employees are to be included as an additional insured under all general liability policies with respect to liability

arising out of Licensee's activities ongoing and completed operations related to this Agreement and with respect to use or occupancy of the License Area. City, its elected or appointed officers, officials, employees, agents and volunteers shall be included as an additional insured on any of Licensee's contractor's and subcontractor's policies.

B. Primary and Non-Contributory. Policies shall be considered primary insurance as respects to City, its City Council, boards and commissions, officers, agents, volunteers and employees as respects to all claims, losses, or liability arising out of the negligent acts or willful misconduct from Licensee's operations. Any insurance maintained by City, including any self-insured retention City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

C. Liability Insurance. Liability insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

D. Waiver of Subrogation. With the exception of workers' compensation and builder's risk, all insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its City Council, boards and commissions, officers, agents, volunteers and employees or shall specifically allow Licensee or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. With the exception of workers' compensation and builder's risk, Licensee hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its consultants, contractors or subcontractors.

E. Notice of Cancellation. The insurance required by this Agreement shall not be canceled or non-renewed, except after thirty (30) calendar days written notice has been sent to City. It is Licensee's obligation to ensure that provisions for such notice have been established.

6. Additional Requirements.

A. Change of Insurance Requirements. In the event City determines that (i) the Licensee's activities on the License Area creates an increased or decreased risk of loss to the City, (ii) greater insurance coverage is required due to the passage of time, or (iii) changes in the industry require different coverage be obtained, Licensee agrees that the minimum limits of any insurance policy required to be obtained by Licensee or Licensee's consultants, contractors or subcontractors, may be changed accordingly upon receipt of written notice from City. Such change to insurance requirement herein shall be mutually agreed upon by the parties by amendment to this agreement and be appropriately adjusted upon the agreed terms. With respect to changes in insurance requirements that are available from Licensee's then-existing insurance carrier, Licensee shall deposit certificates evidencing acceptable insurance policies with City incorporating such changes within thirty (30) calendar days of receipt of such notice as per the agreed upon

terms. With respect to changes in insurance requirements that are not available from Licensee's then- existing insurance carrier, Licensee shall deposit certificates evidencing acceptable insurance policies with City, incorporating such changes, within ninety (90) calendar days of receipt of such notice as per the agreed upon terms.

B. Verification of Compliance. Licensee and Licensee's consultants, contractors and/or subcontractors shall be subject to the insurance requirements contained herein unless otherwise specified in the provisions above or written approval is granted by the City. Licensee shall verify that all consultants, contractors and/or subcontractors maintain insurance meeting all the requirements stated herein, and Licensee shall ensure that City is an additional insured on liability insurance policies required from contractors, consultants and/or subcontractors.

C. Insurance Form. For General Liability coverage, contractors, consultants and/or subcontractors shall provide coverage with a format at least as broad as provided by Insurance Services Office form CG 20 38 04 13 and CG 20 37 or an equivalent which shall be submitted to the City for review and approval.

D. Notice of Suits. To the extent allowed by law, Licensee shall give City prompt and timely notice of any claim made or suit instituted arising out of or resulting from Licensee or Licensee's agents, representatives, consultants, contractors or subcontractors performance under this Agreement.

E. Certificates of Insurance. Licensee shall provide certificates of insurance, with original endorsements as required above, to City as evidence of the insurance coverage required herein. Insurance certificates must be approved by City prior to commencement of work or issuance of any permit. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

F. Continuous Insurance. All required insurance shall be in force on the Effective Date, and shall be maintained continuously in force throughout the term of this Agreement. In addition, the cost of all required insurance shall be borne by Licensee or by Licensee's consultants, contractors or subcontractors.

G. Default for Lack of Insurance. If Licensee or Licensee's consultants, contractors or subcontractors fail or refuse to maintain insurance as required in this Agreement, or fail to provide proof of insurance, City has the right to declare this Agreement in default without further notice to Licensee, and City shall be entitled to exercise all available remedies.

H. No Prevention of City Insurance. Licensee agrees not to use the Agreement Area in any manner, even if use is for purposes stated herein, that will result in the cancellation of any insurance City may have on the License Area or on adjacent premises, or that will cause cancellation of any other insurance

coverage for the License Area or adjoining premises. Licensee further agrees not to keep on the License Area or permit to be kept, used, or sold thereon, anything prohibited by any fire or other insurance policy covering the License Area. Licensee shall, at its sole expense, comply with all reasonable requirements for maintaining fire and other insurance coverage on the License Area.

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 3

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Tara Finnigan, Assistant City Manager - 949-644-3001, tfinnigan@newportbeachca.gov
PREPARED BY:	Benjamin M. Zdeba, Deputy City Manager - 949-644-3253, bzdeba@newportbeachca.gov
TITLE:	Ordinance No. 2026-08: Updating Title 1 (General Provisions) of the Newport Beach Municipal Code Related to City Employees' Enforcement of the Municipal Code and State Law

ABSTRACT:

For the City Council's consideration is the adoption of Ordinance No. 2026-08, amending Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations) of the Newport Beach Municipal Code to update, clarify and expand citation authority for several categories of City of Newport Beach employees. This ordinance was introduced and considered at the City Council meeting on June 23, 2026.

RECOMMENDATIONS:

a) Find the adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Waive full reading of an Ordinance, read by title only, conduct a second reading and adopt Ordinance No. 2026-08, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations), Chapter 1.12 (Citations and Warrants), Title 1 (General Provisions) of the Newport Beach Municipal Code Related to City Employees' Enforcement of the Municipal Code and State Law*.

DISCUSSION:

As of July 1, 2026, City park patrol officers were formally transferred from the Recreation and Senior Services Department to the Newport Beach Police Department (NBPD), relocating the park patrol function under a new operational oversight and command structure. The proposed amendment to Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations) ensures that park patrol officers are explicitly recognized

within the NBPD's citation authority structure and can perform their duties in alignment with its mission and standards.

Additionally, the proposed amendment will correct outdated references to the Finance Department (now the Administrative Services Department), will authorize the fire chief, public works director and harbormaster to issue citations for violations of Division 1, 1.5,2 and 3 of the California Harbors and Navigation Code, and will grant citation authority to the municipal operations director and designated employees related to waste and other matters.

Collectively, these updates are in alignment with organizational changes and serve to create clarity, promote efficient enforcement of municipal regulations and better serve the public health, safety and welfare of the community.

The City Council introduced Ordinance 2026-08 at its regular meeting on June 23, 2026. If adopted, it will become effective after 30 days.

FISCAL IMPACT:

There is no fiscal impact related to this item. The amendment is an administrative and organizational realignment that formalizes operational relationships and expands enforcement authority consistent with the transfer of Park Patrol Officers to the NBPD. Any staffing or resource adjustments associated with the departmental transfer have been addressed through the normal budget process.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find the adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Ordinance No. 2026-08

Attachment A

Ordinance No. 2026-08

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 1.12.020 (AUTHORITY OF PUBLIC OFFICERS OR EMPLOYEES TO ISSUE CITATIONS), CHAPTER 1.12 (CITATIONS AND WARRANTS), TITLE 1 (GENERAL PROVISIONS) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO CITY EMPLOYEES' ENFORCEMENT OF THE MUNICIPAL CODE AND STATE LAW

WHEREAS, Section 200 of the Charter of the City of Newport Beach ("Charter") vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, power, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, effective July 1, 2026, Park Patrol Officers will be transferred from the Recreation and Senior Services Department to the Newport Beach Police Department, thereby formally relocating the Park Patrol function under the operational oversight and command structure of the Police Department;

WHEREAS, Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations) of the Newport Beach Municipal Code ("NBMC") authorizes designated City officers and employees to issue citations for violations of the NBMC;

WHEREAS, in connection with the transfer of Park Patrol Officers to the Police Department, it is necessary and appropriate to clarify and expand their authority to ensure they can effectively support public safety operations, enforce applicable laws and regulations, and carry out their duties in alignment with the mission and standards of the Police Department;

WHEREAS, currently, the Fire Chief, the Public Works Director and the Harbormaster, and other employees holding positions in these departments designated by them, are authorized to issue citations for violations of Division 3 of the California Harbors and Navigation Code;

WHEREAS, Divisions 1, 1.5, and 2 of the California Harbors and Navigation Code contain provisions that are applicable to activities and enforcement within Newport Harbor;

WHEREAS, expanding the ability for City employees to issue citations to include these additional divisions in the California Harbors and Navigation Code will enhance

regulatory compliance, improve enforcement consistency, and better protect public safety and harbor operations;

WHEREAS, granting enforcement authority to the Municipal Operations Director, and designated employees, related to waste and other matters will help the City maintain compliance with state mandates and protect the public; and

WHEREAS, granting such authority will promote efficient enforcement of municipal regulations, and better serve the public health, safety, and welfare of the community.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Section 1.12.020 (Authority of Public Officers or Employees to Issue Citations), Chapter 1.12 (Citations and Warrants), Title 1 (General Provisions), is hereby amended to read as follows:

"Section 1.12.020 Authority of Public Officers or Employees to Issue Citations.

A. The following designated public officers and employees shall have the power to issue citations for any violation of this Code:

1. Animal Control Officers, Community Service Officers, Custody Officers, Parking Control Officers, Police Officers, Park Patrol Officers, and employees holding positions in the Police Department designated by the Police Chief.

2. The Community Development Director, Harbormaster, Public Works Director, and employees holding positions in these departments designated by the director of the department.

3. Code Enforcement Officers.

4. Municipal Compliance Officers who may be employed by contract.

B. The following designated public officers and employees shall have the power to issue citations for violations of the following provisions of this Code:

1. The Fire Chief and other employees holding positions in the Fire Department designated by the Fire Chief shall have the power to issue citations for any violation of

Titles 5, 9, 11, and 17, Chapters 7.04, 7.16, 7.20, and 7.30, and Sections 6.04.050, 6.04.190, and 10.06.010.

2. The Revenue Manager and other employees holding positions in the Administrative Services Department designated by the Administrative Services Director shall have the power to issue citations for any violations of Titles 3, 5, 6, and 10, Chapters 12.62 and 12.63, and Section 12.40.060.

3. The Municipal Operations Director and other employees holding positions in the Municipal Operations Department designated by the Municipal Operations Director shall have the power to issue citations for any violations of Chapters 6.04, 6.05, 6.06, 12.63, and 13.08.

4. The Building Official, and other employees holding positions in the Building Division designated by the Building Official, shall have the power to issue citations for any violation of Title 15.

5. The City Clerk shall have the power to issue administrative citations for violations of Chapter 1.28.

C. The following designated public officers and employees shall have the power to issue citations for violations of the following provisions of State or local law:

1. Animal Control Officers, Community Services Officers, Custody Officers, Police Officers, Park Patrol Officers, and Parking Control Officers, and other employees holding positions in the Police Department designated by the Chief of Police shall have the power to issue citations for violations of the California Vehicle Code to the maximum extent allowed under State law, including, but not limited to, California Vehicle Code Section 22507.8 and local ordinances and resolutions adopted pursuant to California Vehicle Code Section 22511.7.

2. The Fire Chief, Public Works Director, Municipal Operations Director and Harbormaster, and other employees holding positions in these departments designated by them, shall have the power to issue citations for any violation of Sections 22500.1 and 22514 of the California Vehicle Code, the California Fish and Game Code, Title 14 of the California Code of Regulations, the provisions of California Harbors and Navigation Code, Divisions 1, 1.5, 2, and 3, any provision of State or local law related to fire suppression or fire prevention and any provision of State and local laws pertaining to the handling, use, storage or disposal of hazardous materials or waste.

D. The City Clerk shall be informed, in writing, by the Police Chief, Fire Chief, Harbormaster, and Department Directors of all positions authorized to issue citations pursuant to this section. The City Clerk shall maintain a list of all positions designated pursuant to this section and shall provide a copy of the designated position list to the public upon request.

E. Nothing in this section shall be considered to limit any authority otherwise vested in the named officers and employees, provided elsewhere in this Code, or by State law."

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 23rd day of June, 2026, and adopted on the 14th day of July, 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

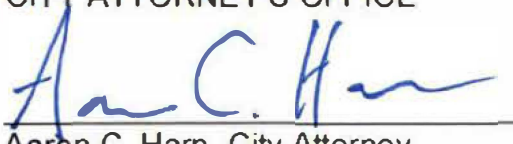
ABSENT: _____

_____
Lauren Kleiman, Mayor

ATTEST:

_____
Lena Shumway, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp, City Attorney

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 4

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Paul Blank, Harbormaster - (949) 270-8158 pblank@newportbeachca.gov
PREPARED BY:	Matt Cosylion, Deputy Harbormaster - 949-270-8164 mcosylion@newportbeachca.gov
TITLE:	Ordinance No. 2026-09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor

ABSTRACT:

For the City Council's consideration is the adoption of Ordinance No. 2026-09, which reflects changes to Title 17 of the City of Newport Beach Municipal Code (NBMC). The recommended amendments are intended to improve public health and safety and assist staff with management and enforcement of regulations governing Newport Harbor. The ordinance was introduced and considered at the City Council's June 23, 2026, regular meeting.

RECOMMENDATION:

a) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Waive the full reading of the ordinance, read by title only, conduct second reading and adopt Ordinance No. 2026-09, *An Ordinance of the City Council of Newport Beach, California, Amending Title 10 (Offenses and Nuisances), Title 11 (Recreational Activities), and Title 17 (Harbor Code) of the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor.*

DISCUSSION:

At its June 23, 2026, meeting, the City Council introduced and passed to second reading Ordinance No. 2026-09, which, if adopted, would amend Title 17 and other sections of the NBMC to assist staff with management and enforcement of regulations governing Newport Harbor. If adopted, the ordinance and associated code amendments would become effective August 13, 2026.

The proposed revisions to the NBMC include amending provisions related to public urination and defecation, cleaning of fish and bait on public docks, marine sanitation systems, public hearing notices for harbor related matters and granting authority to the harbormaster to issue administrative subpoenas to charter or boat rental platforms to obtain specific information regarding charter listings in Newport Harbor.

FISCAL IMPACT:

There is no fiscal impact associated with the adoption of this ordinance.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Ordinance No. 2026-09

Attachment A

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 10 (OFFENSES AND NUISANCES), TITLE 11 (RECREATIONAL ACTIVITIES), AND TITLE 17 (HARBOR CODE) OF THE NEWPORT BEACH MUNICIPAL CODE TO REGULATE AND MANAGE CERTAIN ACTIVITIES WITHIN NEWPORT HARBOR

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, the 1978 Beacon Bay Bill, as amended, ("Beacon Bay Bill") authorizes the City of Newport Beach to act on behalf of the State of California as trustee of certain tidelands located within the City's limits, including Newport Harbor ("City Tidelands");

WHEREAS, the City has adopted rules and regulations for Newport Harbor, which are contained in Title 17 (Harbor Code) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, the Harbor Commission's adopted objectives include conducting an annual review of Title 17 (Harbor Code) and recommending updates to City Council where necessary;

WHEREAS, to further that objective, a subcommittee was convened to conduct the review. Subsequently, a public meeting was held by the Harbor Commission on February 11, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place, and purpose of the meeting was given in accordance with Government Code Section 54950 *et seq*. ("Ralph M. Brown Act");

WHEREAS, at the meeting, the Harbor Commission reviewed the subcommittee's proposal and directed staff to return to a future meeting with a resolution outlining the proposed harbor-related changes to the NBMC;

WHEREAS, a public meeting was held by the Harbor Commission on April 8, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place, and purpose of the meeting was given in accordance with the Ralph M. Brown Act;

WHEREAS, at the meeting, the Harbor Commission adopted Harbor Commission Resolution HC2026-1, recommending the City Council adopt amendments to Title 10 (Offenses and Nuisances), Title 11 (Recreational Activities), and Title 17 (Harbor Code); and

WHEREAS, in the interest of the public health, safety, and general welfare of Newport Beach residents and users of Newport Harbor, the City Council finds that amendments to Titles 10, 11, and 17 of the NBMC are necessary to facilitate the broader goals, management, and enforcement of regulations governing Newport Harbor.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Section 10.06.010 (Human Waste) of Chapter 10.06 (Human Waste) of the NBMC is hereby amended to read as follows:

Section 10.06.010 Human Waste.

No person shall urinate or defecate on private property in an area exposed to the public view, in or on Newport Harbor (as defined in Section 17.01.030), or on any public street, sidewalk, alley, park, beach, or other public place, except in a public or private restroom.

Section 2: Section 11.20.050 (Cleaning of Fish or Mussel) of Chapter 11.20 (Fishing Regulations) of the NBMC is hereby amended to read as follows:

Section 11.20.050 Cleaning of Fish or Mussel.

No person shall place, cut or clean any fish, mussel, bait or other marine animal upon any bench or seat placed upon any ocean pier, public dock, or upon the floor or railings of such piers or docks.

Section 3: Subsection (B) (Notice of Public Hearing) of Section 17.05.140 (Public Hearings) of Chapter 17.05 (General Provisions) of the NBMC is hereby amended to read as follows:

B. Notice of Public Hearing.

1. Content of Notice. Notice of a public hearing shall include the following applicable information:

a. Hearing Information.

i. The date, time, and place of the hearing and the name of the review authority;

ii. A brief description of the City's general procedure concerning the conduct of hearings and decisions;

iii. The phone number, street address, and website of the City, where an interested person can call or visit to obtain additional information;

iv. A statement that an interested person or authorized agent may appear and be heard at the public hearing and the procedures for appeal; and

v. A statement that if a person challenges the subject development in court, that person may be limited to raising only those issues that the person, or someone else speaking on their behalf, raised at the public hearing (described in the notice) or in written correspondence delivered to the City at, or before, the public hearing.

b. Project Information.

i. The name of the applicant;

ii. The City's file number(s) assigned to the application;

iii. A general explanation of the matter to be considered; and

iv. A general description, in text and/or by diagram, of the location of the property or mooring that is the subject of the hearing.

2. Method of Notice Distribution. Notice of a public hearing required by this title shall be given as specified below.

a. Mailing. Notice shall be mailed or delivered at least ten (10) calendar days before the scheduled hearing to all the following:

i. Project Site Owners, Applicant and Appellant. The owners of the property being considered in the application, or the owners' agent, the applicant or the applicant's agent, and the appellant, if any;

ii. Nearby Property Owners. All owners of real property located within a three hundred (300) foot radius of the exterior boundaries of the location of the subject matter of the application, as shown on the last equalized assessment roll. It shall be the responsibility of the applicant to obtain and provide to the review authority a list of the names and addresses of all owners who are to be provided notice under this subsection; and

iii. Persons Requesting Notice. A person who has made a written request for notice with the City Clerk.

b. Posting of a Sign and Notice. Notice shall be posted at a conspicuous place, easily readable by the public and placed as close as possible to the site of the proposed development at least ten (10) calendar days before the scheduled public hearing in the following manner:

i. One or more signs shall be posted as determined by the City;

ii. The size and location of the sign(s) shall be determined by the City to ensure that it will be easily readable by the public;

iii. The project applicant, or in the case of an appeal, the appellant shall be responsible for maintaining the sign(s) in a satisfactory condition; and

iv. The project applicant shall remove the sign(s) after the date specified for the public hearing.

c. Failure to Receive Notice. The failure of any person or entity to receive notice given in compliance with this section shall not invalidate the actions of the applicable review authority.

Section 4: Section 17.10.020 (Permit for Commercial Activities in Newport Harbor Required) of Chapter 17.10 (Marine Activities Permit) is hereby amended to read as follows:

Section 17.10.020 Permit for Commercial Activities in Newport Harbor Required.

A. No person shall engage in any commercial activity including, but not limited to, advertising, brokering, scheduling, arranging, providing, operating or renting any bareboat or certified charter, vessel or equipment, on the waters of Newport Harbor without first obtaining a valid marine activities permit pursuant to this chapter.

B. No person shall use a vessel to conduct a business or service including, but not limited to, pumpout, towing, bottom cleaning, fuel delivery, and/or maintenance or repair services, on the waters of Newport Harbor without first obtaining a valid marine activities permit pursuant to this chapter.

C. Any person engaging in commercial activity that advertises, lists, or offers a vessel for rent or charter in the City, including on any charter or boat rental hosting platform, or social media platform, shall prominently display the valid City issued marine activities permit number within the body of every such advertisement, marketing materials, or listing.

Section 5: The table of contents for Chapter 17.10 (Marine Activities Permit) of the NBMC is hereby amended to read as follows:

Chapter 17.10
MARINE ACTIVITIES PERMIT

Sections:

17.10.010 Findings and Purpose.
17.10.020 Permit for Commercial Activities in Newport Harbor Required.
17.10.022 Issuance of Administrative Subpoenas.
17.10.025 Exemptions.
17.10.030 Application for Permit.
17.10.040 Filing Fee.
17.10.050 Issuance of Permit.
17.10.060 Power to Impose Conditions—Hold Harmless.
17.10.070 Insurance.
17.10.080 Duration of Permit.
17.10.090 Enforcement—Right of Entry.
17.10.100 Transfer of Permit.
17.10.110 Licenses and Fees Not Exclusive.
17.10.120 Application to Existing Commercial Activities.

Section 6: Section 17.10.022 (Issuance of Administrative Subpoena) of Chapter 17.10 (Marine Activities Permit) is hereby added to read as follows:

Section 17.10.022 Issuance of Administrative Subpoena.

The Harbormaster shall have the authority to issue and serve administrative subpoenas to the operator and agent of a vessel, charter or boat rental hosting platform, social media platform, or any person facilitating vessel charters or rentals, as necessary, to obtain specific information regarding charter listings located in the City, including, but not limited to, the names of the persons responsible for each such listing, the address and contact information associated with such listing, and such other information necessary to determine whether the listing complies with this chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than thirty (30) days from the date of service. A person that has been served with an administrative subpoena may seek judicial review during that thirty (30) day period. Failure to respond to an administrative subpoena in accordance with the terms set forth herein shall constitute a violation of this section. In addition to any other remedies provided in this Code, the City may file a judicial action to compel compliance with the subpoena.

Section 7: Subsection (H) (Mooring, Anchoring and Vessel Condition Requirements) of Section 17.25.020 (Anchorage, Berthing, and Mooring Regulations) of Chapter 17.25 (Berthing, Mooring and Storage) of the NBMC is hereby amended to read as follows:

H. Mooring, Anchoring and Vessel Condition Requirements.

1. Anchoring and Mooring. All vessels anchored on the open waters of the Pacific Ocean or in the designated anchorage area in Newport Harbor shall be anchored in such a manner so that the vessel does not come in contact with another vessel or structure. Vessels anchored in the designated anchorage area in Newport Harbor shall also not extend beyond the demarcation line of the designated anchorage area. All vessels using moorings in Newport Harbor shall be firmly anchored to a mooring from bow and stern in such a manner as to prevent the vessel from swinging, turning or drifting in a way that interferes with or impedes safe navigation around the moored vessel, except in areas designated by the Harbormaster as single mooring areas. Vessels in single mooring areas shall be tied from the bow. Double or two-point moorings that are equipped with two mooring buoys for mooring to both bow and stern are required to have at all times (a) a vessel properly tied to both mooring buoys or (b) a spreader line secured and connected to both buoys. The spreader line shall be kept clean of algae and other marine growth to ensure it remains easily visible. The maximum permitted mooring lengths shall not exceed the established length of their mooring rows. No portion of

a moored vessel or any object attached to the vessel may extend into the mooring field fairways.

2. Vessel Condition. Safety, Seaworthiness and Operability. Vessels assigned to a mooring by permit must be maintained in a safe, seaworthy and operable condition. If, based upon the appearance of the vessel, inspection by the City or other facts, the Harbormaster has cause to believe a vessel is not safe, seaworthy and operable, the Harbormaster shall give written notice to the permittee, in accordance with the service requirements of Section 1.05.030, requesting a demonstration that the vessel is safe, seaworthy and operable. The permittee shall, upon written notice specifying the date and time, demonstrate to the Harbormaster that the vessel assigned to the mooring is safe, seaworthy or operable. In the event that the Harbormaster determines that vessel is not safe, seaworthy or operable, the permittee shall:

a. Commence repairs within thirty (30) days upon service of the written notice of such determination and complete repairs within ninety (90) days of the commencement unless the Harbormaster, upon written request from the permittee specifying the reasons therefor, approves an extension of time to complete the repairs; or

b. Remove the vessel within thirty (30) days of service of the written notice of such determination and request assignment of a different vessel that is safe, seaworthy and operable to the mooring within sixty (60) days after the removal of the vessel. This section is not intended to apply to any brief period of repair common to most vessels. The Harbormaster may repeat his or her request to test operability and seaworthiness as needed.

3. Vessel Condition—Public Nuisance. No person owning, leasing, occupying or having charge or possession of any vessel in Newport Harbor shall maintain, permit, cause or allow to exist on such vessel any of the following conditions:

a. Promotion of a fire hazard, including, but not limited to, improper open fuel storage, deficiencies in the vessel's fuel storage tanks, inoperable electrical systems, storage of combustible or other flammable material that constitutes a fire hazard to any vessel;

b. Retention of water that becomes stagnant, unsanitary, or polluted;

c. Accumulation or storage of rubbish, trash, debris, rubble, containers, or boxes that are visible aboard the vessel or stored inside the vessel in such a way as to make the vessel inoperable for its intended use;

d. Storage or securing a vessel in such a way that it impedes pedestrian travel on City beaches and tidelands;

e. Contribution to hazards to public safety or health, such as, but not limited to: propagation of vermin, rats, insects, or unsanitary conditions from the accumulation of fecal materials;

f. Maintenance in such unseaworthy condition that the vessel is unsafe, unsightly or poorly maintained, including, but not limited to: broken windows, unsecured doors or hatches, excessive marine growth attached to the vessel, being inoperable for the vessel's intended use, partially destroyed or partially repaired for more than three continuous months, providing access to marine mammals, actively seeping hazardous or toxic material into the surrounding waters, or would present a physical danger to public safety personnel during emergency access;

g. Operation of its mechanical or electrical systems creates excessive noise, odors, vibrations, fumes, discharges or emissions that constitute an impact on public health or safety;

h. Violation of the terms and conditions of other use or rental permits as granted by the City;

i. Allowance of repetitive, boisterous or unruly conduct by the vessel operator or occupants when that conduct:

i. Is offensive to a person of ordinary sensibility, and

ii. Continues after a written or oral request to terminate the conduct, or

iii. Is offensive to a considerable number of people.

j. Anchorage in an area controlled by the City without adequate anchor(s) rope or chain appropriate for the wind and sea conditions encountered in Newport Bay;

k. Inability of a vessel on a shore mooring to be self-righting on an incoming tide without flooding the vessel;

l. Attachment to a mooring in such a way that the vessel regularly drifts or impedes safe navigation in Newport Bay;

m. Failing to connect a portable or permanently installed marine sanitation system, if any, to an internal holding tank while operating, anchoring, mooring, docking, or otherwise maintaining a vessel in Newport Harbor;

n. Failing to have an operable portable marine sanitation device or a permanently installed marine sanitation system for any vessel on which a person may stay aboard overnight pursuant to a mooring permit, mooring sub-permit, mooring license, or as otherwise authorized, or while located in one of the public anchorages; or

o. The use of improvised waste containment methods for human or animal excreta.

4. If, based upon the appearance of the vessel, inspection by the City or Harbormaster or other facts, the Harbormaster determines that a sea lion has boarded a moored vessel, the Harbormaster shall issue and serve a notice of violation in accordance with Section 1.05.030 and the permittee shall take any and all necessary action to employ and maintain appropriate measures to deter sea lions from boarding the vessel within seven days of the notice of violation. If the Harbormaster determines that appropriate deterrent measures have not been taken within seven days of the notice of violation, the Harbormaster may issue an administrative citation or take any other enforcement action authorized by this Code. In the event the Harbormaster issues an administrative citation, the permittee shall:

a. Take any and all necessary action to employ and maintain appropriate sea lion deterrent measures; or

b. Remove the vessel from Newport Harbor.

"Appropriate deterrent measures" shall be defined as the latest methodology permitted by National Marine Fisheries Service to minimize sea lion boarding of vessels assigned to a mooring. If the City is unable to reach the permittee within the seven days, the Harbormaster may install temporary deterrent measures as needed and recover the City's cost of compliance.

Section 8: Subsection (A) (Waste and Refuse) of Section 17.45.030 (Waste and Refuse) of Chapter 17.45 (Sanitation) of the NBMC is hereby amended to read as follows:

A. Discharge of Treated or Untreated Human or Animal Excreta. No person shall discharge, permit or allow any other person on a vessel under his or her

control or command to discharge any treated or untreated human or animal excreta from any marine sanitation device or by other means into the waters of Newport Harbor or the Pacific Ocean. The provisions of this section do not apply to the cleaning of vessels for the purpose of removing accumulated animal excreta from nondomesticated animals, including sea lions and migratory waterfowl. In accordance with California Harbors and Navigation Code Section 782 or any successor statute, any vessel in the waters of Newport Harbor or on the waters of the Pacific Ocean within the jurisdiction of the City, with a marine sanitation device, is subject, at any time, to boarding by the Harbormaster to inspect the operation and condition of the same and shall be subject to the use of a dye tablet to determine whether or not the marine sanitation system is discharging overboard. Violations are subject to all available remedies, including immediate removal from Newport Harbor.

Section 9: The recitals provided in this ordinance are true and correct and are incorporated into the operative portion of this ordinance.

Section 10: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 11: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 12: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 13: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 23rd day of June, 2026, and adopted on the 14th day of July, 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

_____
Lauren Kleiman, Mayor

ATTEST:

_____
Lena Shumway, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

_____
Aaron C. Harp, City Attorney

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 5

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Melissa Hartson, Library Services Director - 949-717-3801, mhartson@newportbeachca.gov
PREPARED BY:	Rebecca Lightfoot, Library Services Manager - 949-717-3819, rlightfoot@newportbeachca.gov
TITLE:	Approval of a Professional Services Agreement with Arts Orange County to Manage Phase XI of the Sculpture Exhibition in Civic Center Park

ABSTRACT:

Staff requests City Council approval of a professional services agreement with Arts Orange County in a not-to-exceed amount of $135,080 for coordination, management, installation, and de-installation services for Phase XI of the Civic Center Park Sculpture Exhibition. The rotating exhibition, authorized by the City Council in 2013, has featured 10 phases of sculpture installations since 2014. Phase XI will include a call for entries, review by the City Arts Commission and guest jurors, an online public survey, and final City Council approval of selected artworks.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Authorize the Mayor and City Clerk to execute a Professional Services Agreement with Arts Orange County for Sculpture Exhibition – Phase XI in the Civic Center Park for a total amount not-to-exceed $135,080.

DISCUSSION:

The Exhibition is an ongoing public art display featured in Civic Center Park. The City Arts Commission (Commission) determined that a rotating exhibition was the optimal approach for bringing a variety of sculpture to Newport Beach in a cost-efficient manner. In August 2013, the City Council authorized the Commission to implement an inaugural rotational sculpture exhibit in Civic Center Park. Since 2014, the City has exhibited 10 sculpture phases in the park with Phases IX and X currently on display.

Arts Orange County (ArtsOC) has provided public art coordination and site management services through professional services agreements since the beginning of the Exhibition. ArtsOC was established in 1995 as the nonprofit, countywide arts council of Orange

County, California. The organization has been recognized by the California Arts Council as a model agency based on the quality of its work and has served as the officially designated arts agency and state-local partner of the County of Orange since its inception. The ArtsOC project team has successfully managed all previous phases of the exhibition and has strong working relationships with the Commission and City of Newport Beach staff.

At its June 11, 2026 regular meeting, the Commission reviewed and approved a timeline with ArtsOC for Phase XI of the Exhibition. Pending City Council approval, ArtsOC will open the call for entries on August 1, 2026, and close it on September 18, 2026. The Commission and guest jurors will review and rank the received submissions. ArtsOC will present these rankings at the Commission's October 8, 2026 regular meeting to determine the qualified submissions for the public survey. ArtsOC will launch the online public survey on October 12, 2026. The public, through the survey, will choose the 10 artworks and three to five alternates, which will be presented to the Commission at its December 10, 2026 regular meeting. The most popular pieces, as determined by the online survey, will be selected for Phase XI, pending final approval by the City Council.

Staff requests City Council approval of a contract with ArtsOC for a not-to-exceed amount of $135,080 for Phase XI of the Exhibition. This amount includes both project coordination and management fees in addition to installation and de-installation costs.

FISCAL IMPACT:

The adopted budget includes sufficient funding for this agreement. It will be expensed to the Exhibition account in the Cultural Arts Division of the Library Services Department, 01060603-811059.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Professional Services Agreement with Arts Orange County for Sculpture Exhibition Implementation – Phase XI

Attachment A

Professional Services Agreement with Arts Orange County
for Sculpture Exhibition Implementation - Phase XI

PROFESSIONAL SERVICES AGREEMENT
WITH ARTS ORANGE COUNTY FOR
SCULPTURE EXHIBITION IMPLEMENTATION – PHASE XI

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of this 14th day of July, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and ARTS ORANGE COUNTY, a California nonprofit corporation ("Consultant"), whose address is 17620 Fitch Avenue, Suite 255, Irvine, California 92614, and is made with reference to the following:

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.

B. City desires to engage Consultant to provide public art coordination and site management services including, but not limited to, the implementation and de-installation of ten (10) temporary sculptures for the Sculpture Exhibition Phase XI in Civic Center Park. ("Project").

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the professional services described in this Agreement.

D. City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on July 31, 2030, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference ("Services" or "Work"). City may elect to delete certain Services within the Scope of Services at its sole discretion.

3. TIME OF PERFORMANCE

3.1 Time is of the essence in the performance of Services under this Agreement and Consultant shall perform the Services in accordance with the schedule included in Exhibit A. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Consultant to strictly adhere to the schedule set forth in Exhibit A, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

3.2 Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees to provide notice within two (2) calendar days of the occurrence causing the delay to the other party so that all delays can be addressed.

3.3 Consultant shall submit all requests for extensions of time for performance in writing to the Project Administrator as defined herein not later than ten (10) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Consultant's control.

3.4 For all time periods not specifically set forth herein, Consultant shall respond in the most expedient and appropriate manner under the circumstances, by hand-delivery or mail.

4. COMPENSATION TO CONSULTANT

4.1 City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **One Hundred Thirty-Five Thousand Eighty Dollars and 00/100 ($135,080.00),** without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

4.2 Consultant shall submit monthly invoices to City describing the Work performed the preceding month. Consultant's bills shall include the name of the person who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Consultant no later than thirty (30) calendar days after approval of the monthly invoice by City staff.

4.3 City shall reimburse Consultant only for those costs or expenses specifically identified in Exhibit B to this Agreement or specifically approved in writing in advance by City.

4.4 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with the Schedule of Billing Rates as set forth in Exhibit B.

5. PROJECT MANAGER

5.1 Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Patrick Brien to be its Project Manager. Consultant shall not remove or reassign the Project Manager or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

5.2 Consultant, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

5.3 If Consultant is performing inspection services for City, the Project Manager and any other assigned staff shall be equipped with a cellular phone to communicate with City staff. The Project Manager's cellular phone number shall be provided to City.

6. ADMINISTRATION

This Agreement will be administered by the Library Services Department. City's Library Services Director or designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

7. CITY'S RESPONSIBILITIES

To assist Consultant in the execution of its responsibilities under this Agreement, City agrees to provide access to and upon request of Consultant, one copy of all existing relevant information on file at City. City will provide all such materials in a timely manner so as not to cause delays in Consultant's Work schedule.

8. STANDARD OF CARE

8.1 All of the Services shall be performed by Consultant or under Consultant's supervision. Consultant represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with community professional standards

and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances. All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Consultant certifies that the Work conforms to the requirements of this Agreement, all applicable federal, state and local laws, and legally recognized professional standards.

8.2 Consultant represents and warrants to City that it has, shall obtain, and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Consultant to practice its profession. Consultant shall maintain a City of Newport Beach business license during the term of this Agreement.

8.3 Consultant shall not be responsible for delay, nor shall Consultant be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to approve or disapprove Consultant's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

9. HOLD HARMLESS

9.1 To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers and employees (collectively, the "Indemnified Parties") from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise from or in any manner relate (directly or indirectly) to any breach of the terms and conditions of this Agreement, any Work performed or Services provided under this Agreement including, without limitation, defects in workmanship or materials or Consultant's presence or activities conducted on the Project (including the negligent, reckless, and/or willful acts, errors and/or omissions of Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable, or any or all of them).

9.2 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

10. INDEPENDENT CONTRACTOR

It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the Work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Consultant or its employees. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the Work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance of the Work or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the Services.

11. COOPERATION

Consultant agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with the Consultant on the Project.

12. CITY POLICY

Consultant shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

13. PROGRESS

Consultant is responsible for keeping the Project Administrator informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

14. INSURANCE

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit C, and incorporated herein by reference.

15. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any

of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Consultant is a partnership or joint-venture or syndicate or co-tenancy, which shall result in changing the control of Consultant. Control means fifty percent (50%) or more of the voting power or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

16. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit A. Consultant shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

17. OWNERSHIP OF DOCUMENTS

17.1 Each and every report, draft, map, record, plan, document and other writing produced, including but not limited to, websites, blogs, social media accounts and applications (hereinafter "Documents"), prepared or caused to be prepared by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Additionally, all material posted in cyberspace by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such Documents, including all logins and password information to City upon prior written request.

17.2 Documents, including drawings and specifications, prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed Documents for other projects and any use of incomplete Documents without specific written authorization from Consultant will be at City's sole risk and without liability to Consultant. Further, any and all liability arising out of changes made to Consultant's deliverables under this Agreement by City or persons other than Consultant is waived against Consultant, and City assumes full responsibility for such changes unless City has given Consultant prior notice and has received from Consultant written consent for such changes.

17.3 All written documents shall be transmitted to City in formats compatible with Microsoft Office and/or viewable with Adobe Acrobat.

18. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

19. INTELLECTUAL PROPERTY INDEMNITY

Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement or alleged infringement of any United States' letters patent, trademark, or copyright, including costs, contained in Consultant's Documents provided under this Agreement.

20. RECORDS

Consultant shall keep records and invoices in connection with the Services to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all Work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

21. WITHHOLDINGS

City may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue Work as a result of such withholding. Consultant shall have an immediate right to appeal to the City Manager or designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

22. ERRORS AND OMISSIONS

In the event of errors or omissions that are due to the negligence or professional inexperience of Consultant which result in expense to City greater than what would have resulted if there were not errors or omissions in the Work accomplished by Consultant, the additional design, construction and/or restoration expense shall be borne by Consultant. Nothing in this Section is intended to limit City's rights under the law or any other sections of this Agreement.

23. CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS

City reserves the right to employ other Consultants in connection with the Project.

24. CONFLICTS OF INTEREST

24.1 Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act") and/or Government Code §§ 1090 et seq., which (1) require such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibit such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

24.2 If subject to the Act and/or Government Code §§ 1090 et seq., Consultant shall conform to all requirements therein. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

25. NOTICES

25.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

25.2 All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: Library Services Director
Library Services Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

25.3 All notices, demands, requests or approvals from City to Consultant shall be addressed to Consultant at:

Attn: Patrick Brien
Arts Orange County
17620 Fitch Avenue, Ste 255
Irvine, CA 92614-6081

26. CLAIMS

Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Consultant shall submit to City, in writing,

all claims for compensation under or arising out of this Agreement. Consultant's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Consultant in writing as unsettled at the time of its final request for payment. Consultant and City expressly agree that in addition to any claims filing requirements set forth in the Agreement, Consultant shall be required to file any claim Consultant may have against City in strict conformance with the Government Claims Act (Government Code sections 900 *et seq.).*

27. TERMINATION

27.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

27.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than seven (7) calendar days' prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for Services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

28. STANDARD PROVISIONS

28.1 Recitals. City and Consultant acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

28.2 Compliance with all Laws. Consultant shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Consultant shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

28.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

28.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

28.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

28.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

28.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

28.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

28.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

28.10 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

28.11 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

28.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: Jun 22, 2026

By: Christy Duquette (for)
Christy Duquette (for) (Jun 22, 2026 07:56:14 PDT)
Aaron C. Harp
City Attorney

ATTEST:
Date:_____

By:_____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
Lauren Kleiman
Mayor

CONSULTANT: ARTS ORANGE COUNTY, a California nonprofit corporation
Date:_____

By:_____
Patrick Brien
Chief Executive Officer

Date:_____

By:_____
Susan K. Hori
Secretary

[END OF SIGNATURES]

Attachments: Exhibit A – Scope of Services
Exhibit B – Schedule of Billing Rates
Exhibit C – Insurance Requirements

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A
SCOPE OF SERVICES

Consultant shall provide public art coordination and site management services for the Newport Beach Civic Center Sculpture Exhibition. Under general direction, the Consultant shall assist in the coordination and implementation of the Sculpture Exhibition for the City of Newport Beach (City). Consultant shall report directly to the Library Services Director or his/her designee and provide direct support in administering and managing all aspects of the Sculpture Exhibition.

1. Installation and De-Installation Schedule

Installation/De-installation Project	Anticipated Schedule
Installation of Phase 11 Sculptures	June 2027
De-Installation of Phase 11 Sculptures	June 2030

2. Consultant Responsibilities and Provisions

Consultant shall:

2.1 Be responsible for overseeing and managing the planning, selection, and installation of public art for the Sculpture Exhibition;

2.2 Serve in an advisory capacity on public art best practices;

2.3 Facilitate orientation meetings to establish sculpture exhibition goals and expectations, and appoint artist selection panel;

2.4 Coordinate schedules and plans with City representatives;

2.5 Draft forms such as: master calendar of project, list of potential artists and art registries;

2.6 Managing the Call for Artists Entry and ensure that it reaches the largest number of artists possible;

2.7 Monitor the artists' submissions for completeness, and communicate with artists as necessary;

2.8 Coordinate the art selection process;

2.9 Present artist entries to the City of Newport Beach Arts Commission (Arts Commission) for evaluation;

2.10 Work with the City and the Arts Commission to present the selected pieces to the City Council for approval;

2.11 Provide oversight of all activities associated with artists' work, including contracts, artwork shipment, installation and de-installation, budgets, and schedules;

2.12 Developing and implementing a Media Plan for the Sculpture Exhibition;

2.13 Coordinate with the City of Newport Beach Public Works Department for matters related to site construction and infrastructure feasibility;

2.14 Supervise the design and installation of any sculpture pads that may be required;

2.15 Oversee installation & de-installation of artworks, including obtaining all necessary permits;

2.16 Manage schedule and payments to the installation team;

2.17 Advise City staff on identification plaques for individual artworks, sculpture guide, materials for docents and educational kit;

2.18 Ensure that all administrative and operational procedures related to the Sculpture Exhibition are in accordance with City policies and procedures;

2.19 Facilitate communication with the artist and City staff for recording MyNB audio guide; and

2.20 Supervise installation of City commissioned identification plaques.

3. Community Input

To increase public engagement in the project, the Arts Commission will offer residents opportunities to become part of the selection process. This will be accomplished by integrating these elements into the process:

3.1 Creating an online survey in which the public can select the pieces for exhibition;

3.2 Holding one curatorial selection panel meeting where public can express their preferences; at this meeting, the Arts Commission and a curatorial panel will approve pieces for inclusion in the online public survey.

3.3 Devoting one Arts Commission meeting for the public to express their opinion of the public survey rankings; at this meeting, the Arts Commission will approve public survey recommended selections and alternates for presentation to City Council.

3.4 Publicizing opportunities for public participation in the entire process to the maximum extent feasible.

The Arts Commission is committed to taking this public input into consideration in Phase 11 of the Sculpture Exhibition, with a specific goal of adding elements that engender the most public support.

EXHIBIT B
SCHEDULE OF BILLING RATES

EXHIBIT B
SCHEDULE OF BILLING RATES

SCHEDULE OF BILLING RATES			
PHASE	**ITEM**	**DETAIL**	**COST**
10	Installation of Phase 11 Sculptures (June 2027)	10 Sculptures	$ 50,220.00
	Includes: Site Preparation & Equipment Rental		
10	Project Management: Installation & Curation	Management Fee	$ 37,500.00
10	Project Management: Holdover Year	Management Fee	$ 7,500.00
10	Project Contingency		$ 8,000.00
	Phase Sub-Total		**$ 103,220.00**
10	De-installation of Phase 11 Sculptures (2030)	10 Sculptures	$ 21,600.00
10	Project Management: De-installation	Management Fee	$ 10,260.00
	Phase Sub-Total		**$ 31,860.00**
	PROJECT TOTAL:		**$ 135,080.00**

EXHIBIT C

INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1. Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Coverage Requirements.

   A. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California.

      Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers, employees.

   B. General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary excess/umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than two million dollars ($2,000,000) per occurrence, four million dollars ($4,000,000) general aggregate. The policy shall cover liability arising from bodily injury, property damage, completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

      Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

   C. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Consultant

arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars ($1,000,000) combined single limit each accident.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of two million dollars ($2,000,000) per claim and four million dollars ($4,000,000) in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the Effective Date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

E. Excess/Umbrella Liability Insurance. If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this contract, then said policies shall be "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this contract, including, but not limited to, the additional insured and primary & non-contributory insurance requirements stated herein. No insurance policies maintained by the City, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess/umbrella liability policies are exhausted.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers and employees or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

B. Additional Insured Status. All liability policies including general liability, excess/umbrella liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City of Newport Beach, its City Council, boards and

commissions, officers, agents, volunteers and employees shall be included as insureds under such policies.

C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

E. Subcontractors. Consultant shall be responsible for causing subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Agreement, including adding the City as an additional insured, providing primary and non-contributory coverage and waiver of subrogation to the subcontractor's policies. Limits of liability for General Liability in an amount not less than one million dollars ($1,000,000) per occurrence, two million dollars ($2,000,000) aggregate and Professional Liability (Errors & Omissions) in an amount not less than one million dollars ($1,000,000) per claim, two million dollars ($2,000,000) aggregate.

5. Additional Agreements Between the Parties. The parties hereby agree to the following:

A. Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant sixty (60) calendar days' advance written notice of such change. If such change results in substantial

additional cost to Consultant, City and Consultant may renegotiate Consultant's compensation.

C. Right to Review Subcontracts. Consultant agrees that upon request, all agreements with subcontractors or others with whom Consultant enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees.

D. Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

F. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

G. City Remedies for Non-Compliance. If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

H. Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

I. Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 6

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David A. Webb, Public Works Director - 949-644-3311, dawebb@newportbeachca.gov
PREPARED BY:	Tom Sandefur, Assistant City Engineer - 949-644-3321, tsandefur@newportbeachca.gov
TITLE:	FY 2025-26 Park Shade Structures Project – Award of Contract No. 10002-1 (26P02)

ABSTRACT:

The City of Newport Beach (City) received construction bids for the Fiscal Year 2025-26 Park Shade Structures Project and requests City Council approval to award the construction contract to Micon Construction, Inc. of Placentia. This project involves removing and disposing of the existing shade structure systems; providing structural designs and calculations; fabrication; delivery; construction; and installation of new shade structure systems at six locations. Those locations are Arroyo Park, Bolsa Park, Bonita Canyon Sports Park East, Buffalo Hills I Park, Buffalo Hills II Park and Channel Place Park.

RECOMMENDATIONS:

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(d), Class 1 (restoration or rehabilitation of deteriorated facilities involving negligible or no expansion of existing use) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Find the bids submitted by Varn Painting, Inc. dba Varn Development, Ampel Corp, and First Trade, LLC dba YMC to be non-responsive;

d) Award Contract No. 10002-1 to Micon Construction, Inc. for the total bid price of $376,000 for the FY 2025-26 Park Shade Structures Project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $37,600 (10% of the total bid) to cover the cost of unforeseen work not included in the original contract.

DISCUSSION:

As part of the Park Maintenance Master Plan (PMMP), City parks are periodically inspected for maintenance and repair issues. The PMMP evaluation includes park equipment and amenities.

Staff prioritizes various capital maintenance needs with an emphasis on scopes that will keep parks in service.

This project focuses on replacing existing shade structure systems and pergolas. The project locations are Arroyo Park, Bolsa Park, Bonita Canyon Sports Park East, Buffalo Hills I Park, Buffalo Hills II Park, and Channel Place Park. The project will replace existing shade structure systems that have deteriorated due to weathering and age.

At 1 p.m. on May 28, 2026, the City Clerk opened and read the following bids for this project:

	BIDDER	TOTAL BID AMOUNT
Low	Varn Painting, Inc. dba Varn Development*	$252,500
2nd	Ampel Corp*	$314,000
3rd	First Trade LLC dba YMC*	$364,000
4th	Micon Construction, Inc.	$376,335
5th	ACC & Engineering, LLC	$384,853
6th	R E Schultz Construction, Inc.	$397,990
7th	Ironwave Builders	$424,000
8th	Zoom Recreation, Inc.	$448,285
9th	HZS Engineering, Inc. dba HZS Construction	$537,000
10th	Norse Corporation	$559,138

*Non-responsive bid

The City received 10 bids for this project. The top three bidders, Varn Painting, Inc. dba Varn Development, Ampel Corp, and First Trade LLC dba YMC, are recommended to be found non-responsive since their bids contained irregularities and did not conform to the Instructions to Bidders. These deficiencies included not having technical abilities and experience references. Varn Painting, Inc. dba Varn Development was not awarded several projects that were listed on its bid. The second and third low bidders, Ampel Corp and First Trade LLC dba YMC, can also be found non-responsive for not having performed similar work on previous contracts.

Staff recommends awarding to Micon Construction, Inc. which is registered with the Department of Industrial Relations and possesses a California State Contractor's License Classification "A" and "B", as required by the project specifications. A review of references for Micon Construction, Inc. shows satisfactory completion of shade structure contracts for other public agencies, including the City of Corona, City of Mission Viejo, City of Moreno Valley, City of Murrieta, and the Town of Yucca Valley.

Micon Construction, Inc.'s total bid amount was approximately 7.5% above the engineer's bid estimate of $350,000. The difference between the bid and the engineer's estimate is likely due to material cost increases. Pursuant to the contract specifications, the contractor will have 40 consecutive working days to provide stamped and approved drawings and calculations, equipment manufacturing, and delivery. The contractor will then have 80 consecutive working days to complete construction of the project. Work is scheduled to start in the fall of 2026.

The project plans and specifications are available for review at the following link: Awarding Contracts. This link will expire 10 days after the City Council meeting date.

FISCAL IMPACT:

The adopted Capital Improvement Program budget includes sufficient funding for award of this contract. The Project will be expensed to the Park Maintenance Master Plan (PMMP) fund:

Account Description	Account Number	Amount
PMMP	57001-980000-26P02	**$413,600**

Proposed fund uses are as follows:

Vendor	Purpose	Amount
Micon Construction, Inc.	Construction Contract	$376,000
Micon Construction, Inc.	Construction Contingency	$37,600
	Total:	**$413,600**

The PMMP includes a comprehensive condition assessment of all City parks and prioritizes capital repairs and maintenance based on a variety of factors. This program funds a variety of capital repair and maintenance projects in an effort to keep City parks in good condition and is funded by the General Fund.

Staff recommends establishing $37,600 (10% of the total bid) for contingency purposes and unforeseen conditions associated with construction.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303(d), Class 1 (restoration or rehabilitation of deteriorated facilities involving negligible or no expansion of existing use) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because this project has no potential to have a significant effect on the environment.

NOTICING:

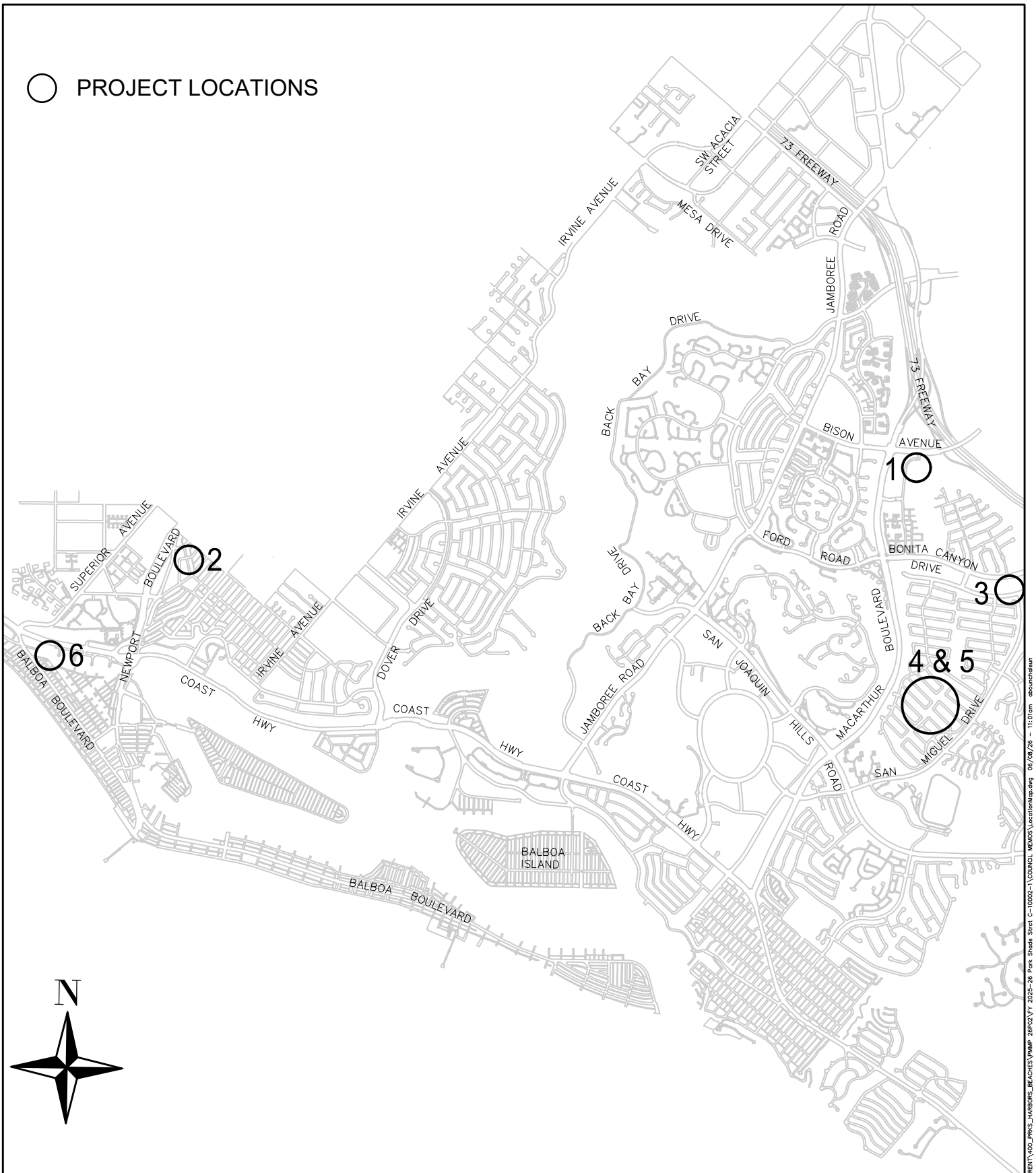
The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Location Map

Attachment A

Location Map



FY 2025-26 PARK SHADE STRUCTURES PROJECT	CITY OF NEWPORT BEACH		
LOCATION MAP	PUBLIC WORKS DEPARTMENT		
	C-10002-1	26P02	07/14/26

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CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 7

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David A. Webb, Public Works Director - 949-644-3311, dawebb@newportbeachca.gov
PREPARED BY:	Tom Sandefur, Assistant City Engineer - 949-644-3321, tsandefur@newportbeachca.gov
TITLE:	Trash Enclosure Modifications – Award of Contract No. 10030-1 (27F13)

ABSTRACT:

The City of Newport Beach (City) received construction bids for the Trash Enclosure Modifications project and requests City Council approval to award the construction contract to Vandert Construction Inc., of South El Monte. This project consists of modifying the trash enclosure at the Corona del Mar municipal parking lot and building a new trash enclosure in the parking lot located to the east of Balboa Pier to comply with California Senate Bill 1383 (SB1383) requirements for separating landfill, recyclables and organic waste.

RECOMMENDATIONS:

a) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 3 (new construction or conversion of small structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment;

b) Approve the project plans and specifications;

c) Approve Budget Amendment No. 27-002 appropriating $50,000 in new revenue and expenditures from Ruby's Diner to Account Nos. 13501-561005-25T13 and 13501-980000-27F13, respectively;

d) Award Contract No. 10030-1 to Vandert Construction Inc. for the total bid price of $244,000 for the Trash Enclosure Modifications project, and authorize the Mayor and City Clerk to execute the contract; and

e) Establish a contingency of $36,600 (15% of the total bid) to cover the cost of unforeseen work not included in the original contract.

DISCUSSION:

The California Senate passed SB 1383 in 2016, requiring separation of landfill, recyclables and organic waste. SB 1383 went into effect in 2022 and now the City will modify the existing trash enclosure at the Corona Del Mar municipal parking lot as it is not large enough to hold separate trash containers for landfill, recyclables and organic waste. This project will replace the existing non-compliant trash enclosure with a new trash enclosure that will accommodate three separate trash containers.

The existing trash enclosure used by Ruby's Diner will not accommodate the three required waste streams and is difficult to access being at the end of Balboa Pier. On June 24, 2025, City Council approved a lease amendment with Ruby's Diner which included a provision for the City to construct a trash enclosure at the base of Balboa Pier with Ruby's Diner contributing up to $50,000 to the construction cost.

At 2 p.m. on June 18, 2026, the City Clerk opened and read the following bids for this project:

	BIDDER	TOTAL BID AMOUNT
Low	Vandert Construction Inc.	$ 244,000.00
2nd	Golden Coast Construction	$ 249,922.47
3rd	100X Construction	$ 276,300.00
4th	Premo Construction Inc.	$ 276,800.00
5th	OrangeBlue General Contractors	$ 278,761.20
6th	Diamond Construction	$ 288,300.00
7th	Jami Construction	$ 292,600.00
8th	ACC & Engineering LLC	$ 313,732.00
9th	YMC	$ 389,000.00
10th	Oppenheimer National	$ 438,400.00
11th	Lunoor Construction Inc.	$ 488,844.00

The City received 11 bids for this project. Staff recommends awarding to the lowest bidder, Vandert Construction Inc., which is registered with the Department of Industrial Relations and possesses a valid and current California State Contractor's License Classification "B", as required by the project specifications.

The City received a bid protest claiming deficiencies in the apparent low bidder's responsiveness and ability to perform the work. The apparent low bidder provided a response letter which was reviewed by staff. Staff is satisfied with the response and determined that the protest was without merit, and recommends the contract be awarded to the lowest bidder. The protest letter and response letter are included as attachments to this report.

Vandert Construction Inc.'s bid amount is approximately 18% under the engineer's estimate of $298,617. The lower bid is due to an increasingly competitive bid environment as evidenced by the large number of bids received. Pursuant to the contract specifications, the contractor will have 40 consecutive working days to complete the project. Work is scheduled to begin in the fall of 2026.

The project plans and specifications are available for review at the following link: Awarding Contracts. This link will expire 10 days after the City Council meeting date.

FISCAL IMPACT:

Upon approval of the proposed budget amendment and the adopted FY2026-27 Capital Improvement Program budget, sufficient funding is available for the award of this project. On June 24, 2025, the City Council approved an amendment to the City's lease agreement with Ruby's Diner. The amendment provided for Ruby's Diner to reimburse the City up to $50,000 to construct a new trash enclosure that complies with State law.

The following funds will be expended:

Account Description	Account Number		Amount
General Fund	01201325-980000-27F13	$	231,600
Contribution Fund	13501-561005-27F13	$	50,000
	Total:	**$**	**281,600**

Proposed fund uses are as follows:

Vendor	Purpose		Amount
Vandert Construction Inc.	Construction Contract	$	244,000
Vandert Construction Inc.	Construction Contingency	$	36,600
Various	Printing & Incidentals	$	1,000
	Total:	**$**	**281,600**

Staff recommends establishing $36,600 (15% of the total bid) for contingency purposes and unforeseen conditions associated with construction.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 Class 3 (new construction or conversion of small structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this project has no potential to have a significant effect on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Location Maps
Attachment B – 100X Construction Bid Protest Letter
Attachment C – Budget Amendment
Attachment D – Vandert Construction Bid Protest Response Letter

Attachment A

Location Maps



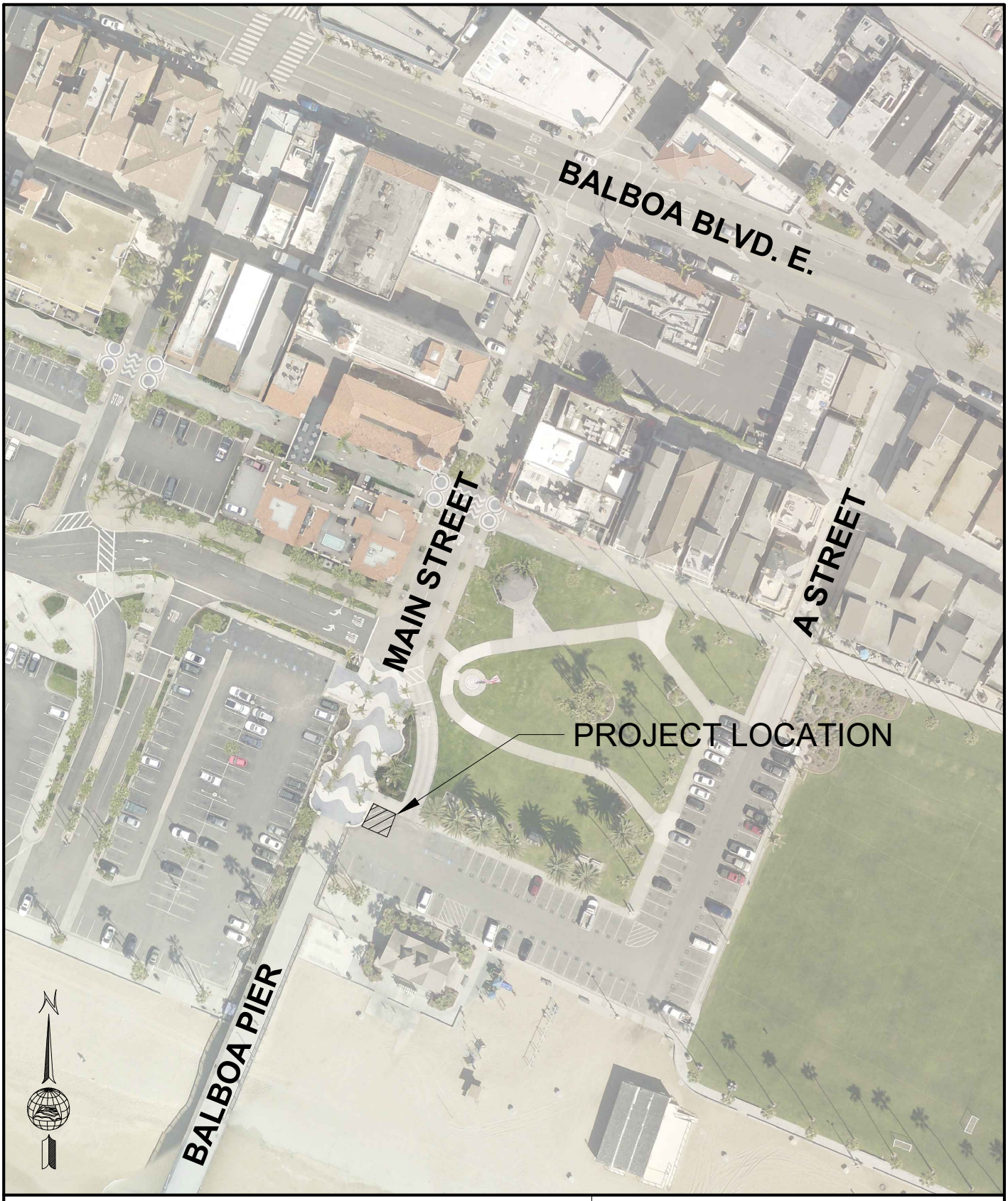
TRASH ENCLOSURE MODFICATIONS

LOCATION MAP

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

C-10030-1	27F13	7/14/26

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TRASH ENCLOSURE MODFICATIONS

LOCATION MAP

CITY OF NEWPORT BEACH
PUBLIC WORKS DEPARTMENT

C-10030-1	27F13	7/14/26

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Attachment B

100X Construction Bid Protest Letter

100 X
CONSTRUCTION
LIC. NO. 1104587

June 23rd, 2026

City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

Attention: City Clerk

RE: FORMAL BID PROTEST
TRASH ENCLOSURE MODIFICATIONS
CONTRACT NO. C-10030-1
PROJECT NO. 27F13

Dear Mr. Kyle Aube:

100X Construction hereby submits this formal bid protest concerning the bids submitted by Vandert Construction, Inc. ("Vandert") and Golden Coast Construction ("Golden Coast") for the above-referenced project.

According to the City's published bid results:

- Vandert Construction – $244,000.00
- Golden Coast Construction – $249,922.47
- 100X Construction – $276,300.00

For the reasons set forth herein, 100X Construction respectfully requests that the City reject the bids submitted by Vandert and Golden Coast as non-responsive.

I.
THE CONTRACT DOCUMENTS EXPRESSLY INCORPORATE THE SUBLETTING AND SUBCONTRACTING FAIR PRACTICES ACT

The Contract Documents expressly incorporate Public Contract Code section 4100 et seq., commonly known as the Subletting and Subcontracting Fair Practices Act.

The California Supreme Court has recognized that the purpose of the Act is to prevent bid shopping, bid peddling, post-bid manipulation of subcontractor relationships, and unfair competitive advantages after bid opening.

Southern California Acoustics Co. v. C.V. Holder, Inc. (1969) 71 Cal.2d 719.

Public Contract Code section 4104 requires bidders to identify each subcontractor performing work in excess of one-half of one percent (0.5%) of the bidder's total bid.

For Vandert:

$244,000.00 × 0.5% = $1,220.00

For Golden Coast:

$249,922.47 × 0.5% = $1,249.61

Any subcontractor performing work above those amounts was required to be identified at the time bids were submitted.

II.
THE PROJECT CONTAINS EXTENSIVE SPECIALTY TRADE WORK THAT NECESSARILY EXCEEDS THE STATUTORY SUBCONTRACTOR LISTING THRESHOLD

This project is not a simple CMU enclosure replacement project.

The Contract Documents contain multiple specialty trade divisions.The Specifications include dedicated Division 05 sections for:

•]Section 05 12 00 – Structural Steel Framing
• Section 05 31 00 – Steel Decking

The plans further require fabricated steel members, steel framing systems, steel gates, galvanized steel components, steel connections, miscellaneous metals, and associated fabrication and installation work.

The value of this work necessarily exceeds the subcontractor listing thresholds established by Public Contract Code section 4104.

No reasonable interpretation of the Contract Documents supports a conclusion that the Division 05 scope falls below $1,220 or $1,249.

III.
VANDERT FAILED TO IDENTIFY REQUIRED SUBCONTRACTORS

Despite the extensive specialty trade scope described above, Vandert submitted a Designation of Subcontractors form identifying no subcontractors whatsoever.

The subcontractor designation form itself states:

"If a subcontractor is not listed, the Contractor represents that he/she is fully qualified to and will be responsible for performing that portion of the work."

Accordingly, Vandert has affirmatively represented to the City that it is fully qualified to perform every omitted specialty trade scope with its own forces.

The Contract Documents contain structural steel framing, steel decking, masonry, concrete, demolition, paving, striping, painting, roofing, and related specialty work.

Therefore, one of two conclusions must necessarily be true:

1. Vandert intends to self-perform all such specialty trades with its own workforce; or
2. Vandert failed to identify subcontractors required by Public Contract Code section 4104.

If the latter is true, the bid is non-responsive.

If the former is true, the City must conduct a meaningful responsibility review before award.

IV.
GOLDEN COAST FAILED TO IDENTIFY REQUIRED SUBCONTRACTORS

Golden Coast likewise submitted a Designation of Subcontractors form identifying no subcontractors whatsoever.

The same statutory analysis applies.

Golden Coast submitted a bid of $249,922.47, establishing a subcontractor listing threshold of approximately $1,249.61.

The specialty trade work identified in the Contract Documents necessarily exceeds that amount.

As with Vandert, either:

1. Golden Coast intends to self-perform all structural steel, masonry, concrete, paving, demolition, painting, roofing, and related specialty work; or
2. Golden Coast failed to identify subcontractors required by Public Contract Code section 4104.

Either circumstance requires investigation before award.

V.
THE CITY'S SPECIAL PROVISIONS DELETED THE SELF-PERFORMANCE PROVISION

The City's Special Provisions expressly deleted Section 2-3.2 Self Performance.

This deletion is significant.

The City intentionally removed the standard self-performance provision while simultaneously requiring bidders to comply with the Subletting and Subcontracting Fair Practices Act.

Yet both apparent low bidders submitted completely blank subcontractor designation forms despite extensive specialty trade requirements.

The City should therefore determine how either bidder intends to perform substantial structural steel, masonry, concrete, demolition, paving, striping, roofing, and related specialty work without listed subcontractors and without reliance upon a self-performance provision that the City specifically deleted.

This issue directly affects responsiveness, responsibility, and the integrity of the competitive bidding process.

VI.
THE CITY MUST CONDUCT A RESPONSIBILITY REVIEW

The City cannot simply assume that either bidder possesses the capability to self-perform all omitted specialty trade scopes.

The subcontractor designation forms submitted by Vandert and Golden Coast effectively represent that each bidder possesses the labor force, equipment, expertise, supervision, licensing authority, and operational capacity necessary to perform all omitted specialty work.

Before award, the City should require evidence demonstrating:

- Structural steel fabrication capability;
- Structural steel installation capability;
- Masonry capability;
- Concrete capability;
- Adequate manpower and equipment resources.

Absent such evidence, the City lacks a reasonable basis to conclude that either bidder is responsible.

VII.
GOLDEN COAST'S EXPERIENCE SUBMISSION RAISES ADDITIONAL RESPONSIBILITY CONCERNS

In addition to the issues above, Golden Coast's Technical Ability and Experience submission contains incomplete project reference information and multiple blank sections.

While 100X Construction acknowledges that responsibility determinations are generally committed to the City's discretion, incomplete experience information further supports the need for a comprehensive responsibility review before award.

VIII.
THE IDENTIFIED DEFECTS ARE MATERIAL AND MAY NOT BE WAIVED

California courts consistently hold that a public agency may waive only those irregularities that are inconsequential and do not affect competition.

A defect may only be waived where:

1. The defect does not affect the amount of the bid;
2. The defect does not provide a competitive advantage; and
3. The defect does not afford the bidder an opportunity unavailable to competing bidders.

Ghilotti Construction Co. v. City of Richmond (1996) 45 Cal.App.4th 897.

Likewise:

• Southern California Acoustics Co. v. C.V. Holder, Inc. (1969) 71 Cal.2d 719

• Valley Crest Landscape Development, Inc. v. City of Davis (1996) 41 Cal.App.4th 1432

• Taylor Bus Service, Inc. v. San Diego Board of Education (1987) 195 Cal.App.3d 1331

• D.H. Williams Construction, Inc. v. Clovis Unified School District (2007) 146 Cal.App.4th 757

• MCM Construction, Inc. v. City and County of San Francisco (1998) 66 Cal.App.4th 359

• Menefee v. County of Fresno (1985) 163 Cal.App.3d 1175

all recognize that material defects affecting responsiveness and competitive fairness may not be waived.

Allowing bidders to leave subcontractor disclosures blank despite extensive specialty trade work would undermine the protections embodied in Public Contract Code sections 4100 through 4114 and provide a competitive advantage unavailable to compliant bidders.

100 X
CONSTRUCTION
LIC. NO. 1104587

REQUEST FOR RELIEF

For the foregoing reasons, 100X Construction respectfully requests that the City:

1. Sustain this protest;
2. Determine whether Vandert Construction violated Public Contract Code section 4104;
3. Determine whether Golden Coast Construction violated Public Contract Code section 4104;
4. Conduct a formal responsibility review of both bidders regarding their claimed ability to self-perform all omitted specialty trade work;
5. Determine whether the bids submitted by Vandert and Golden Coast are responsive to the Contract Documents;
6. Reject the bids of Vandert and Golden Coast if the City determines that required subcontractors were omitted or that the bidders lack the capability to perform the work represented in their bids; and
7. Award the contract to the lowest responsive and responsible bidder, that being 100X Construction, Inc.

Respectfully submitted,

100X CONSTRUCTION

Siavash Mehrshahi
President

Attachment C

Budget Amendment

City of Newport Beach

BUDGET AMENDMENT

2026-27

BA#: 27-002

Department: Public Works

Requestor: Trevor Smouse

ONE TIME: ☑ Yes ☐ No

☐ **CITY MANAGER'S APPROVAL ONLY**

☑ **COUNCIL APPROVAL REQUIRED**

Approvals		
City Clerk:		**Date**
Administrative Services Director:	Jaron Al-Imam	**Date** 7/1/26
Budget Manager:		**Date** 6/30/25

EXPLANATION FOR REQUEST:

To appropriate budget for the reimbursement from Ruby's Diner for a new trash enclosure as required under the executed lease agreement.

- ☐ from existing budget appropriations
- ☑ from additional estimated revenues
- ☐ from unappropriated fund balance

REVENUES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
135	13501	561005	27F13	CONTRIBUTIONS FUND CIP - PRVT DONATION/CONTRIBUTN	50,000.00
				-	
				Subtotal	$ 50,000.00

EXPENDITURES

Fund #	Org	Object	Project	Description	Increase or (Decrease) $
135	13501	980000	27F13	CONTRIBUTIONS FUND CIP - CIP EXPENDITURES FOR GL	50,000.00
				-	-
				-	-
				-	-
				-	-
				-	-
				-	-
				-	-
				Subtotal	$ 50,000.00

FUND BALANCE

Fund #	Object	Description	Increase or (Decrease) $
135	300000	CONTRIBUTIONS FUND - FUND BALANCE CONTROL	-
		-	-
		-	-
		-	-
		Subtotal	$ -

No Change In Fund Balance

Attachment D

Vandert Construction Bid Protest Response Letter

Vandert.
12261 Barringer St, South El Monte, CA 91733 • 626-361-9039 • kennethn@vandert.com

June 29, 2026

City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660
Attention: Kyle Aube

Re: Response to Bid Protest #2 — Trash Enclosure Modifications
Contract No. C-10030-1 | Project No. 27F13

Dear Mr. Aube:

Vandert Construction, Inc. ("Vandert"), the apparent low bidder on the above-referenced project, submits this response to the bid protest filed by Golden Coast Construction ("Golden Coast"). For the reasons set forth below, the protest is without merit, and Vandert respectfully requests that the City deny the protest and proceed with award to Vandert as the lowest responsive and responsible bidder.

I. Any Deficiency in the Principal Notary Acknowledgment Is a Minor Irregularity the City Has Discretion to Waive.

Golden Coast's first argument is that Vandert failed to attach a notary acknowledgment for the Principal, Karen Garcia Man, directly to the Bidder's Bond. Even assuming, for the sake of argument, that the acknowledgment was not affixed to the bond form itself, this does not render Vandert's bid non-responsive. At most, it constitutes a minor irregularity that the City has full discretion to waive.

Under California public contract law, a public agency may waive minor irregularities or informalities in a bid that do not affect the amount of the bid, do not give the bidder a competitive advantage, and do not implicate the public interest. (See Public Contract Code § 100; Domar Electric, Inc. v. City of Los Angeles (1994) 9 Cal.4th 161.) The question is not whether a technical deficiency exists, but whether it is material — that is, whether it goes to the substance of the bid security and whether waiving it would be unfair to other bidders.

Here, any deficiency in the attachment of the principal acknowledgment is not material for the following reasons:

First, the bid bond itself is fully executed. Karen Garcia Man signed the Bidder's Bond as President of Vandert Construction, Inc. The bond is legally binding on Vandert. The surety, Merchants National Indemnity Company, is separately and independently bound by its own executed bond and Power of Attorney. The enforceability of the bid security is not in question.

Second, the identity and authority of Karen Garcia Man was verified by a California notary public. A notarization for Karen Garcia Man, executed by Notary Public Leola Lara (Commission No. 2529227, Los Angeles County, State of California) on June 17, 2026, was included in Vandert's bid submittal package. The purpose of the notarization requirement — to verify the identity and signing authority of the Principal — was therefore substantially satisfied. No question exists as to who signed the bond or in what capacity.

Third, no competitive advantage was gained. The notarization requirement does not affect the bid amount, the bid security amount, or any material term of the bid. Every bidder on this project submitted a bid bond for 10% of their bid amount. Vandert's bond obligation is identical in substance to any other bidder's. Waiving a technical attachment deficiency gives Vandert no pricing advantage, no reduced security exposure, and no benefit unavailable to any other bidder.

Fourth, the bid security is enforceable against both the Principal and the Surety. Even without a notarized acknowledgment, a signed bid bond is enforceable as a contract. California courts have consistently held that notarization defects do not automatically void an otherwise executed instrument where the signatory's identity and authority are not in genuine dispute. (See Civil Code § 1189.) There is no risk to the City that Vandert could walk away from its bond obligation.

For these reasons, any technical deficiency in the attachment of the principal acknowledgment to the bond form is a minor, waivable irregularity. It does not affect the enforceability of the bid security, it does not give Vandert any competitive advantage, and rejecting Vandert's bid on this basis would elevate form over substance in a manner contrary to the public interest in competitive bidding.

II. The One-Day Variance Between the Surety's Notarization Date and the Bond Execution Date Is Not a Material Defect.

Golden Coast's second argument is that the Surety's notarization — dated June 17, 2026 — is fatally defective because the bond face recites an execution date of June 18, 2026. This argument misunderstands both the function of a notary acknowledgment and the practical realities of surety bond execution.

A notary acknowledgment does not certify the execution date of the underlying document. The acknowledgment form itself states expressly: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." The June 17 notarization for Jason Rouse, Attorney-in-Fact for Merchants National Indemnity Company, certified his identity and his authority to act on behalf of the Surety — nothing more. It did not and could not certify the bond's execution date.

A one-day variance of this nature is routine in remote notarization workflows, where the Attorney-in-Fact signs and is notarized electronically before the bond form is finalized with its recital date. The Power of Attorney was certified by the Secretary of Merchants Bonding Company on June 18, 2026 — the same date as the bond — confirming the Surety's full authorization on that date. The bond package as a whole is internally consistent and legally sound.

Moreover, accepting Golden Coast's argument would lead to an absurd result. If a one-day variance between a notarization date and a bond execution date were a material defect requiring rejection, virtually every surety bond executed through remote online notarization would be vulnerable to protest. Public agencies across California routinely accept bonds with this type of minor date variance as non-material. There is no authority — and Golden Coast cites none — holding that such a variance constitutes a material defect requiring rejection.

At most, the one-day variance is a minor irregularity the City has discretion to waive. It does not affect the enforceability of the bond, did not give Vandert any competitive advantage, and provides no valid basis for rejection.

Conclusion

Golden Coast's protest rests on technical arguments that, even taken at face value, amount to minor irregularities the City has full discretion to waive. The bid bond is fully executed and enforceable. The Principal's identity was verified by a California notary public. The Surety is independently bound. The one-day date variance is a non-material artifact of remote notarization practice. Neither ground supports a finding of non-responsiveness.

Vandert respectfully requests that the City deny the protest of Golden Coast Construction and proceed with award of Contract No. C-10030-1 to Vandert Construction, Inc. as the lowest responsive and responsible bidder.

Respectfully submitted,

VANDERT CONSTRUCTION, INC.

Kenneth Nguyen

Kenneth Nguyen
Secretary
12261 Barringer St, South El Monte, CA 91733
626-361-9039 | kennethn@vandert.com

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 8

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	David A. Webb, Public Works Director - 949-644-3311, dawebb@newportbeachca.gov
PREPARED BY:	Chris Miller, Administrative Manager - 949-644-3043, cmiller@newportbeachca.gov
TITLE:	Approval of Professional Services Agreement with Marine Taxonomic Services, LTD for Newport Harbor Shallow-Water Eelgrass Surveys – Contract No. 7487-5

ABSTRACT:

In 2015, the Eelgrass Protection and Mitigation Plan for Shallow-Waters in Lower Newport Bay was added as an important component of the City of Newport Beach's (City) RGP-54 dredging permit. The Ecosystem Based Management Plan (Eelgrass Plan) allows for calculated impacts to eelgrass from dredging and therefore relieves the harbor residents from the standard eelgrass mitigation requirements. A critical condition of the Eelgrass Plan is a harbor-wide survey conducted every two years to reflect the most current eelgrass conditions and quantities. Staff requests City Council approval to enter into a professional services agreement with Marine Taxonomic Services, LTD of San Marcos, for the necessary eelgrass survey and mapping services for a total not-to-exceed fee of $174,208.62.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve a Professional Services Agreement with Marine Taxonomic Services, LTD for the 2026 Newport Harbor Shallow-Water Eelgrass Surveys for a total not-to-exceed amount of $174,208.62, and authorize the Mayor and City Clerk to execute the agreement.

DISCUSSION:

The Eelgrass Plan requires tracking shallow-water eelgrass distribution in the harbor every two years, and deep-water tracking every four years. Eelgrass is surveyed within three zones (stable, transitional and unvegetated) based on eelgrass presence and variation in overall abundance. Each zone is subject to different allowable annual eelgrass impacts caused only by routine maintenance dredging activities.

Every two years, a shallow-water eelgrass survey along the perimeter of the harbor tracks eelgrass distribution in relation to these established zones, and to assess long-term eelgrass trends within the harbor. Detailed information on the distribution and abundance of eelgrass (acreage) is documented in a comprehensive report that is published on the City's website.

Every four years, a deep-water eelgrass survey within the main navigation channel is conducted to gauge the overall health and distribution of the entire eelgrass population in Newport Harbor. This current cycle does not require a deep-water survey.

For historical context, the current survey cycle will be the City's tenth survey with the total shallow-water eelgrass acreage ranging from 30 acres in 2003 to 125 acres in 2024 – a significant 317% improvement that reflects the harbor's significantly improved water quality and clarity, in addition to other eelgrass management efforts. (The deep-water eelgrass acreage ranged from 20 acres in 2006 to 64 acres in 2024 – a 220% improvement.)

The City issued a Request for Proposals (RFP) in May 2026. Services requested in the RFP included surveying for shallow-water eelgrass consisting of a diver and a surface support biologist in a kayak; augmenting the diver survey with a down-looking sonar in larger or hazardous areas; conducting focused eelgrass turion counts (plant shoots and blades); documenting and measuring general health and physical eelgrass characteristics as well as soil conditions, water visibility, temperature, depth and fauna and flora; identifying underwater debris to support subsequent harbor clean-up efforts; evaluating the relative effectiveness of a recent City eelgrass study that compared traditional and new transplant methods; generating detailed eelgrass maps; coordinating survey data with the City's GIS Division for website posting; and generating a final report. Thia effort also includes conducting focused "surveillance level" Caulerpa surveys alongside the eelgrass review.

Several firms reviewed the RFP online, yet staff received only two proposals (one from a local firm and one from a Louisiana-based firm). Staff believes that due to the complexity, project detail, and diver-based survey requirement, many qualified consultants opted to pass on proposing. The proposals were reviewed and the scoring for the proposals is as follows:

PROPOSER	**TOTAL SCORE (Out of 100)**	**OVERALL RANK**
Marine Taxonomic Services, LTD	96	1
Coastal Mapping & Sciences, LLC	60	2

Marine Taxonomic Services, LTD (MTS) is qualified in the field of eelgrass and Caulerpa surveys and is familiar with the City's program after having completed the previous four harbor-wide surveys.

Coastal Mapping & Sciences LLC is a firm specializing in advanced hydrographic surveys. It proposed a sonar-based survey approach versus the required diver-based approach as stated in the RFP's scope of services, hence it's lower score.

Staff reviewed the MTS proposal to confirm responsiveness to the RFP. The proposal included the required background, experience, similar work history, and ability to perform the specific tasks as outlined in the scope of services including, and most importantly, providing a diver and surface support biologist survey approach. The sealed fee schedule was reviewed and confirmed to be reasonable and within the anticipated budget. Therefore, staff recommends approving a professional services agreement with MTS for the Newport Harbor Shallow-Water Eelgrass Survey.

FISCAL IMPACT:

The adopted Capital Improvement Program (CIP) budget includes sufficient funding for this agreement. Professional services will be expensed to the Eelgrass Survey project account in the CIP budget, 10001-980000-27H11, which is comprised of Tidelands Funding. Tidelands funds are generated from the operation of the City Tidelands including rents from moorings, piers, and leases, as well as income from parking lots.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Professional Services Agreement

Attachment A

Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT
WITH MARINE TAXONOMIC SERVICES, LTD. FOR THE
2026 NEWPORT HARBOR SHALLOW-WATER EELGRASS SURVEY

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into as of this 14th day of July, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and MARINE TAXONOMIC SERVICES, LTD., an Oregon Corporation ("Consultant"), whose address is 920 Rancheros Drive, Suite F-1, San Marcos, CA 92069, and is made with reference to the following:

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.

B. City desires to engage Consultant to survey and provide a depiction and quantification of shallow-water eelgrass within the Harbor and to monitor and remove invasive Caulerpa taxifolia green algae. ("Project").

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the professional services described in this Agreement.

D. City has solicited and received a proposal from Consultant, reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on December 31, 2027, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference ("Services" or "Work"). City may elect to delete certain Services within the Scope of Services at its sole discretion.

3. TIME OF PERFORMANCE

3.1 Time is of the essence in the performance of Services under this Agreement and Consultant shall perform the Services in accordance with the schedule included in

Exhibit A. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Consultant to strictly adhere to the schedule set forth in Exhibit A, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

3.2 Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees to provide notice within two (2) calendar days of the occurrence causing the delay to the other party so that all delays can be addressed.

3.3 Consultant shall submit all requests for extensions of time for performance in writing to the Project Administrator as defined herein not later than ten (10) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Consultant's control.

3.4 For all time periods not specifically set forth herein, Consultant shall respond in the most expedient and appropriate manner under the circumstances, by hand-delivery or mail.

4. COMPENSATION TO CONSULTANT

4.1 City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **One Hundred Seventy Four Thousand Two Hundred Eight Dollars and 00/100 ($174,208.62),** without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

4.2 Consultant shall submit monthly invoices to City describing the Work performed the preceding month. Consultant's bills shall include the name of the person who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Consultant no later than thirty (30) calendar days after approval of the monthly invoice by City staff.

4.3 City shall reimburse Consultant only for those costs or expenses specifically identified in Exhibit B to this Agreement or specifically approved in writing in advance by City.

4.4 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not

reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with the Schedule of Billing Rates as set forth in Exhibit B.

5. PROJECT MANAGER

5.1 Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Robert Mooney to be its Project Manager. Consultant shall not remove or reassign the Project Manager or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

5.2 Consultant, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

5.3 If Consultant is performing inspection services for City, the Project Manager and any other assigned staff shall be equipped with a cellular phone to communicate with City staff. The Project Manager's cellular phone number shall be provided to City.

6. ADMINISTRATION

This Agreement will be administered by the Public Works Department. City's Director of Public Works or designee shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

7. CITY'S RESPONSIBILITIES

To assist Consultant in the execution of its responsibilities under this Agreement, City agrees to provide access to and upon request of Consultant, one copy of all existing relevant information on file at City. City will provide all such materials in a timely manner so as not to cause delays in Consultant's Work schedule.

8. STANDARD OF CARE

8.1 All of the Services shall be performed by Consultant or under Consultant's supervision. Consultant represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with community professional standards and with the ordinary degree of skill and care that would be used by other reasonably competent practitioners of the same discipline under similar circumstances. All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Consultant certifies that the Work conforms to the

requirements of this Agreement, all applicable federal, state and local laws, and legally recognized professional standards.

8.2 Consultant represents and warrants to City that it has, shall obtain, and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Consultant to practice its profession. Consultant shall maintain a City of Newport Beach business license during the term of this Agreement.

8.3 Consultant shall not be responsible for delay, nor shall Consultant be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to approve or disapprove Consultant's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

9. HOLD HARMLESS

9.1 To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers and employees (collectively, the "Indemnified Parties"), from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), and which relate (directly or indirectly) to the negligence, recklessness, or willful misconduct of the Consultant or its principals, officers, agents, employees, vendors, suppliers, subconsultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable, or any or all of them.

9.2 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence, active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorneys' fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

10. INDEPENDENT CONTRACTOR

It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the Work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Consultant or its employees. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of

Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the Work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance of the Work or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the Services.

11. COOPERATION

Consultant agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with the Consultant on the Project.

12. CITY POLICY

Consultant shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

13. PROGRESS

Consultant is responsible for keeping the Project Administrator informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

14. INSURANCE

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit C, and incorporated herein by reference.

15. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Consultant is a partnership or joint-venture or syndicate or co-tenancy, which shall result in changing the control of Consultant. Control means fifty percent (50%) or more of the voting power or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

16. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit A. Consultant shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

17. OWNERSHIP OF DOCUMENTS

17.1 Each and every report, draft, map, record, plan, document and other writing produced, including but not limited to, websites, blogs, social media accounts and applications (hereinafter "Documents"), prepared or caused to be prepared by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Additionally, all material posted in cyberspace by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such Documents, including all logins and password information to City upon prior written request.

17.2 Documents, including drawings and specifications, prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed Documents for other projects and any use of incomplete Documents without specific written authorization from Consultant will be at City's sole risk and without liability to Consultant. Further, any and all liability arising out of changes made to Consultant's deliverables under this Agreement by City or persons other than Consultant is waived against Consultant, and City assumes full responsibility for such changes unless City has given Consultant prior notice and has received from Consultant written consent for such changes.

17.3 Computer Aided Design and Drafting ("CADD") data delivered to City shall include the professional stamp of the engineer or architect in charge of or responsible for the Work. City agrees that Consultant shall not be liable for claims, liabilities or losses arising out of, or connected with (a) the modification or misuse by City, or anyone authorized by City, of CADD data; or (b) any use by City, or anyone authorized by City, of CADD data for additions to this Project, for the completion of this Project by others, or for any other Project, excepting only such use as is authorized, in writing, by Consultant. By acceptance of CADD data, City agrees to indemnify Consultant for damages and liability resulting from the modification or misuse of such CADD data. All original drawings

shall be submitted to City in the version of AutoCAD used by the City in *.dwg* file format, and should comply with the City's digital submission requirements for improvement plans available from the City's Public Works Department.

17.4 All improvement and/or construction plans shall be plotted on standard twenty-four inch (24") by thirty-six inch (36") paper size. Consultant shall provide to City digital 'As-Built' drawings in both AutoCAD and Adobe PDF file format within thirty (30) days after finalization of the Project.

18. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

19. INTELLECTUAL PROPERTY INDEMNITY

Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement or alleged infringement of any United States' letters patent, trademark, or copyright, including costs, contained in Consultant's Documents provided under this Agreement.

20. RECORDS

Consultant shall keep records and invoices in connection with the Services to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all Work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

21. WITHHOLDINGS

City may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue Work as a result of such withholding. Consultant shall have an immediate right to appeal to the City Manager or designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

22. ERRORS AND OMISSIONS

In the event of errors or omissions that are due to the negligence or professional inexperience of Consultant which result in expense to City greater than what would have resulted if there were not errors or omissions in the Work accomplished by Consultant, the additional design, construction and/or restoration expense shall be borne by Consultant. Nothing in this Section is intended to limit City's rights under the law or any other sections of this Agreement.

23. CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS

City reserves the right to employ other Consultants in connection with the Project.

24. CONFLICTS OF INTEREST

24.1 Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act") and/or Government Code §§ 1090 et seq., which (1) require such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibit such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

24.2 If subject to the Act and/or Government Code §§ 1090 et seq., Consultant shall conform to all requirements therein. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

25. NOTICES

25.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

25.2 All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: Director of Public Works
Public Works Department
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

25.3 All notices, demands, requests or approvals from City to Consultant shall be addressed to Consultant at:

Attn: Robert Mooney
Marine Taxonomic Services, LTD.
920 Rancheros Drive, Suite F-1
San Marcos, CA 92069

26. CLAIMS

Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Consultant shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. Consultant's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Consultant in writing as unsettled at the time of its final request for payment. Consultant and City expressly agree that in addition to any claims filing requirements set forth in the Agreement, Consultant shall be required to file any claim Consultant may have against City in strict conformance with the Government Claims Act (Government Code sections 900 *et seq.).*

27. TERMINATION

27.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of five (5) calendar days, or if more than five (5) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within five (5) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

27.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than seven (7) calendar days' prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for Services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

28. STANDARD PROVISIONS

28.1 Recitals. City and Consultant acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

28.2 Compliance with all Laws. Consultant shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Consultant shall conform to applicable City,

county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

28.3 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

28.4 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

28.5 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

28.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

28.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

28.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

28.9 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

28.10 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, sexual orientation, age or any other impermissible basis under law.

28.11 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

28.12 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: Jun 24, 2026

By: Jose Montoya
Jose Montoya (Jun 24, 2026 17:05:19 PDT)
Aaron C. Harp
City Attorney

ATTEST:
Date:_____

By:_____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
Lauren Kleiman
Mayor

CONSULTANT: MARINE TAXONOMIC SERVICES, LTD., an Oregon Corporation
Date:_____

By:_____
Robert Mooney
Vice President

Date:_____

By:_____
Robin Jones
Secretary and Chief Financial Officer

[END OF SIGNATURES]

Attachments: Exhibit A – Scope of Services
Exhibit B – Schedule of Billing Rates
Exhibit C – Insurance Requirements

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

The City is required to survey shallow-water eelgrass distribution in the harbor every two years, and to survey deep-water eelgrass every four years as detailed in the City's *Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Best Management Program*[1] (EPMP 2015). Eelgrass is surveyed within three zones (based on eelgrass presence and variation in overall abundance): (1) Stable Zone, (2) Transitional Zone, and (3) Unvegetated Zone (See Figure 2). Each zone is subject to different allowable annual temporary impacts to eelgrass that may be temporarily impacted by routine maintenance dredging activities. Every two years, a shallow-water eelgrass survey is conducted to track eelgrass distribution in relation to these established zones and to assess long-term eelgrass trends within the harbor. Detailed information on the distribution and abundance of eelgrass shall be documented in a comprehensive report that will facilitate the designation and amount of allowable impacts while also assessing the harbor's overall eelgrass health and total quantity. This current cycle does not include the focused deep-water survey.

Geographic Extents

The extent of the shallow-water eelgrass survey shall, at a minimum, reflect the extents presented on Figures 1 and 2 (attached). The eelgrass survey must also include the following areas within Lower Newport Bay:

- Areas extending north of Pacific Coast Highway (PCH) to Dover Shores and the Newport Aquatic Center.
- Shallow-water habitat fronting the Back Bay Science Center, the University of California Irvine Rowing Team Crew Base, the public launch ramp at the Newport Dunes, and docks fronting the Back Bay Bistro restaurant.
- Newport Dunes Marina and the full extent of the inner and outer De Anza Peninsula (commencing immediately north of PCH).
- Unvegetated Eelgrass Zone (please consider alternate and more cost-effective methodologies for this area).

Prior to initiating eelgrass surveys, Consultant shall work closely with the City to confirm the final geographic extents.

[1] Eelgrass Protection and Mitigation Plan for Shallow Waters in Lower Newport Bay: An Ecosystem Best Management Program (EPMP, City of Newport Beach, 2015). Accessible online at: http://www.newportbeachca.gov/home/showdocument?id=21830

Survey Methodology

Shallow-Water Survey

Assessing shallow-water eelgrass dynamics relies on the completion of quality and consistent surveys and mapping. Parameters that should be included in the eelgrass survey include: 1) spatial distribution, 2) areal extent, 3) percentage of vegetated cover, and 4) the turion (shoot) density. The methodology shall be explicitly as presented in the EPMP and in compliance with the California Eelgrass Mitigation Policy and Implementing Guidelines (CEMP)[2].

The survey shall be conducted by qualified biologists consisting of a diver and a surface support biologist in a kayak. The biologist diver would first locate the beginning of an eelgrass bed and mark it with a buoy. The surface support biologist would then initiate tracking of the biologist diver with GPS as the diver swims the perimeter of the individual eelgrass bed. Once the diver returns to the beginning point, the GPS polygon area mapping would be terminated. Eelgrass patches that are less than two square meters in size shall be referenced as a GPS "point". Down-looking sonar can also be used to augment the shallow-water eelgrass survey where shallow-water areas are too large to be surveyed by diving or where diving conditions are too hazardous. However, the down-looking sonar technique shall be used sparingly with preference on diver-based surveys.

To assess eelgrass turion density, a minimum of 10 eelgrass turion counts shall be performed visually via SCUBA and within each of the 23 eelgrass regions as defined in Figure 1 (230 turion counts total). The diving biologist shall count the number of live, green shoots at the sediment/shoot interface within a 0.07-square-meter quadrat. Turion counts shall be conducted along an underwater transect between the shallow and deep edge of each eelgrass bed. The counting methods shall be standardized prior to conducting the surveys to ensure the accuracy of counts between different team members.

The following shall also be observed and noted during the survey: general eelgrass health, eelgrass blade lengths and widths, sedimentary conditions, water visibility, water temperature, water depths, and fauna and flora. Additionally, within the 23 areas where turion counts are conducted, the biologist diver shall survey perpendicular through the center of the eelgrass bed to assess presence/absence of *Caulerpa*.

Proposed survey technique, equipment and methodology shall be described in detail.

[2] National Marine Fisheries Service, 2014. California Eelgrass Mitigation Policy and Implementing Guidelines. October 2014. Accessed online at the following link: http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final%20CEMP%20October%202014/cemp_oct_2014_final.pdf

Additional Survey Requirements

Caulerpa

While completing the shallow-water eelgrass survey, Consultant shall also conduct a surveillance level *Caulerpa* survey consistent with the Caulerpa Survey Protocol (updated as of October 2021)[3]. This is inclusive of the more detailed survey within areas where turion counts are conducted.

The final report shall include a section describing the areas of more focused surveys or peripheral surveys, and documenting the results. A Caulerpa Survey Report shall also be included and submitted per the requirements of the Caulerpa Control Protocol.

Identified Debris

Consultant shall also survey and document any large debris found. The identification shall be limited to objects including, but not limited to, small derelict/sunken vessels, electronic equipment, dock/float debris, furniture etc. The final report shall include a table with a brief description of the debris and GPS coordinates. The intent of the debris identification effort is to support subsequent harbor clean-up efforts. Particular attention should be paid to the public pier areas.

Eelgrass Restoration Method Study

In 2019, the City retained a consultant to assess different eelgrass restoration methods and more specifically to evaluate the relative effectiveness of eelgrass transplanting efforts utilizing both new and traditional eelgrass transplanting methods. The goal was to build upon existing eelgrass transplanting information by designing a study to evaluate the relative effectiveness in performance and cost of three unique eelgrass transplanting methods: 1) traditional bare-root bundle planting; 2) transplanting eelgrass remotely with frames (TERFs); and 3) transplanting eelgrass remotely with rope (TERR). The results of the analysis were presented in a report and provided to the agencies as part of the RGP 54 annual report. Consultant shall prepare the final report to include a discussion on how the study area sites are functioning.

Reporting

Progress Updates

Consultant shall provide weekly progress updates to the City, and attend up to two in-person preparation meetings at the City's office in Newport Beach or via video conference.

Maps

In compliance with the CEMP and consistent with the EPMP, eelgrass maps shall, at a minimum, include the following:

- A graphic scale bar, north arrow, legend, and horizontal and vertical datum.
- A boundary illustrating the limits of the area surveyed.
- Bathymetric contours for the survey area, including both the action area(s) and reference site(s) in increments of not more than one foot.

[3] https://media.fisheries.noaa.gov/2021-12/caulerpa-control-protocol-v5.pdf

- The boundary of the defined eelgrass bed including an identification of area exclusions based on physical unsuitability to support eelgrass habitat.
- The existing eelgrass cover within the defined eelgrass bed at the time of the survey.
- Electronic maps and all data files shall be submitted to the City as part of the final PDF report. Transfer of data files will be coordinated with the City's GIS Division and will be compatible with their system.

Final Report

The final report shall generally conform to previous eelgrass survey reports prepared for the City and shall provide a detailed description of the survey coverage (acreage) and any interpolation methods used in mapping. Information shall be presented relative to the established eelgrass zones presented in Figures 1, 2 and 3. Eelgrass distribution and abundance shall be summarized and compared across sampling areas. Eelgrass turion density shall be analyzed by station with a comparative analysis between station and all previous surveys. Summary statistics for each eelgrass turion density station shall be generated and shall include mean, standard deviation, number of samples, and minimum and maximum values. Eelgrass density data shall be presented in the number of turions per square meters. Other marine life, including *Caulerpa*, and large debris identification results shall also be generated and presented as part of the final report.

Schedule

Consultant shall staff accordingly so that all surveys are complete during the growth season. As survey areas are completed, the data shall be submitted to the City in batches to aid in year-over-year calculations as required in the annual report. The final report and all electronic files shall be provided to the City by **December 15, 2026**.

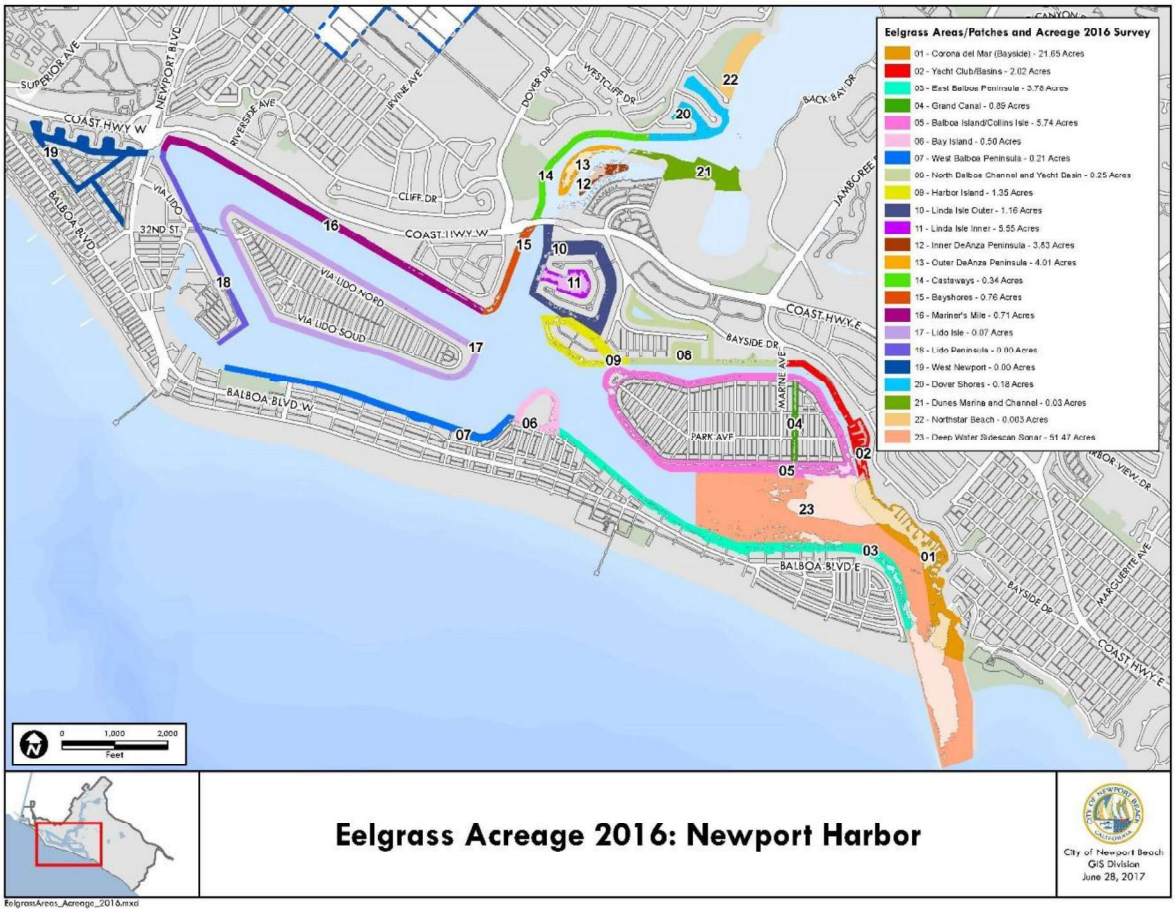


Figure 1. Eelgrass Acreage 2016: Newport Harbor

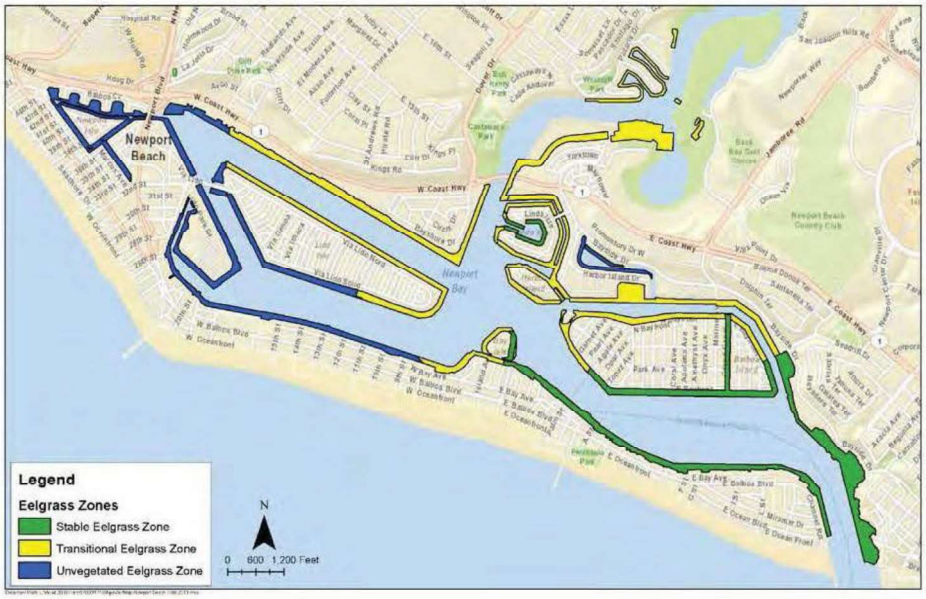


Figure 2. Location of Stable, Transitional, and unvegetated eelgrass zones based on CRM (2010).

Figure 2: Location of Stable, Transitional and Unvegetated Eelgrass Zones



Figure 3 – Map of eelgrass coverage observed during the 2024 survey.

1 Service Offerings

The below section is intended to illustrate to the City of Newport Beach our team's experience and qualifications to provide eelgrass and *Caulerpa* survey services in accordance with the Request for Proposals (RFP). In the sections below, we provide our staff experience, corporate experience, and a brief overview of our proposed work approach.

1-1 Experience of Proposed Staff

MTS is prepared to meet the unique demands of performing the shallow-water eelgrass and *Caulerpa* surveys in Newport Harbor. The work requires a team with a multitude of experiences working with eelgrass and *Caulerpa* to ensure that collected data are compatible with previous survey efforts. The MTS team understands the sampling methods, sampling design and statistics to ensure that data is appropriately collected and analyzed in ways that are consistent with data usage and past surveys. The MTS team provides these qualifications and more. MTS will ensure that its monitoring programs are conducted in a manner that generates data which provides an unbiased view of eelgrass coverage and health for proper resource management, while being sensitive to natural resources and their protection.

1-2 Marine Taxonomic Services, Ltd - Relevant Experience

MTS was founded in 1980 and incorporated in 1993. MTS has offices in Corvallis, Oregon; Lake Tahoe and San Diego, California. Though founded on their expertise in marine taxonomy, MTS has expanded its environmental services by providing a wide range of marine ecological services, including eelgrass monitoring and transplanting and *Caulerpa* surveys.

MTS built a reputation as a quality marine biological services provider when the modern fields of marine ecology and conservation were in their infancy. MTS is prepared to leverage our 40-years of field experience to provide an expert team that can lead the survey and reporting activities required by the scope of work. MTS has extensive experience using teams on field surveys and sample collections. We have worked with private clients, local agencies, and governmental agencies. MTS' experiences make it uniquely suited to support this Project. MTS has performed countless marine biological investigations in southern California and Newport Harbor. These experiences include many eelgrass investigations.

MTS has over twenty employees at offices in San Marcos, California; Lake Tahoe, California; and Corvallis, Oregon and is fully equipped with a suite of marine habitat monitoring equipment including side-scan and single-beam sonar, differential GPS, geographically registered underwater video equipment (remote and towed), benthic sampling gear and fisheries sampling gear. MTS' scientific consulting services include:

- Experimental design and sampling design for field biological studies
- Statistical data analysis
- Benthic sediment sampling
- Marine invertebrate identification
- Eelgrass mapping
- Eelgrass mitigation planning and implementation

- Sonar-based aquatic habitat mapping
- Aquatic invasive species control
- *Caulerpa* surveys
- Fisheries inventories
- Bathymetric surveys
- Salt marsh restoration
- Marine mammal surveys
- Biological monitoring of in-water construction

In addition to our qualifications, it should be noted that MTS has performed 2018, 2020, 2022, and 2024 surveys with Rick Ware of Coastal Resources Management. Rick Ware has retired such that we are not highlighting CRM in the proposal beyond this paragraph. However, we have discussed the project with Rick and intend to continue to utilize his services as a technical advisor.

1-3 Approach to the Scope of Services

1-3.1 Implementation of Shallow Water Surveys

Two methods are proposed to map eelgrass. The methods follow those of prior surveys (Coastal Resources Management (CRM) 2017) and the methods are consistent with guidelines within the California Eelgrass Mitigation Policy (CEMP) and the Eelgrass Protection and Mitigation Plan for Shallow Waters in Newport Bay (EPMP).

For shallow-water eelgrass habitat, the primary method will utilize biologist-divers using SCUBA and a surface support vessel (generally a kayak) equipped with a differential global positioning system (dGPS) to outline eelgrass bed areas. Each diver will be supported by a support vessel. The support vessel will follow their diver and maintain communication with the diver. When the diver encounters an eelgrass bed, the diver will notify the topside person via underwater communications equipment. The diver will then swim the eelgrass boundary while the topside person follows and logs positions with a dGPS.

In most regions, diver surveys will include the bayfloor from the low intertidal zone to about 30 feet past the end of docks and piers except where the pierhead lines are irregular such as along Carnation and China Cove where shallow-water eelgrass beds extend toward the navigational channel.

In general, diver methodologies will be the primary method for surveying eelgrass, however sonar may be used to supplement where appropriate. Where conditions are not safe to dive or where eelgrass beds are extensive or extend well beyond the pierhead line, remote sensing techniques (side-scan sonar and possibly down-looking sonar) will be used to survey for eelgrass. These methods are consistent with CRM (2017). Sonar data will be validated using underwater video or diver.

It is anticipated that in some areas where obstructions to sonar work are minimal, that the sonar data may provide a high-quality return of the eelgrass. In any instances where sonar data are used to delineate eelgrass boundaries within the pierhead line, divers will at a minimum still transit across the mapped eelgrass boundaries to confirm the accuracy of the digitized data. If sonar mapped polygons are accurate, divers will not need to swim the perimeter of those patches. If sonar data are

found to be inaccurate, divers will swim the perimeter and re-map the boundaries. All diver tracklines will be recorded so that the validation process is transparent.

Additionally, MTS will document any large debris items observed in sonar records or noted by divers. A table of coordinates and brief description will be provided in the report. Eelgrass density will be monitored by randomly placing quadrats in eelgrass beds and counting leaf shoots (turions) within each quadrat. Data will also be collected on eelgrass canopy height, water temperature, other species present, and other environmental variables consistent with CRM (2017).

During the surveys, divers will perform an anticipated 20% coverage *Caulerpa* survey in accordance with NMFS protocols. The primary means to survey for *Caulerpa* will be using *Caulerpa* certified divers performing the eelgrass surveys in the shallow-water areas. While searching for and surveying around eelgrass beds, divers will survey a significant amount of seafloor. Based on the current understanding of *Caulerpa* presence in Newport Harbor, MTS plans to perform some additional survey efforts specifically for *Caulerpa*. The diver tracks will be recorded regardless of whether the diver encounters eelgrass. This information along with data on other *Caulerpa* survey efforts will be reviewed. MTS will then choose areas for additional surveys to fill any gaps in the *Caulerpa* search. Divers will also survey for *Caulerpa* when swimming through eelgrass beds in those areas where eelgrass density assessments are to occur. Training and intercalibration among divers will occur prior to commencement of data collection. The MTS Team is prepared to meet all data collection requirements specified in the RFP.

MTS will prepare a report utilizing the same report template as prior efforts (refer to MTS and CRM 2020, 2022 and 2024). The report template will be updated with the information from the current shallow-water eelgrass survey using all the same parameters and methods as the prior efforts with some minor additions within the current effort. The consistency in data collection and reporting will ensure that any existing and future eelgrass mitigation surveys are completed with confidence and will protect the resource.

1-3.2 Implementation of Eelgrass Study Site Surveys

The goal of this task is to inform upon the success of the experimental eelgrass transplant effort completed in 2019. Survey of the eelgrass study sites would inform the City as to the success of various transplant methods six years after the transplant methods were deployed.

MTS will map eelgrass within the eelgrass study sites during the shallow water eelgrass surveys. MTS will follow data collection methods utilized in the year 1, 3, and 5 follow up survey of the eelgrass study sites performed in 2020, 2022 and 2024. MTS will lay transects across the study sites in the location of the experimental eelgrass transplant area and collect information related to coverage and density.

Results from the evaluation of the eelgrass study sites will be summarized and included in the report provided for the harbor-wide survey effort.

1-3.3 Geographic Extents

MTS shall work closely with the City to confirm the final geographic areas to be surveyed prior to the start of any survey work. Survey areas to include the following locations in Newport Bay:

- Areas extending north of Pacific Coast Highway (PCH) to Dover Shores and the Newport Aquatic Center
- Shallow-water habitat fronting the Back Bay Science Center, the University of California Irvine Rowing Team Crew Base, the public launch ramp at Newport Dunes, and docks fronting the Back Bay Bistro restaurant.
- Newport Dunes Marina and the full extent of the inner and outer De Anza Peninsula (commencing immediately north of PCH).
- Unvegetated Eelgrass Zone (using side scan sonar)
- Corona del Mar (bayside) 21.65 acres
- Yacht Club/basins 2.02 acres
- East Balboa Peninsula 3.78 acres
- Grand Canal 0.89 acres
- Balboa Island/Colins Isle 5.74 acres
- Bay Island 0.5 acres
- West Balboa Peninsula 0.21 acres
- North Balboa Channel and Yacht Basin 0.25 acres
- Harbor Island 1.35 acres
- Linda Isle Inner and Outer 6.71 acres
- DeAnza Peninsula Inner and Outer 7.84 acres
- Castaways 0.34 acres
- Bayshores 0.76 acres
- Mariner's Mile 0.71 acres
- Lido Isle 0.07 acres
- Dover Shores 0.18 acres
- Dunes Marina and Channel 0.03 acres
- Northstar Beach 0.003 acres

This work is consistent with the areal cover and the methods employed during previous studies and consistent with the RFP (Figure 1). The intent is to survey for eelgrass with sonar methods in expansive areas, areas where navigational channels pose a hazard for diving and within the unvegetated eelgrass zone. The use of sonar in the unvegetated eelgrass zone will allow for a means to efficiently search for any eelgrass patches. Any eelgrass found using sonar will be validated by divers. Within all of these areas diver surveys will provide eelgrass detail inside the pierhead line and will be used to validate sonar methods. During diver surveys within these shallow-water survey regions a visual search for *Caulerpa* will be performed by diver. Note that many of the areas described above are consistent with the text of the RFP that describes performance of eelgrass surveys in areas north of the PCH Bridge.

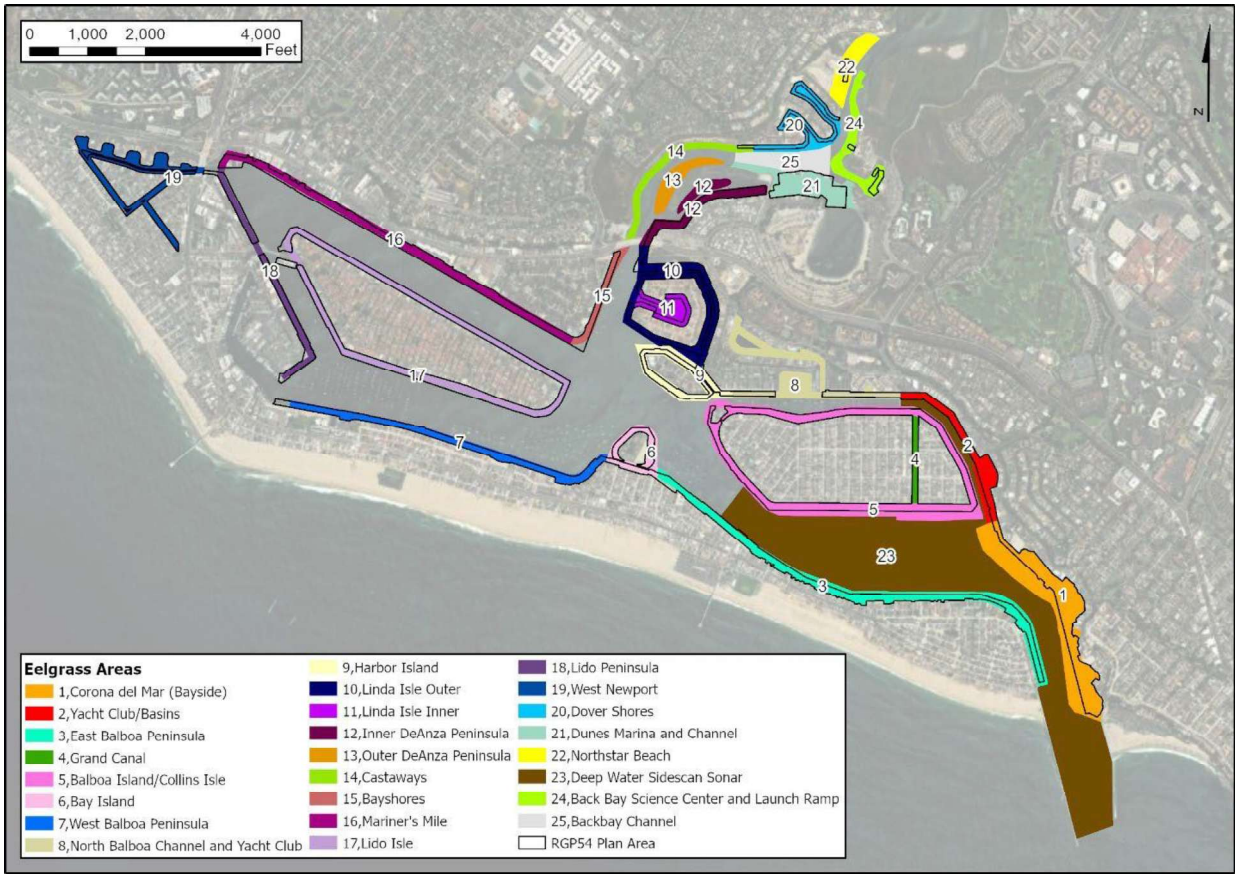


Figure 1. Map showing survey areas within Newport Harbor. Note that survey areas 23 and 25 are not included as part of the 2026 harbor wide eelgrass inventory survey effort.

MTS will incorporate side-scan sonar technology linked with high-resolution underwater video or diver verification to support diver survey methods. Methods to be employed will be the same as utilized during the 2008, 2012, 2016, 2020, 2022 and 2024 side-scan sonar surveys (CRM 2009, 2014, 2016, MTS and CRM 2020, 2022 and 2024). Sonar methodologies do not include survey areas 23 or 25 presented in Figure 1. It is extremely important to utilize consistent methodology, equipment, and data analysis techniques using remote survey methods, since the use of different instrumentation, data management systems, and personnel comparing previously collected data can result in varying results. Thus, our proposal to provide these services allows the City to make direct comparisons over time when submitting the results of the survey to the regulatory agencies.

The remote sensing methods we employ are approved techniques to map eelgrass as outlined in the California Eelgrass Mitigation Policy (National Marine Fisheries Service 2014). In addition, a proposed NOAA Southern California Eelgrass Regional-Wide Monitoring Program will include a recommendation that eelgrass habitat mapping efforts should be conducted using side-scan sonar methods and where possible, be accompanied by the collection of bathymetric data.

The project deliverable will be an eelgrass habitat map depicting eelgrass along with a calculation of eelgrass acreage. In accordance with the RFP, the MTS Team will submit preliminary acreages and electronic data files (compatible with the City of Newport Beach's GIS mapping system) associated

with the shallow-water eelgrass survey to the City. The survey results will be incorporated in the final report and all electronic files for the shallow-water eelgrass, large debris, and *Caulerpa* surveys shall be provided to the City by December 15, 2026. The *Caulerpa* survey report will be prepared in accordance with the *Caulerpa* Control Protocol.

1-3.4 Management Approach

Effective communication is critical to the successful implementation of dive and survey programs at the scale of this Project. The work effort will require teams to efficiently distribute survey efforts and implement those surveys in a safe and timely fashion. As such, clear transfer of information from Project objectives down to the daily assignment of tasks is critical to efficient, cost-effective Project management. MTS will provide weekly progress reports to the City and attend two in-person preparation meetings with at the City's office in Newport Beach or via video conference call.

The Project will require effective management to ensure team organization, task management, adherence to the project goals, and timely reporting. The MTS project manager, Robert Mooney, will be the primary point of contact with the City. This role will be established with a level of redundancy by including a senior field manager, Grace Teller, that is also capable of taking over as the project manager. If the senior field manager is not available for work, the project manager will assume both roles. In this way, the team ensures a top-down management approach whereby ensuring the City's goals are met and along with maximum continuity of MTS staff.

As the primary point of contact for the MTS Team, the project manager will be responsible for communicating project challenges, safety concerns, and management decisions to City staff in a timely manner. The MTS project manager will provide status updates on projects weekly to summarize current project status and present any challenges or concerns. The project manager will provide immediate email and telephone notification of significant safety concerns or other events that threaten the project or its efficiency. Any such significant events and corrective actions will be addressed during weekly status reports.

MTS recognizes the level of commitment required by City staff. We recognize that effective communication is necessary to allow resource managers to understand working situations and provide for adaptive management. It is also critical that the team's management structure allow for the safest and most efficient means of deploying resources. MTS brings its decades of aquatic experience to this Project. This means we can offer solutions where funds are spent efficiently and effectively. Aquatic operations can be expensive so MTS makes it our priority to coordinate and manage the resources effectively so that goals can be realized on time and within budget.

1-4 Service Offerings Summary

Our personnel experience, corporate qualifications, and project examples (below) illustrate that MTS has the expertise and equipment required to successfully perform the scope of work. MTS routinely performs surveys to map marine habitats and possess all equipment necessary to perform towed video, remotely operated vehicle, down-looking sonar, and side-scan sonar surveys. Our staff has experience performing eelgrass surveys in Newport Harbor and they understand how to safely and effectively operate within Newport Harbor. We intend to adhere to the best combination of previous survey methods to maintain a consistent dataset that the City of Newport Beach can have confidence in. This will allow for consistency in project planning within the regulatory context of Newport Harbor and prevent costly project delays associated with inadequate data collection.

MTS is qualified to satisfy the request made in the RFP. MTS will maintain regular communication with the City regarding survey progress and will be available to attend preparation meetings. MTS will provide information regarding eelgrass distribution mapping, eelgrass acreage calculations, eelgrass turion density analysis, historical trend comparisons, GIS-compatible electronic data, *Caulerpa* survey report, large debris inventory, restoration study site assessment, and a final survey report.

EXHIBIT B
SCHEDULE OF BILLING RATES

Chris Miller
Public Works Manager
City of Newport Beach, CA

June 8, 2026 (Revised June 16, 2026)

Re: Cost Proposal for RFP No. 26-48: 2026 Newport Harbor Shallow Water Eelgrass Survey

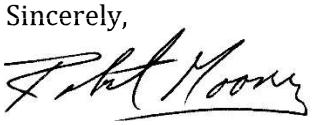
Dear Mr. Miller:

The attached cost proposal supports Marine Taxonomic Services response to the subject RFP. We have made no formal exceptions with regard to the RFP. However, we are hopeful that the City would be able to help facilitate areas where we can keep our small support vessel overnight when performing survey work. We have not included launch and dock fees in our proposal to provide you with the best possible value. Again, we take no formal exceptions and understand if no accommodation with regards to equipment storage can be made.

Please also note that in accordance with the language in the RFP, we have provided for 7 additional field survey days in our budget. Those 7 days are called out as a separate task and totals are provided with and without the additional days for your evaluation. The rates shown in Table 1 would be the same rates utilized for any additional work requested. We have additionally provided costs associated with a potential delay in contracting. Our costs assume 120 overtime hours necessary to meet the field work deadline in the event of a 2 week contracting delay.

If you have any questions about this cost proposal, do not hesitate to contact me at 760.331.7897 or via email (Robert.mooney@nv5.com). I look forward to the opportunity to work with you on this project.

Sincerely,



Robert Mooney
Principal Consultant

Table 1. Base cost to perform the scope of work.

Labor Category	Rates	Project Management		Sonar Data Acquisition		Diver / Field Data Acquisition		Data Processing and Reporting		Field Contingency Days (7 days)		Total Units	Price
		Units	Costs	Units	Costs	Units	Costs	Units	Costs	Units	Costs		
Administrative Assistant	$ 96.31	0	$ -	0	$ -	58	$ 5,585.74	8	$ 770.45	0	$ -	66	$ 6,356.19
Associate Analyst I	$ 75.85	0	$ -	40	$ 3,033.88	50	$ 3,792.35	0	$ -	7	$ 530.93	97	$ 7,357.16
Associate Team Manager	$ 95.38	0	$ -	59	$ 5,627.56	0	$ -	0	$ -	84	$ 8,012.12	143	$ 13,639.68
Associate Team Manager II	$ 116.98	16	$ 1,871.60	0	$ -	51	$ 5,965.74	20	$ 2,339.51	0	$ -	87	$ 10,176.85
Principal Consultant	$ 187.82	10	$ 1,878.24	0	$ -	0	$ -	5	$ 939.12	0	$ -	15	$ 2,817.35
Senior Project Manager	$ 149.74	10	$ 1,497.44	0	$ -	0	$ -	0	$ -	0	$ -	10	$ 1,497.44
Senior Team Manager	$ 149.74	10	$ 1,497.44	0	$ -	0	$ -	40	$ 5,989.74	0	$ -	50	$ 7,487.18
Technician II	$ 70.14	6	$ 420.82	0	$ -	1067	$ 74,835.61	0	$ -	84	$ 5,891.46	1157	$ 81,147.90
Technician II (Overtime)	$ 117.71	0	$ -	0	$ -	120	$ 14,124.71	0	$ -	0	$ -	120	$ 14,124.71
Rick Ware	$ 147.06	0	$ -	50	$ 7,352.94	0	$ -	0	$ -	0	$ -	50	$ 7,352.94
	Subtotals		**$ 7,165.53**		**$ 16,014.38**		**$104,304.15**		**$ 10,038.81**		**$ 14,434.51**		**$ 151,957.39**
ODCs													
Mileage	$ 0.73	0	$ -	600	$ 435.00	8160	$ 5,916.00	0	$ -	1120	$ 812.00	9880	$ 7,163.00
Sounder, Innovation, Koffer (daily)	$ 588.24	0	$ -	5	$ 2,941.18	0	$ -	0	$ -	0	$ -	5	$ 2,941.18
War Eagle, Small Vessels (daily)	$ 147.06	0	$ -	0	$ -	50	$ 7,352.94	0	$ -	7	$ 1,029.41	57	$ 8,382.35
Sonar	$ 94.12	0	$ -	40	$ 3,764.71	0	$ -	0	$ -	0	$ -	40	$ 3,764.71
	Subtotals		**$ -**		**$ 7,140.88**		**$ 13,268.94**		**$ -**		**$ 1,841.41**		**$ 22,251.24**
	Totals		**$ 7,165.53**		**$ 23,155.26**		**$117,573.10**		**$ 10,038.81**		**$ 16,275.92**		**$174,208.62**

Total Price with 7 Contingency Days and 120 hours of overtime is $174,208.62
Total Price with 7 Contingency Days is $160,083.92
Contingency Rate Per Day is $2,325.13
Total Price without Contingency Days or overtime is $143,808.00

SAN DIEGO | OREGON | SOUTH LAKE TAHOE
920 RANCHEROS DRIVE SUITE F-1 | SAN MARCOS CA 92069 | 760.410.8392
WWW.MARINETAXONOMICSERVICES.COM

EXHIBIT C

INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1. Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

2. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

3. Coverage Requirements.

   A. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars ($1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California.

      Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers, employees.

   B. General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary excess/umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than one million dollars ($1,000,000) per occurrence, two million dollars ($2,000,000) general aggregate. The policy shall cover liability arising from bodily injury, property damage, completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

      Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

   C. Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of Consultant

arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars ($1,000,000) combined single limit each accident.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the Effective Date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

E. Water Pollution Liability. Consultant shall provide Water Pollution Liability for both sudden and accidental and gradual and continuous pollution events with limits no less than one million dollars ($1,000,000) each loss and in the aggregate. The policy shall not exclude any hazardous materials for which there is exposure.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

F. Excess/Umbrella Liability Insurance. If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this contract, then said policies shall be "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this contract, including, but not limited to, the additional insured and primary & non-contributory insurance requirements stated herein. No insurance policies maintained by the City, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess/umbrella liability policies are exhausted.

Consultant shall submit to City, along with a certificate of insurance, additional coverage as stated in Section 4. Other Insurance Requirements.

4. Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

A. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City of Newport Beach, its City Council, boards and commissions, officers,

agents, volunteers and employees or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

B. Additional Insured Status. All liability policies including general liability, excess/umbrella liability, pollution liability, and automobile liability, if required, but not including professional liability, shall provide or be endorsed to provide that City of Newport Beach, its City Council, boards and commissions, officers, agents, volunteers and employees shall be included as insureds under such policies.

C. Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

D. Notice of Cancellation. All policies shall provide City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

E. Subcontractors. Consultant shall be responsible for causing subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Agreement, including adding the City as an additional insured, providing primary and non-contributory coverage and waiver of subrogation to the subcontractor's policies. Limits of liability for General Liability in an amount not less than one million dollars ($1,000,000) per occurrence, two million dollars ($2,000,000) aggregate and Professional Liability (Errors & Omissions) in an amount not less than one million dollars ($1,000,000) per claim, two million dollars ($2,000,000) aggregate.

5. Additional Agreements Between the Parties. The parties hereby agree to the following:

A. Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of

insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

B. City's Right to Revise Requirements. City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant sixty (60) calendar days' advance written notice of such change. If such change results in substantial additional cost to Consultant, City and Consultant may renegotiate Consultant's compensation.

C. Right to Review Subcontracts. Consultant agrees that upon request, all agreements with subcontractors or others with whom Consultant enters into contracts with on behalf of City will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, or its employees.

D. Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any requirement imposes no additional obligations on City nor does it waive any rights hereunder.

E. Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

F. Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

G. City Remedies for Non-Compliance. If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this Agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

H. Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

I. Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 9

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Zachary Gentry, Municipal Operations Director - 949-644-3055, zgentry@newportbeachca.gov
PREPARED BY:	John Nelson, Acting Senior Management Analyst - 949-644-3197, jjnelson@newportbeach.gov
TITLE:	Approval of Amendment No. Two to Residential Solid Waste Collection & Recycling Contract (Contract No. 8823-1) with CR&R, Inc. - Exceedance to Rate Increase Allowance

ABSTRACT:

The City of Newport Beach (City) contracts with CR&R Incorporated (CR&R) for residential curbside trash collection, and recycling and organics collection and processing services. CR&R has requested a rate increase beyond contract allowance limits deriving from recent significant increases in County of Orange (County) landfill disposal rates and increases to energy costs. The contract allows for annual contract cost adjustments based on a specified formula, with an overall 5% maximum annual contract increase. Due to recent disproportionate increases in both County disposal fees and energy cost, CR&R is requesting a 19.2% increase for this next service year, increasing the annual cost from $8,377,467 to $9,958,229.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Authorize the Mayor and City Clerk to execute Amendment No. Two to Agreement for the Collection, Transportation, Processing and Diversion of Residential Recyclable Materials, Food Scraps, Green Waste and other Materials and Collection, Transportation and Disposal of Municipal Solid Waste Between the City of Newport Beach and CR&R, Incorporated increasing the annual cost to $9,958,229 (Contract No. 8823-1) for Fiscal Year 2026-27.

DISCUSSION:

CR&R is requesting a 19.2% rate increase for this fiscal year. Three factors are considered for the rate adjustment formula.

The first factor is landfill disposal cost increases. Orange County Waste & Recycling (OCWR) approved significant landfill disposal rate increases over the next three-year

period, starting July 1, 2026. Jurisdictions were to enter into OCWR's Waste Infrastructure System Enterprise Agreement (WISE) by April 30, 2026. The Newport Beach City Council approved this new County Landfill Disposal Agreement on March 24, 2026, with an effective date of July 1, 2026.

Per OCWR's agreement, the landfill disposal rates will increase annually as shown below. Starting in FY 2029-30, the rates will then increase annually based on CPI. Effective July 1, the landfill disposal rate increased $23.24, to $67 per ton. This increase (factor 1) is incorporated into CR&R's rate adjustment request.

Fiscal Year	Contract Rate	Annual % Increase
2026-27	$67/ton	53.1%
2027-28	$74/ton	10.4%
2028-29	$81/ton	9.5%
2029-30	$81/ton + CPI	CPI

The second factor relates to energy costs, the prescribed Producer Price Index (PPI) reflected a 36.5% increase from the year prior. This increase is incorporated into CR&R's rate adjustment request.

The third factor associated with the annual rate adjustment is titled 'All Other Costs' and refers to overhead costs. CR&R is requesting a 2.5% increase in this factor, which is the contract cap for this category.

As separate components, these three factors are incorporated into a single annual rate that can either increase or decrease for the operational period of July 1,2026 to June 30, 2027.

In summary:

1) Landfill disposal fees increased 53.1% from the previous year

2) Energy costs tied to a PPI are up 36.5% over the previous year; and

3) All other costs tied to a consumer price index are up 3.2% over the previous year but are capped at 2.5% maximum per the current contract.

As a share of total costs in comparison to last year, this amounts to a 19.2% overall rate increase.

Staff reviewed the rate increase request and formula calculation and agreed with both the landfill and contract capped energy cost increases (Attachment D). This would then result in an increase of 19.2% to the contract cost for service in FY 2026-2027, from $8,377,467 to $9,958,229, or an annual increase of $1,580,762 for this fiscal year. Monthly rates would increase from $698,122 per month to $829,852, or an increase of $131,730 per month.

FISCAL IMPACT:

The FY 2026-27 adopted budget includes sufficient funding for the rate increase, as the contract increase was anticipated and built into the budget development process. This expenditure will be charged to the Residential Refuse Collection account in the Municipal Operations Department, 0108551-851006.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – CR&R Contract Rate Increase Request Letter
Attachment B – Amendment No. Two to Residential Solid Waste Collection & Recycling Contract with CR&R
Attachment C – Updated D-1 Compensation Schedule
Attachment D – 2026 Rate Adjustment Compensation Calculation

ATTACHMENT A

CR&R Contract Rate Increase Request Letter

April 8, 2026

Sent Via Email

Mr. Charles Springer
City of Newport Beach
100 Civic Center Dr.
Newport Beach, CA 92658

Re: 2026/2027 Annual Solid Waste and Recycling Rates

Dear Mr. Springer,

As provided for in Attachment J of the Agreement between the City of Newport Beach and CR&R Incorporated, the compensation categories as defined in Attachment D-1 and D-2 shall be adjusted annually to reflect the change in the Consumers Price Index (CPI), Producer Price Index (PPI), and change in landfill tipping fees. The index used is the annual average percentage change in the December index of the year prior to the current year for All Urban Consumers all items less food and energy index – all cities.

The disposal component of the rates has been adjusted to reflect the new WISE Agreement rates effective July 1, 2026. We have attached the methodology as is detailed in Attachment J of the Agreement.

Thank you for your consideration and review, please let me know if you have any questions. As always, it is a pleasure being of assistance to the City of Newport Beach.

Respectfully submitted,

Julie Barreda
Senior Regional Vice President

Cc: Esmeralda Suarez

11292 Western Ave.
P. O. Box 125
Stanton, CA 90680

t: 800.826.9677
t: 714.826.9049
f: 714.890.6347

ATTACHMENT B

Amendment No. Two to Residential Solid Waste Collection & Recycling Contract with CR&R

AMENDMENT NO. TWO TO
AGREEMENT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND DIVERSION OF RESIDENTIAL RECYCLABLE MATERIALS, FOOD SCRAPS, GREEN WASTE AND OTHER MATERIALS AND COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE BETWEEN THE CITY OF NEWPORT BEACH AND CR&R, INCORPORATED

THIS AMENDMENT NO. TWO TO AGREEMENT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND DIVERSION OF RESIDENTIAL RECYCLABLE MATERIALS, FOOD SCRAPS, GREEN WASTE AND OTHER MATERIALS AND FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF RESIDENTIAL MUNICIPAL SOLID WASTE ("Amendment No. Two") is made and entered into as of this 14th day of July, 2026 ("Effective Date"), by and between the CITY OF NEWPORT BEACH, a California municipal corporation and charter city ("City"), and CR&R, INCORPORATED, a California corporation ("Contractor"), whose address is 11292 Western Avenue, Stanton, California 90680, and is made with reference to the following:

RECITALS

A. On January 11, 2022, City and Contractor entered into an Agreement (Contract No. C-8823-1) ("Agreement") for the Collection, Transportation, Processing and Diversion of Residential Recyclable Materials, Food Scraps, Green Waste and Other Materials and for the Collection, Transportation and Disposal of Residential Municipal Solid Waste ("Project").

B. On January 28, 2025, City and Consultant entered into Amendment No. One to the Agreement ("Amendment No. One") to amend Attachment J to add de-escalation language related to Contractor compensation and update the Notices section.

C. The parties desire to enter into this Amendment No. Two ("Amendment No. Two") to amend Attachment D-1, Compensation Schedule and Attachment J to modify the cost allocations related to Contractor compensation and update sections related to the City's Project Administrator and Contact for Notices.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. COMPENSATION SCHEDULE

Attachment D-1 to the Agreement shall be deleted in its entirety and replaced with Attachment D-1, attached hereto and incorporated herein by reference. Any reference to Attachment D-1 in the Agreement shall hereafter refer to Attachment D-1 attached hereto.

2. ANNUAL CONTRACTOR COMPENSATION ADJUSTMENTS

Attachment J to the Agreement shall be deleted in its entirety and replaced with Attachment J, attached hereto and incorporated herein by reference. Any reference to Attachment J in the Agreement shall hereafter refer to Attachment J attached hereto.

3. DEFINITIONS

The definition of "Project Administrator" within Attachment A to the Agreement shall be replaced with the following:

"Project Administrator: "Project Administrator" shall mean the Deputy Director of Municipal Operations who is the City-designated administrator for the Agreement."

4. INSURANCE

Section 11.02.C of the Agreement is amended in its entirety and replaced with the following:

"Required Endorsements. Without limiting the generality of Sections 11.02.A and B, the policies shall contain endorsements making the City and its elected or appointed officers, officials, employees, agents and volunteers an additional insured, and shall further contain additional endorsements in substantially the following form:

2. Workers' Compensation and Employers' Liability Policy.

Thirty (30) days prior written notice shall be given to the City of Newport Beach in the event of cancellation or non-renewal of this policy. Such notice shall be sent to:

CITY OF NEWPORT BEACH
Municipal Operations Director
P.O. Box 1768
100 Civic Center Drive
Newport Beach, California 92660

"Insurer waives all right of subrogation against City and its elected or appointed officers, officials, employees, agents and volunteers for injuries or illnesses arising from work performed for City."

3. Comprehensive General Liability Policy; Pollution Liability Policy.

Thirty (30) days' prior written notice shall be given to the City of Newport Beach in the event of cancellation, reduction of coverage, or non-renewal of this policy. Such notice shall be sent to:

CITY OF NEWPORT BEACH
Municipal Operations Director
P.O. Box 1768
100 Civic Center Drive
Newport Beach, California 92660

"This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the City of Newport Beach, including any self-insured retention or program of self-insurance, and any other such insurance shall not be called upon to contribute in any way."

"Inclusion of the City of Newport Beach as an insured shall not affect the City's rights as respects any claim, demand, suit or judgment brought or recovered against the Contractor. This policy shall protect Contractor and the City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase the company's liability as set forth in the policy beyond the amount shown or to which the company would have been liable if only one party had been named as an insured."

In addition, all property policies shall contain language, to the extent obtainable on commercially reasonable terms, to the effect that any loss shall be payable notwithstanding any act of negligence of City or Contractor that might otherwise result in the forfeiture of the insurance.

4. Physical Damage Policy.

Notice of cancellation, reduction in coverage or non-renewal, as provided in Section 11.02.C

Cross liability endorsement, as provided in Section 11.02.C

Waiver of subrogation against City."

5. NOTICE

Section 14.06 of the Agreement is amended in its entirety and replaced with the following:

"All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall, except as provided in Section 13.02, be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first class postage prepaid (certified mail, return receipt requested), addressed as follows:

If to City: Municipal Operations Director
City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

with a copy to the Newport Beach City Attorney at the same address"

6. REPRESENTATIVES OF PARTIES

Section 14.07.A of the Agreement is amended in its entirety and replaced with the following:

"Representatives of City. This Agreement will be administered by the Municipal Operations Department of City. The Director of Municipal Operations, or his/her designee, shall be the Project Administrator and shall the authority to act for City under this

Agreement. The Project Administrator or his/her authorized representative shall represent the City in all matters pertaining to the services to be rendered pursuant to this Agreement."

7. INTEGRATED CONTRACT

Except as expressly modified herein, all other provisions, terms, and covenants set forth in the Agreement shall remain unchanged and shall be in full force and effect.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment No. Two to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: Jun 29, 2026

By: Yolanda Summerhill
Yolanda Summerhill (Jun 29, 2026 11:53:50 PDT)
Aaron C. Harp
City Attorney

ATTEST:
Date:_____

By:_____
Lena Shumway
City Clerk

CITY OF NEWPORT BEACH,
a California municipal corporation
Date:_____

By:_____
Lauren Kleiman
Mayor

CONTRACTOR: CR&R, Incorporated, a California corporation
Date:_____

By:_____
Clifford Ronnenberg
Chief Executive Officer

Date:_____

By:_____
David Ronnenberg
Secretary

[END OF SIGNATURES]

Attachments: Attachment D-1 – Compensation Schedule
Attachment J – Annual Compensation Adjustments

Attachment D1
City of Newport Beach
Compensation Schedule

Applicable from July 1, 2026 through June 30, 2027

Basic Service	Monthly Amount
Customer collection - City	$ 431,742.93
Customer collection - Newport Coast	$ 80,043.99
Enhanced SB1383-mandated programs	$ 302,369.44
Bulky Item Collection/month	$ 692.96
Sharps Collection/month	$ 2,499.43
HHW Door-to-Door/month	$ 12,503.69
Container pull-out for disabled customers	No Charge
Two (2) annual shred days	No Charge
One (1) annual compost/mulch giveaway	No Charge
Total City Billing	**$ 829,852.44**

The annual adjustments to Contractor's compensation shall be completed as described in this Attachment J. The costs in Attachment D-1 shall be effective from July 1, 2026 through June 30, 2027. The first annual adjustment shall be performed to calculate Contractor's costs for the period July 1, 2026 through June 30, 2027. The costs in Attachment D-1 shall be adjusted annually each July 1 throughout the Term of the Agreement.

1. General Calculation Procedures

A. Rounding Protocol

The following rounding protocol shall be used in the calculations described herein: *For the calculation of the percentage change in all indexes described in this Attachment J, the calculations shall be rounded to one decimal place. (Example: 2.3% or 0.2%). For calculation of all costs and cost components described in this Attachment J, the calculations shall be rounded to two decimal places. (Example: $2.39).*

The numbers 1,2,3, and 4 in all calculations shall be rounded down. (Example: If the result of the calculation were 7.344, the final figure would be 7.3.) The numbers 5, 6, 7, 8 and 9 in all calculations shall be rounded up. (Example: If the result of the calculation were $3.468, the final figure would be $3.47).

B. Changes to Indices Used

In the event that the standard reference base period for any index used herein is revised, the calculations shall be performed using the officially released data published by the Bureau of Labor Statistics.

If an index used herein is discontinued, the successor index with which it is replaced, shall be used for subsequent calculations. If no successor index is identified by the Bureau of Labor Statistics, the government index which is most comparable shall be used.

C. Use of Final CPI Index and "Preliminary" PPI Index Issued by Bureau of Labor Statistics

The annual adjustments will be made in late spring of each year of the Term. The Consumer Price Index ("CPI") listed in Subpart 2 below is made available by the Bureau of Labor Statistics within fifteen (15) days after the close of each month. Therefore, the CPI for the twelve (12) month period described herein, will be available in time to complete the annual adjustment calculation prior to the July 1 start date for the adjusted compensation amounts. (Note: for the CPI there is no

"Preliminary" version, only the "final" version issued by the Bureau of Labor Statistics.)

The Producer Price Index ("PPI") referred to herein, is made available by the Bureau of Labor Statistics on a more lagging basis. The "Final" version of the PPI Index for the period through December of any year, will not be available in time for the annual adjustment calculation to be completed prior to the July 1 start date for the adjusted compensation amounts. Therefore, the parties agree the "Preliminary" version of the PPI Index listed below shall be used in the calculation each year.

2. Annual Adjustment Method Including Disposal Cost Adjustment Method for Contractor Compensation in Attachment D-1

A. Cost Components for Compensation Adjustment Indices

Each of the Contractor's line-item costs listed in Attachment D-1 consist of the following cost component categories and are weighted as shown in the table below. Each cost component shall be adjusted by the change in the corresponding index below.

Cost Category	Percent of Cost (Weighting)	Notes
Disposal	37.9%	Actual tip fee at the Orange County Landfill System as of the effective date of the adjustment.
Fuel	7%	Producer Price Index WPU 0531, Not Seasonally Adjusted, Fuels and related products and power, natural gas*.
All Other Costs	55.1%	Consumer Price Index for All items less food and energy in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (CUURS49ASA0L1E), or 2.5%, whichever is lower**
Total	100%	Total adjustment not to exceed 5% increase in any year

*If an index is discontinued, an alternate index (as described above) must be approved by City.

**This index may be accessed here:
https://data.bls.gov/timeseries/CUURS49ASA0

B. Calculation Methodology

Contractor's compensation in Attachment D-1 will be adjusted using the component weightings identified in "A" above. The adjustment shall be calculated as follows:

Step One. Calculate the percentage increase or decrease in each index listed above. The increase or decrease in the published index for fuel (PPI), and all other (CPI) will be the change in the average annual published index between the calendar year ended the December prior to the July 1 compensation adjustment date and the prior twelve (12) month period (see calculation example below), unless the change in the CPI exceeds a two and one-half percent (2.5%) increase. In such event, the costs labeled "All Other Costs" in the table above shall be adjusted by two and one-half percent (2.5%). The increase or decrease in the Disposal component shall be the change in the actual Disposal tip fee charged by the County of Orange as of July 1 of the year of the adjustment (pursuant to the City's landfill contract with the County in Attachment "I").

Step Two. Cost components as a percentage of total costs for the first compensation adjustment are provided in the table above. The percentage of each Cost Component for each subsequent annual adjustment (beginning with the adjustment to become effective July 1, 2023) shall be as calculated in Step Four described herein. For Step Two of each subsequent annual adjustment, use the percentage for each Cost Component recalculated in Step Four during the prior year's compensation adjustment.

Multiply the percentage changes for each compensation adjustment component by that component's weighting and add these resulting percentages together to obtain the total weighted change to the compensation.

Step Three. Multiply the total weighted percent change from Step Two by the existing compensation to calculate the increase or decrease to the maximum compensation. Add the compensation increase or decrease to the existing compensation to arrive at the newly adjusted compensation.

Step Four. Recalculate the weightings for the following year based upon these changes so that the sum of the three values equals 100%. To do so, divide the adjusted cost component weightings by the total sum of the three cost component weighting values so that the cost components are reweighed to equal 100%.

Annual Contractor Compensation Adjustments

Sample Calculations

Note: The costs and numbers in the sample calculations in this Attachment J are for example only and do not reflect the actual costs or adjustments that will be made.

Step 1: Calculate Percentage Change in Indices

			A	B	C
Row	Adjustment Factor	Index	Old Index Value	New Index Value	Percent Change in Index (Column B/Column A = "X"). X/Column A = % change (round to 1 decimal)
1	Disposal	(1)	$36.09	$37.00	2.5%
2	Fuel	(2)	67.00	70.00	4.5%
3	All Other	(3)	282.388	286.680	1.5%

Step 2: Determine Components

			D	E	F
Row	Adjustment Factor	Index	Cost Factor Category Weighted as a % of Component Total (4)	Percent Change in Index from Column (C)	Total Weighted Change (Columns D x E)
4	Disposal	(1)	28%	2.5%	0.7%
5	Fuel	(2)	6%	4.5%	0.3%
6	All Other	(3)	66%	1.5%	1.0%
7	Total (See Footnote 5)		100%		2.0%

Step Three: Apply Percentage Change to Costs

		G	H	I	J
Row	Cost Categories	Current Cost (5)	Total Weighted Percentage Change (from Column F)	Cost Increase or Decrease (Column G x Column H)	Adjusted Cost (Column G + Column I)
8	Customer collection – City	$333,846	2.0%	$6,677	$340,523
9	Bulky Item Collection/month	$549	2.0%	$11	$560
10	Sharps Collection/month	$2,285	2.0%	$46	$2,331
11	HHW Door-to-Door/month	$11,431	2.0%	$229	$11,660
12	Emergency Collection Cost/hour	$138	2.0%	$3	$141
13	Customer collection – Newport Coast	$63,416	2.0%	$1,268	$64,684
14	Enhanced SB 1383-mandated programs	$239,557	2.0%	$4,791	$244,348

15	40-yd Load of Bulk Compost provided by contractor	$175.00	2.0%	$3.50	$178.50
16	1 pallet (48 bags) of compost provided by Contractor	$98.05	2.0%	$1.96	$100.01
17	24 pallet load of bagged compost provided by Contractor (48 bags/pallet)	$2353.26	2.0%	$47.07	$2,400.33
18	Hourly Cost Per Additional Temporary Customer Service Representative	$35.00	2.0%	$0.70	$35.70
19	Collection of Non-containerized Materials During Grace Period per incident	$2.47	2.0%	$0.05	$2.52
20	Extra MSW Cart Charge paid by City during Extra Service Charge Delay Period	$6.09	2.0%	$0.12	$6.21
21	Extra Recycling Cart Charge paid by City during Extra Service Charge Delay Period	$3.41	2.0%	$0.07	$3.48
22	Extra Food Scrap/Green Waste Cart Charge paid by City during Extra Service Charge Delay Period	$4.11	2.0%	$0.08	$4.19
23	Standard Valet Cart Service Charge paid by City during Extra Service Charge Delay Period	$8.30	2.0%	$0.17	$8.47
24	Premium Valet Cart Service Charge paid by City during Extra Service Charge Delay Period	$27.68	2.0%	$0.55	$28.23

Step Four: Re-weight Cost Components

			K	L	M	N	O
Row	Adjustment Factor	Index	Cost Component (Column D)	Percentage Change in Index (Column E)	Change In Cost Components (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighed to Equal 100% (Column N Row divided by Column N Total)
25	Disposal	(1)	28.0%	2.5%	0.7%	28.7%	28.1%
26	Fuel	(2)	6.0%	4.5%	0.3%	6.3%	6.2%
27	All Other	(3)	66.0%	1.5%	1.0%	67.0%	65.7%
28	Total		100.0%			102.0%	100.0%

(1) Disposal charge at the Orange County Landfill system per agreement in Attachment I
(2) Producer Price Index WPU0531, not seasonally adjusted, Fuels and related products and power, natural gas-average annual change
(3) Consumer Price Index for All items less food and energy in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (CUURS49ASA0L1E) average annual change limited to 2.5% per year.
(4) First year based on Attachment D-1. After the first adjustment, this column comes from Column J of the previous year's cost adjustment
(5) Example shown. Adjustment applies to all applicable compensation categories.

3. Example Cost Adjustment Formula – Calculation for Average Annual Change in Published Price Indices

Cost adjustment indices for fuel (PPI), and "all other" are calculated using the average annual change in the published index (with " all other" subject to a 2.5% per year increase cap) as demonstrated in the example below, measured for the twelve (12) months ended the December before each compensation adjustment, as compared to the twelve months ended the prior December. The Bureau of Labor Statistics publishes these monthly indices.

The following example is for the Consumer Price Index for All items less food and energy in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (CUURS49ASA0L1E) that is used to adjust the "all other" cost components. If a cost adjustment based on this CPI index were to be implemented as of July 1, 2021, the twelve (12) month average annual index for the period ended December 2020 of 282.388 would have been the "New Index Value" to be used in Column B of the example cost adjustment formulas in this Attachment J, and the twelve (12) month average annual index for the period ended December 2019 of 277.102 would have been the " Old Index Value" in Column A. This would have resulted in a 1.9% increase to the "all other" cost components in Column C.

All items less food and energy in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (CUURS49ASA0L1E)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
2019	273.579	273.716	274.954	276.185	276.421	277.384	277.590	278.131	278.935	279.732	279.781	278.812	277.102
2020	281.022	282.124	280.815	280.885	281.340	282.329	283.839	283.752	282.712	283.055	283.873	282.907	282.388

4. Annual Adjustment Method For Prices Contractor Direct-Bills to Customers for Extra Services in Attachment D-2

A. Timing of Adjustment of Prices in Attachment D-2

The prices in Attachment D-2 shall be in effect from January 15, 2022 through June 30, 2022. Each of the prices listed in Attachment D-2 shall be adjusted to become effective July 1, 2022 and shall also be adjusted each July 1 thereafter, for the duration of the Term of the Agreement as follows.

B. Calculation Methodology

Multiply each price in Attachment D-2 by the total weighted average change calculated in Step Two of Section 1 above. (See Table titled “Step Two – Determine Components” Row 7 of Column “F”.

Sample Calculation:

Premium Valet Service – Initial Price as of January 15, 2022:
$27.68 per month

$27.68 x 2.0% = $0.55 + $27.68 = $28.23 per month (new Price)

5. Adjustment Method For Monthly Cost Per Residence (Only Used For Calculation in Attachment Z and Only if Directed by City)

The parties have determined and agreed that the monthly cost per residence to receive the basic level of Residential service from Contractor is $24.08 as of the Effective Date. For purposes of the calculations described in Attachment Z, the annual adjustment is applied to the Monthly Cost per Residence as follows:

A. Timing of Adjustment of Per Residence Collection Cost

The "Monthly Cost Per Residence" of $24.08 (shown in Attachment Z) shall be in effect from January 15, 2022 through June 30, 2022. This cost shall be adjusted to become effective July 1, 2022 and shall also be adjusted each July 1 thereafter, for the duration of the Term of the Agreement as follows. This adjusted cost is only used for City-directed addition of specific groups of Residences and/or a cumulative increase of 40 or more Certificates of Occupancy issued by the City for a newly developed parcel pursuant to Section 12.07 and Attachment Z of the Agreement, and for no other purpose.

B. Calculation Methodology

Multiply the "Monthly Cost Per Residence" in Attachment Z by the total weighted average change calculated in Step Two of Section 1 above.

Sample Calculation:

"Monthly Cost Per Residence" – Initial amount as of the Effective Date of the Agreement: $24.08/month

$24.08 x 2.0% = $0.48 + $24.08 = $24.56 per month (new Monthly Cost Per Residence)

ATTACHMENT C

Updated D-1 Compensation Schedule

Attachment D1
City of Newport Beach
Compensation Schedule

Applicable from July 1, 2026 through June 30, 2027

Basic Service	Monthly Amount
Customer collection - City	$ 431,742.93
Customer collection - Newport Coast	$ 80,043.99
Enhanced SB1383-mandated programs	$ 302,369.44
Bulky Item Collection/month	$ 692.96
Sharps Collection/month	$ 2,499.43
HHW Door-to-Door/month	$ 12,503.69
Container pull-out for disabled customers	No Charge
Two (2) annual shred days	No Charge
One (1) annual compost/mulch giveaway	No Charge
Total City Billing	**$ 829,852.44**

ATTACHMENT D

2026 Rate Adjustment Compensation Calculation

City of Newport Beach
2026 Rate Adjustment
Compensation Calculation

Step One: Calculate Percentage Change in Indices

			A	B	C
Row	Adjustment Factor	Index	Old Index Value	New Index Value	Percent Change in Index ((Column B/Column A)-1)
1	Disposal	(1)	$ 43.76	$ 67.00	53.1%
2	Energy	(2)	72.835	99.435	36.5%
3	All Other (Capped at 2.5%)	(3)	329.590	340.208	2.5%

Prelim
3.2% Actual

Step Two: Determine Components

			D	E	F
Row	Adjustment Factor	Index	Cost Factor Category Weighted as a % of Component Total (4)	Percent Change in Index from Column (C)	Total Weighted Change (Columns D x E)
4	Disposal	(1)	30.0%	53.1%	15.9%
5	Energy	(2)	4.8%	36.5%	1.7%
6	All Other	(3)	65.2%	2.5%	1.6%
7	Total (5)	(5)	100%		19.2%
	Total annual change in compensation limited to 5% per year (positive or negative).				19.2%

3.3% CPI without disposal

Step Three: Apply Percentage Change to Rates

			G	H	I	J
Row	Rate Categories		Current Customer Rate	Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
8	Customer collection - City		$ 353,508.24	19.2%	$ 67,873.58	$ 421,381.82
	Bonita Canyon (287 units, added 9/11/2023)		$ 7,315.73	19.2%	$ 1,404.62	$ 8,720.35
	Belcourt (54 units, added 7/27/2023)		$ 1,376.48	19.2%	$ 264.28	$ 1,640.76
	Total Customer Collection		**$ 362,200.45**		**$ 69,542.49**	**$ 431,742.93**
9	Bulky Item Collection/month		$ 581.34	19.2%	$ 111.62	$ 692.96
10	Sharps Collection/month		$ 2,419.58	3.3%	$ 79.85	$ 2,499.43
11	HHW Door-to-Door/month		$ 12,104.25	3.3%	$ 399.44	$ 12,503.69
13	Customer collection - Newport Coast		$ 67,151.00	19.2%	$ 12,892.99	$ 80,043.99
14	Enhanced SB1383-mandated programs		$ 253,665.64	19.2%	$ 48,703.80	$ 302,369.44
12	Emergency Collection Cost/hour		$ 146.13	3.3%	$ 4.82	$ 150.95
15	40-yd Load of Bulk Compost provided by contractor		$ 185.31	3.3%	$ 6.12	$ 191.43
16	1 pallet (48 bags) of compost provided by Contractor		$ 103.83	3.3%	$ 3.43	$ 107.26
17	24 pallet load of bagged compost provided by Contractor (48 bags/pallet)		$ 2,491.86	3.3%	$ 82.23	$ 2,574.09
18	Hourly Cost Per Additonal Temporary Customer Service Representative		$ 37.06	3.3%	$ 1.22	$ 38.28
19	Collection of Non-containerized Materials During Grace Period per incident		$ 2.61	19.2%	$ 0.50	$ 3.11
20	Extra MSW Cart Charge paid by City during Extra Service Charge Delay Period		$ 6.44	19.2%	$ 1.24	$ 7.68
21	Extra Recycling Cart Charge paid by City during Extra Service Charge		$ 3.61	3.3%	$ 0.12	$ 3.73
22	Extra Food Scrap/Green Waste Cart Charge paid by City during Extra Service Charge Delay Period		$ 4.36	3.3%	$ 0.14	$ 4.50
23	Standard Valet Cart Service Charge paid by City during Extra Service Charge Delay Period		$ 8.80	3.3%	$ 0.29	$ 9.09
24	Premium Valet Cart Service Charge paid by City during Extra Service Charge Delay Period		$ 29.30	3.3%	$ 0.97	$ 30.27
25	Replacement Sure Close™ Kitchen Food Scrap Pail		$ 10.53	3.3%	$ 0.35	$ 10.88
26	Removal of Non-containerized MSW, Green Waste, and/or Recyclable Materials		$ 2.61	19.2%	$ 0.50	$ 3.11
27	Extra Bulky Item Pickup		$ 14.77	19.2%	$ 2.84	$ 17.61

Step Four: Re-weight Cost Components

			K	L	M	N	O
Row	Adjustment Factor	Index	Cost Component (Column D)	Percentage Change in Index (Column E)	Change In Cost Components (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighed to Equal 100% (Column N Row divided by Column N Total)
28	Disposal	(1)	30.0%	53.1%	15.9%	46.0%	38.5%
29	Energy	(2)	4.8%	36.5%	1.7%	6.5%	5.4%
30	All Other (Capped at 2.5%)	(3)	65.2%	2.5%	1.6%	66.9%	56.0%
31	Total		100.0%			119.3%	100.00%

(1) Disposal charge at the Orange County Landfill system per agreement in Attachment J
(2) Producer Price Index WPU0531, not seasonally adjusted, Fuels and related products and power, natural gas-average annual change
(3) Consumer Price Index for All items less food and energy in Los Angeles-Long Beach-Anaheim, CA, all urban consumers, not seasonally adjusted (CUURS49ASA0L1E) average annual change limited to 2.5% per year.
(4) First year based on Attachment D-1. After the first adjustment, this column comes from Column J of the previous year's rate adjustment
(5) Total annual change in compensation limited to 5% per year (positive and negative per Amendment 1 eff Jan 2025)

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 10

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jeff Boyles, Fire Chief - 949-644-3101, jboyles@nbfd.net
PREPARED BY:	Justin Carr, Assistant Fire Chief - 949-644-3040, jcarr@nbfd.net Raymund Reyes, Administrative Manager - 949-644-3352, rreyes@nbfd.net
TITLE:	Response to the 2025-2026 Orange County Grand Jury Report "Wildfires Hit Home"

ABSTRACT:

The 2025-2026 Orange County Grand Jury (Grand Jury) report "Wildfires Hit Home" investigates the increase in wildfires throughout the State of California and mitigation and response efforts. It addresses community education and outreach, insurance costs and regulations, and the responsibilities of local governments and fire service agencies in reducing the risk of wildfire in the wildland-urban interface. The report includes a commendation to the City of Newport Beach (City) for its dedication to the highest level of fire protection and safety.

Per California Penal Code Sections 933, the Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in the report. Responses must be submitted to the Presiding Judge of the Superior Court on or before August 19, 2026. The Newport Beach Fire Department agrees with and supports all findings and recommendations contained in the Grand Jury report and prepared a formal response for City Council approval and submission.

RECOMMENDATIONS:

a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and

b) Approve the Newport Beach Fire Department's response to the 2025-2026 Grand Jury Report, "Wildfires Hit Home," authorize the Mayor to sign the cover letter, and authorize the Fire Chief to finalize and submit the response on behalf of the City of Newport Beach to the Presiding Judge of the Orange County Superior Court.

DISCUSSION:

The 2025-2026 Grand Jury recently completed an investigation into the increase in California wildfires in wildland-urban interface areas, fire insurance coverage, and the insurance industry, and the actions of various fire service agencies and communities in risk reduction and fire prevention. The resulting report, “Wildfires Hit Home,” was issued on May 19, 2026.

Based on analyses of historical data, government legislation, and the actions and responses of public agencies and communities, the Grand Jury issued six findings:

- **F1**: More frequent and severe wildfires driven by increasingly hotter, drier and windier conditions in the Orange County wildland-urban interface are escalating impacts on financial (especially with regards to home insurance) and non-financial resources.

- **F2**: Actions addressing conditions in the home ignition zone that can significantly reduce ignition potential can prevent a community wildland-urban interface fire disaster.

- **F3**: Expanded community engagement regarding home hardening and defensible space increases the effectiveness of wildfire risk mitigation and insurance risk reduction efforts.

- **F4**: Community-level and property-level wildfire risk mitigation designations (e.g. Firewise USA) lessens wildfire risk and helps reduce insurance premium costs.

- **F5**: All Orange County residents should be made aware that Safer from Wildfire regulation requires insurers to provide discounts to homeowners and communities that implement home hardening and defensible space measures regardless of whether or not a property is located within a Fire Hazard Severity Zone.

- **F6**: Assembly Bill (AB) 888, the California Safe Homes Grant Program, provides financial assistance to eligible homeowners, cities, counties, and special districts for home hardening and defensible space measures. Applying for and using these grant funds will reduce wildfire losses and improve insurability and resilience of vulnerable communities.

The Grand Jury proposed four recommendations based on these findings:

- **R1**: By December 31, 2026, the Orange County Board of Supervisors should plan to host a county-wide annual wildfire prevention for the county and all cities and fire service agencies.

- **R2**: By December 31, 2026, cities and fire service agencies should commit to participation in the county-wide annual wildfire prevention fair.

- **R3**: By December 31, 2026, cities, unincorporated areas, special districts, and fire service agencies in High and Very-High Fire Hazard Severity Zones should initiate planning activities to achieve community-level wildfire risk mitigation designations and/or establish a local Fire Safe Council within one year.

- **R4**: By December 31, 2026, OCFA member and non-member cities should provide information, develop their own outreach program, and establish a direct contact person(s) for their residents to ensure residents are engaged and aware of wildfire risk reduction resources.

The Grand Jury also issued two commendations; one to Yorba Linda Water District, and one to the Newport Beach Fire Department. The Grand Jury recognized the outstanding efforts of the City's fire department in fire protection and safety, and for being a role model for other cities in Orange County and elsewhere. The commendation also noted the department's designation as a Class 1 fire agency from the Insurance Service Office in 2024 and the Fire Prevention Division's leadership for their extensive knowledge of fire science.

Per California Penal Code Sections 933 and 933.05, the Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in the report no later than 90 days from the publication of the report. Given the May 19, 2026, publication date, responses must be submitted to the Presiding Judge of the Superior Court on or before August 19, 2026. The City of Newport Beach is required to provide responses for all six findings and recommendations R2, R3 and R4.

The Fire Department agrees and supports all findings and the three recommendations issued by the Grand Jury report. The prepared response addresses each finding and recommendation, detailing the City's long-standing efforts in wildfire-prevention and mitigation, community engagement, and furtherance of programs that promote community risk reduction. This includes the establishment of a local Fire Safe Council, maintaining four recognized Firewise USA Communities, utilization of grant funding to supplement fuel mitigation efforts, constant community education, and use of fire fuel modeling technology. Staff is requesting City Council approval of the prepared response for submission to Presiding Judge of the Orange County Superior Court.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – 2025-2026 Orange County Grand Jury Report “Wildfires Hit Home”
Attachment B – Proposed Response to the 2025-2026 Grand Jury Report
Attachment C – Draft Cover Letter to the Presiding Judge of the Orange County Superior Court

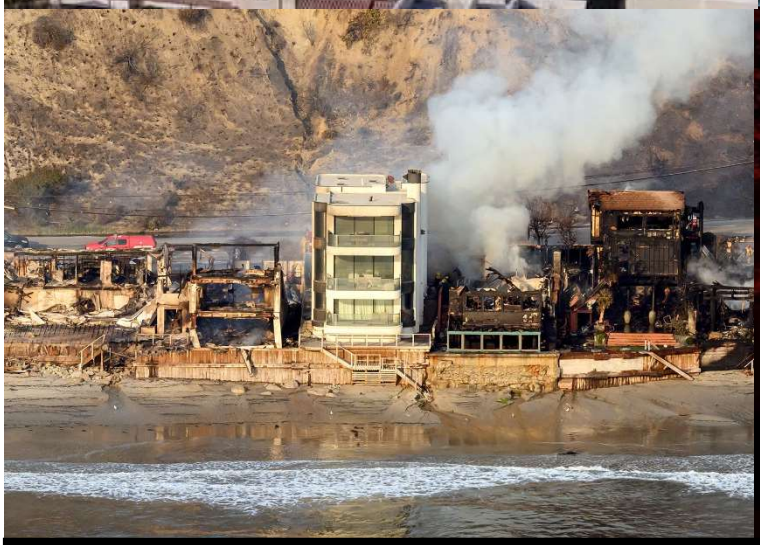
Attachment A

2025-2026 Orange County Grand Jury Report

“Wildfires Hit Home”









Wildfires Hit Home

Orange County Grand Jury 2025-2026

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SUMMARY

Wildfires have become a fact of life in California. Persistent drought conditions and accelerated warming have led to an increase in wildfires throughout the state. Of the twenty most destructive wildfires in California history, fifteen have occurred in the last ten years (see Appendix A). From the Camp Fire, also referred to as the Paradise Fire, in Northern California to the Palisades and Eaton Fires in Los Angeles and the Airport Fire in Orange County, the tragic loss of life and the destruction of thousands of homes and structures have upended homeowners' lives and rocked the insurance industry with billions of dollars in claims just in the last few years. These conditions have made home insurance unaffordable or unavailable for many Orange County residents. The State of California has attempted over recent years to mitigate the impact on ratepayers and insurers and has provided tougher regulations for hardening homes and property. Both the California legislature and the California Department of Insurance have issued recent laws and regulations to address these issues. Significant for this report are Safer from Wildfires (2022), California Fair Access to Insurance Requirements (FAIR) Plan (1968, revised 2025), Assembly Bill 888 (2025) and California Wildland-Urban Interface Code (2025).

The California FAIR Plan was established in 1968 to provide basic insurance for property owners who could not obtain fire coverage through the traditional insurance market due to being in high-risk fire areas. The FAIR Plan is not a state agency, and it receives no taxpayer funding. It is a syndicated fire insurance pool made up of all insurers licensed to write property/casualty insurance in the state. The FAIR Plan is intended to be the insurer of last resort and is meant to be a temporary safety net helping property owners until they can transition back to the traditional insurance market. The numerous fires over the last few years coupled with private insurers leaving the California market or no longer insuring homes in high-risk areas, have resulted in the FAIR Plan being financially strained with the number of policies more than doubling since September 2023.[1] The State Legislature and Department of Insurance both responded with strategies to rebalance this problem requiring insurers to increase the number of policies issued in high-risk areas and to change the way rates are established, however, insurance companies, using loopholes in the legislation, have so far largely avoided meeting the goals set for them.[2]

The Safer from Wildfires regulation was issued by the Insurance Commissioner after development in partnership with California Department of Forestry and Fire Protection (CAL FIRE) and the Governor's Office of Emergency Services. The regulation mandates

[1] Key Statistics & Data. The California FAIR Plan. https://www.cfpnet.com/key-statistics-data/
[2] The New York Times, *California Promised Insurance Relief, But Delivered Loopholes*, Nov. 2, 2025.

that insurance companies provide rate discounts for various actions that property owners take to create defensible space and harden their homes against wildfires (see Appendix B).

AB888, the California Safe Homes Grant Program, aims to reduce wildfire losses, improve insurability and resilience of vulnerable communities, and support home hardening efforts to help residents qualify for insurance premium incentives. It provides grants to aid qualifying residents and communities to complete wildfire risk mitigation measures.

The California Wildland-Urban Interface Code (CWUIC) refers to the California Building Standards Code, Title 24, Part 7. Effective in January 2026, the CWUIC requires fire-resistant and ignition-resistant construction in Fire Hazard Severity Zones or the wildland-urban interface. Requirements were also established for vegetation and hazard mitigation in the same areas. Studies have definitively shown that implementing these home hardening and defensible space requirements, including retrofitting existing homes, will greatly reduce ignition and fire spread, thereby reducing damage and resulting claims. Compliance with the 2015 International Wildland-Urban Interface Code (IWUIC) could save $4 for every $1 invested and retrofitting structures to the IWUIC could provide from $2 to as much as $8 in benefits for each $1 invested.[3] Home hardening and defensible space measures that align with wildland-urban interface codes and Safer from Wildfires regulations will help save homeowners and insurance companies from catastrophic loss.

The 2025-2026 Orange County Grand Jury found evidence that clearly shows Safer from Wildfires home hardening and defensible space measures protect homes and communities, saving homeowners, local governments, and fire authorities as well as insurance companies from catastrophic loss while also providing discounts for homeowners' insurance premiums.

BACKGROUND

California's Wildfire Crisis and Insurance Impact

California faces an escalating wildfire crisis fueled by accelerated warming, prolonged droughts, increasingly windy conditions, and expanded development into fire-prone areas. Between 2015 and 2025, 15 of the 20 most destructive wildfires in state history

[3] National Institute of Building Science, *Natural Hazard Mitigation Saves.* 2019. https://nibs.org/wp-content/uploads/2025/04/NIBS_MMC_MitigationSaves_2019-1.pdf. Accessed March 3, 2026.

occurred, including the Palisades and Eaton Fires in 2025. These events have caused loss of life, devastated communities, destroyed thousands of homes, and resulted in billions in insured losses (see Appendix A).

The Eaton Fire in January 2025, spread through the suburbs of Pasadena destroying 9,413 structures and burning 14,021 acres. It became Los Angeles County's most destructive and second deadliest fire with 19 fatalities (see Appendix A).

On the same day in January 2025, the Palisades Fires swept through Pacific Palisades, Topanga, and Malibu, consuming 6,833 homes and 23,707 acres. It became Los Angeles County's third-most destructive fire and third deadliest with 12 fatalities (see Appendix A). Both fires were fueled by strong Santa Ana winds of between 80-100 mph, extremely dry conditions, and dense vegetation, creating what officials called a "perfect storm" for wildfire spread.[4,5]

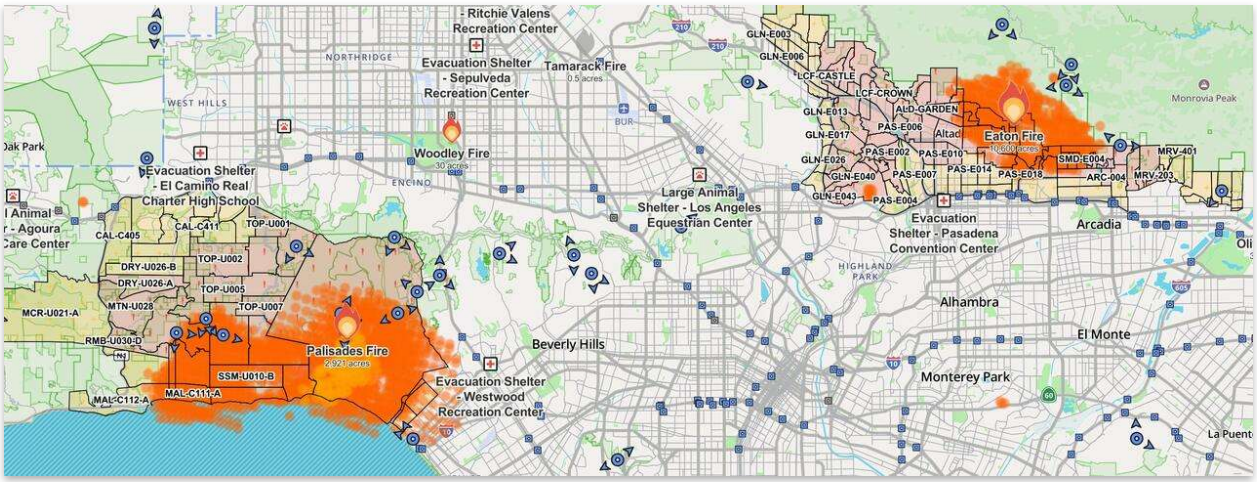


Figure 1 Map of Eaton and Palisades Fires in January 2025

The most destructive California wildfire listed by CAL FIRE is the November 2018 Camp Fire in Butte County which burned 153,336 acres, destroyed 18,804 structures, and resulted in 85 deaths. The CAL FIRE list of the Top 20 Most Destructive California Wildfires can be viewed in detail in Appendix A. Data for Orange County wildfires for the period 2008 through 2024 can be viewed in Appendix A.

Orange County's 2024 Airport Fire that started in Trabuco Canyon burned 23,500 acres and destroyed 160 structures. The fire raged for nearly a month, prompting a state of

[4] Andrea Thompson, *How the Ferocious Santa Ana Winds are Fueling the Palisades Fire*, Scientific American, Accessed January,8, 2026, http://www.scientificamerican.com
[5] Julia Jacobo and Ginger Zee, A perfect storm of weather and climate conditions led to the severity of the California fires, ABC News, Accessed January 8, 2026, http://www.abcnews.com/US/perfect-storm-weather-climate-conditions-severity-california-fires/story?id=117468072

emergency and millions of dollars in claims. This fire and others not only caused property loss, but also damaged ecosystems, water resources, and impacted air quality. Post-fire soil degradation and the expansion of invasive, non-native plants has further hindered recovery.[6]

In California, wildfires have strained the private insurance market. Many insurers, facing frequent and unsustainable financial exposure and constraints on rate hikes caused by Proposition 103 have withdrawn from high-risk areas, or stopped issuing new policies altogether. Some insurers have even withdrawn from the state completely.

California homeowners in high-risk wildfire areas report premiums ranging from $5,000 to $12,000 annually.[7] Orange County, California's fifth most expensive housing market as of the 4th quarter 2025,[8] faces challenges that are different than the statewide market. With an average home price of $1.2 million,[9] rising insurance costs further threaten housing affordability. A recent survey found that 43% of Orange County seniors worry most about housing costs and financial security.[10] Among the hardest hit by insurance premium increases and policy nonrenewal are retirees, renters, and owners of condominiums, townhomes, and mobile homes.

The Safer from Wildfires regulation requires insurers to offer discounts to homeowners who take proactive steps to reduce wildfire risk. Discounts are based on both achieving community-level designations, which assess the collective mitigation efforts of neighborhoods, and property-level improvements such as installing fire-resistant roofing, ember-resistant vents, and clearing defensible space.[11]

Reducing wildfire risk in the wildland-urban interface helps ensure that insurance coverage remains accessible. California's wildfire and insurance crisis demands coordinated action from local governments and fire authorities, communities, and homeowners to reduce risk of wildfire.

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[6] Mashall A. Hayrikian, *Engineering and Environmental Implications of the LA wildfires: Eaton and Palisades Fire*, Marshall Geoscience – Geotechnical Engineering, Laboratory Services, http://www.marshallgeo.com/geotechnical-engineering/engineering-and-environmental-implications-of-la-wildfires-eaton-palisades-fires/

[7] Merlin Law Group. *Fire Insurance in California: A Complete Guide*. https://www.merlinlawgroup.com/fire-insurance-california-guide/. Accessed March 6, 2026.

[8] California Association of Realtors®, *Median Prices of Existing Single Family Homes*. Accessed March 8, 2026. https://www.car.org/marketdata/data/housingdata

[9] O.C. CA Real Estate and Property Data, ATTOM, October 2025

[10] Gabriel San Roman, *New report on aging in Orange County outlines key concerns among seniors*, Los Angeles Times, June 21, 2024, https://www.latimes.com/socal/daily-pilot/entertainment/story/2024-06-21/aging-in-orange-county-report

[11] California Code of Regulations, Title 10, Section 2644.9, Consideration of Mitigation Factors; Wildfire Risk Models. https://regulations.justia.com/states/california/title-10/chapter-5/subchapter-4-8/article-4/section-2644-9/

REASON FOR STUDY

Wildfires have become an increasingly severe threat to residential communities in Orange County, particularly those in high-risk fire zones. The frequency and intensity of wildfires has escalated due to prolonged droughts, rising temperatures, and development encroachment into wildland-urban interface areas. Catastrophic losses from these wildfires have resulted in a continuing insurance crisis.

This study aims to (1) identify the shared responsibilities of local governments and fire service agencies, communities and homeowners to reduce the risk of wildfire in the wildland-urban interface, (2) investigate the status of actions taken by the California legislature and Department of Insurance to provide relief to policyholders, and (3) inform communities and homeowners on home hardening, defensible space, insurance risk reduction, and wildfire safety awareness.

METHOD OF STUDY

The investigation reviewed the efforts of Orange County local governments, local fire departments, and homeowner associations to better understand and provide an independent look at the above concerns and possible solutions. To achieve a clear picture of the wildfire problem in the Orange County wildland-urban interface and its impact on insurance rates, the 2025-2026 Grand Jury has done the following:

- Reviewed studies and academic papers
- Issued a Fire Hazard Severity Zone survey to all Orange County cities
- Examined the 2025 California Wildland-Urban Interface Code
- Observed a demonstration at a Yorba Linda Water District Heli-Hydrant™
- Visited Firewise USA Site designated communities
- Conducted literature review of previous statewide Grand Jury reports
- Interviewed California Department of Insurance staff, reviewed Department website and pertinent regulations
- Visited Orange County Fire Authority facilities to better understand their training, procedures, and preparedness
- Conducted multiple interviews with city, county, and fire officials, as well as homeowners association staff and residents regarding wildland-urban interface wildfire risk reduction



Orange County Fire Authority helicopter approaching Yorba Linda Water District Heli-Hydrant™
Source: Orange County Grand Jury 2025-2026

INVESTIGATION AND ANALYSIS

The 2025-2026 Grand Jury investigated the risk of wildfire in Orange County wildland-urban interface areas, the insurance industry's response to this risk, actions taken by fire prevention authorities to reduce the risk of damage and destruction of homes by wildfire, and the state legislature and California Department of Insurance (CDI) response to the insurance crisis. The Grand Jury also investigated actions homeowners should take to share the responsibility to reduce community wildfire risk, and by doing so, potentially reduce their insurance costs.

The Grand Jury investigation included evaluation of CDI initiatives, the Safer from Wildfires insurance regulation,[12] and other regulations related to wildfire and insurance risk reduction. The investigation also included examination of recent changes to Fire Hazard Severity Zone mapping, the 2025 CWUIC, and pending amendments to the ember-resistant Zone 0 regulations that comprise defensible space requirements.

Shared Responsibility for Reduction of Wildfire and Insurance Risk

There is a broad scope of shared responsibility for risk reduction in wildland-urban interface areas. State legislators, CDI, state and local fire prevention authorities, counties and cities, community-level organizations, and homeowners all share responsibility for taking actions necessary to prevent wildfires in wildland-urban interface areas and thereby reduce insurance risk and policy rates. Figure 2 below illustrates the shared responsibility.

[12] California Code of Regulations, Title 10, Section 2644.9

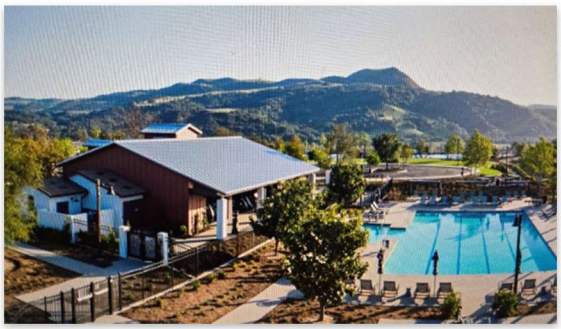


Figure 2 Shared responsibility for risk reduction in wildland-urban interface areas

The conclusion of this report focuses on the responsibilities of local governments and fire prevention authorities to provide homeowners the information and guidance needed to reduce property-level wildfire and insurance risk and thereby reduce these risks across entire communities.

Wildland-Urban Interface

Wildland-urban interface (WUI) is where urban development meets or intermixes with undeveloped natural areas. The term "wildland-urban interface" refers most often to areas where houses are located within or adjacent to relatively larger areas of natural vegetation. The U.S. Forest Service refers to WUI simply as "areas where human development meets natural landscapes.[13] WUI is at greatest risk of wildfire in



Source: RanchoMissionViejo.com

[13] Forest Service, U.S. Department of Agriculture. Wildland-Urban Interface. https://research.fs.usda.gov/nrs/fire/wui. Accessed January 12, 2026.

California, where we have led the nation in both WUI growth and wildfires for 30 years.[14]

The Wildland-Urban Interface Fire Problem

The current National Fire Protection Association (NFPA) Firewise USA program was developed out of the 1986 Wildfire Strikes Home conference principally organized by the U.S. Forest Service and the NFPA. This initiative was the initial fire management response to the home destruction problem related to wildfires nationally recognized in 1985 which has since become known as the WUI fire problem.[15]

By the middle of this century, many Orange County residents may have a dramatic experience with wildfire due to increasingly drier, hotter conditions. Research that examined wildfires during the period from 1959 through 2009 predicts that in the next 25 years Southern California will see increased wildfires during months when fall winds occur and also during the warmer, summer months. It is estimated that by the mid-21st century there will be a 64% increase in acreage burned during higher intensity fall winds, and a 77% increase during summer winds due to warmer and drier climate. A greater concern is the estimated 20% increase in structures destroyed due to fires during fall winds and estimated 74% increase in structures destroyed due to fires during summer winds in warmer, drier conditions.[16]

Orange County development that continues into the WUI should expect to face these predictions. This Orange County Grand Jury report focuses on the implications for increased wildfire and insurance risk and our concern that most homes in WUI areas are not prepared to resist ignition and destruction by wildfire.

Wildland-Urban Interface Fire Disaster and Suburban Conflagration

WUI fire disasters and suburban conflagrations occur during extreme fire conditions when numerous houses ignite and burn simultaneously, overwhelming the capabilities of firefighting resources.[17] If enough homes are ignition-resistant, many homes do not ignite during extreme fire conditions and fire protection is not overwhelmed by the

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[14] Center for Critical Urban and Environmental Studies. University of California, Santa Cruz. *Wildland Urban Interface (WUI) Research for Resilience: Addressing California's Climate, Conservation & Housing Crises*. https://criticalurbanenvironments.ucsc.edu/projects/wildland-urban-interface-wui-research-for-resilience/

[15] Jack Cohen. *The Wildland-Urban Interface Fire Problem: A Consequence of the Fire Exclusion Paradigm.* Forest History Today. Fall 2008: 20-26. https://www.fs.usda.gov/rm/pubs_other/rmrs_2008_cohen_j002.pdf. Accessed March 25, 2026.

[16] Yufang Jin, et al. *Identification of two distinct fire regimes in Southern California; implications for economic impact and future change*. Environmental Research Letters, Volume 1, Number 9. IOP Science, September 8, 2015. https://iopscience.iop.org/article/10.1088/1748-9326/10/9/094005. Accessed January 9, 2026.

[17] Cohen, *The Wildland-Urban Interface Fire Problem*, 22.

homes that do ignite; the ignition-resistant homes can survive without firefighter protection, and an extreme wildfire can occur without becoming a WUI fire disaster[18] or suburban conflagration.

Suburban conflagrations occur when fire spreads from the wildlands into the WUI and suburban environment. Suburban conflagration follows the conceptual WUI fire chain of events in Figure 3.[19] Once a structure in a community ignites, the probability of its complete destruction is high and the risk to the rest of the community increases as the burning structure produces significant heat and embers.[20] Effective prevention of structure ignitions through home hardening and defensible space measures can break the WUI fire chain of events.



Figure 3 WUI and suburban conflagration fire disaster chain of events.[21]

Home Ignition Zone and Home Ignition Potential

The home ignition zone refers to a home and its immediate surroundings within 100 to 200 feet. The home ignition zone principally determines the potential for WUI fire disasters. Research shows that a home's ignition potential during extreme wildfires is determined by the characteristics of its exterior materials and design, their response to

[18] Cohen, *The Wildland-Urban Interface Fire Problem*, 23.
[19] Ian M. Gammanco, et al. *The Return of Conflagration in Our Built Environment.* Insurance Institute for Business and Home Safety. September 2023. https://ibhs.org/wp-content/uploads/Suburban_Wildfire_Conflagration_WhitePaper.pdf. Accessed March 20, 2026.
[20] Gammanco, *The Return of Conflagration,* 22.
[21] Gammanco, *The Return of Conflagration,* 14.

burning objects within 100 feet, and their response to embers. Most destroyed homes in residential areas ignite from smaller flames and firebrands (lofted embers), not surrounding vegetation.[22] Reducing home ignition potential is the key to preventing WUI fire disaster.

Reducing Home Ignition Potential Can Prevent Wildland-Urban Interface Fire Disaster and Suburban Conflagration

During extreme WUI fires, homes ignite and burn and sustain the requirements for combustion both indirectly and directly: Indirectly from radiation and convection heating from flames, and directly from ember spot ignitions on a house. Computational modeling and laboratory and field experiments show that large flames of burning shrubs and tree canopies must be within 100 feet to ignite a home's wood exterior, while most destroyed homes ignite from smaller flames and directly from burning embers.[23] These research results suggest that addressing the conditions in the home ignition zone to significantly reduce home ignition potential can prevent WUI fire disaster. Reducing home ignition potential means addressing the ignitability of the structure rather than the immediate surroundings.



Source: Patrick T. Fallon / Agence France-Presse / Getty Images

An analysis of CAL FIRE data and Butte County property records shows that about 51% of the 350 single-family homes built after 2008 in the path of the Camp Fire were undamaged. By contrast, only 18% of the 12,100 homes built prior to 2008 escaped damage.[24] The homes built after 2008 were required to conform to 2008 Title 24, Chapter 7A of the California Building Standards Code which focused on construction of new buildings located within WUI and Fire Hazard Severity Zones. These 2008 wildfire risk mitigation requirements for new homes included materials such as fire-resistant

[22] Cohen, *The Wildland-Urban Interface Fire Problem*, 23.
[23] Cohen, *The Wildland-Urban Interface Fire Problem*, 24.
[24] Dale Kasler and Phillip Reese. *In Camp Fire, Newer Houses Were Much Less Damaged.* The Sacramento Bee. April 11, 2019, updated January 9, 2024. https://www.kqed.org/science/1940012/newer-%D8%8Cuses-much-less-damaged-in-camp-fire. Accessed March 4, 2026.

roofs and siding, and construction methods for exterior wildfire protection. These wildfire risk mitigation requirements for new construction directly reduce home ignition potential and help homes constructed to the new standards survive undamaged.

Benefits of Reducing Home Ignition Potential Can Exceed Costs

The benefits of reducing home ignition potential through compliance with new construction requirements can exceed costs, with 90% of the benefits estimated from reduced property losses and insurance costs. The benefit-cost ratio (BCR) for complying with the 2015 International Wildland-Urban Interface Code (IWUIC) has been calculated by the National Institute of Building Science for a number of representative counties with moderate to extreme fire risk. Total benefits were calculated at $3 billion and total costs at $800 million, suggesting a BCR of approximately 4:1 or $4 saved for every $1 of additional construction and maintenance cost.[25]

A national average BCR for retrofitting typical 2,000 square-foot existing homes plus nearby non-residential buildings (stores, schools, etc.) to 2018 IWUIC ignition-resistant construction and defensible space was also calculated. Benefits of retrofit exceed costs, with 93% of the benefits estimated from reduced property losses. Total benefits were calculated at $430 billion and total costs at $240 billion, equivalent to a national average BCR of 2:1 or $2 saved for every $1 of retrofit and maintenance costs.[26] The per-house retrofit cost is highly uncertain. The lowest average per-house retrofit cost would imply a much higher benefit-cost ratio, perhaps as high as 8:1, equivalent to an average of $8 saved for every $1 of retrofit cost.[27]

Office of the State Fire Marshal Fire Hazard Severity Zone Mapping

California laws now require Fire Hazard Severity Zone (FHSZ) mapping.[28,29,30] The need for FHSZ mapping arose from repeated occurrence of major destructive fires. The FHSZ maps are developed using a science-based and field-tested model that assigns a hazard score based on the factors that influence fire likelihood and fire behavior. There are three levels of hazard score: Moderate, High, and Very High. Many factors are

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[25] National Institute of Building Science, *Natural Hazard Mitigation Saves.* 63
[26] National Institute of Building Science, *Natural Hazard Mitigation Saves,* 114.
[27] National Institute of Building Science, *Natural Hazard Mitigation Saves,* 115.
[28] California Public Resources Code 4201-4204. https://law.justia.com/codes/california/code-prc/division-4/part-2/chapter-1/article-9/
[29] California Government Code 51175-89. https://law.justia.com/codes/california/code-gov/title-5/division-1/part-1/chapter-6-8/section-51175/
[30] California Code of Regulations Title 14, Section 1280. https://regulations.justia.com/states/california/title-14/division-1-5/chapter-7/subchapter-3/article-1/section-1280/

considered such as fire history, existing and potential fuel (natural vegetation), predicted flame length, blowing embers, terrain, and typical fire weather for the area. FHSZ maps evaluate hazard, not risk. “Hazard” is based on the physical conditions that create a likelihood and expected fire behavior over a 30- to 50-year period without considering mitigation measures such as home hardening, recent wildfire, or fuel reduction efforts. “Risk” is the potential damage that a fire can do to the area under existing conditions, accounting for any modifications such as fuel reduction projects, defensible space, and ignition resistant building construction.[31]

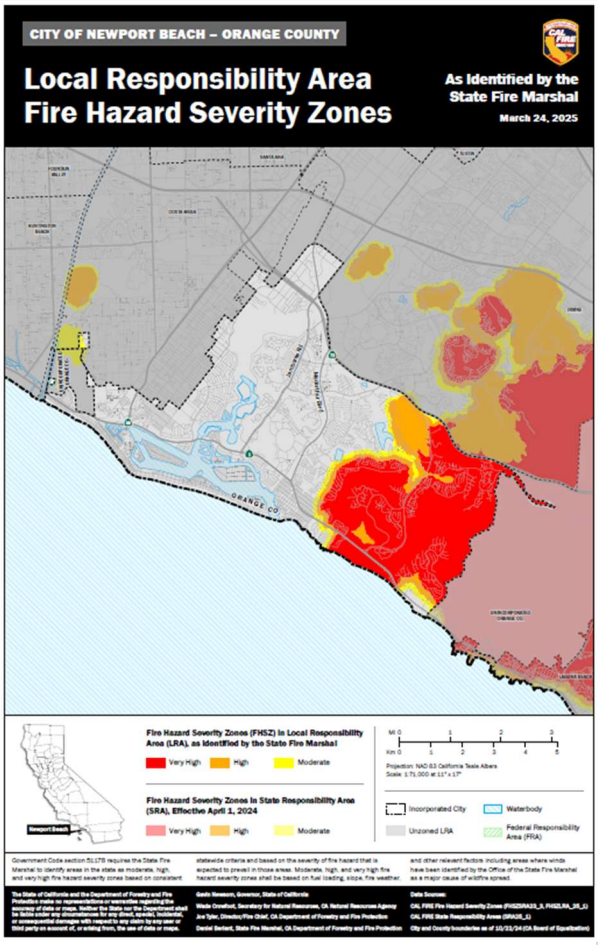


Figure 4 Example of an Orange County City LRA Fire Hazard Severity Zone Map

FHSZ mapping began with the State Responsibility Area (SRA), defined as a designated area in California where the state has primary responsibility for fire prevention and suppression. The SRA FHSZ mapping went into effect in April 2024. Since then, the Office has also been mapping Local Responsibility Areas (LRA), defined as a portion of land where local agencies, such as city or county fire departments, are responsible for wildfire protection. All Orange County FHSZ maps are accessible at the CAL FIRE website.[32] Figure 4 shows an example of an Orange County city FHSZ map. Appendix C shows a screenshot of Orange County FHSZs using the CAL FIRE Find Your Fire Hazard Severity Zone viewer accessible at this CAL FIRE web address:[33]

[31] CAL FIRE. Office of the State Fire Marshal. Fire Hazard Severity Zones. Explore Fire Hazard Severity Zones. . https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones. Accessed March 20, 2026.
[32] CAL FIRE. Office of the State Fire Marshal. Fire Hazard Severity Zones in Local Responsibility Area. Phase 4. Orange County. https://calfire.app.box.com/s/wahuw9ny7cgn89xpxh7092ur50r1pwvj/folder/312669458215. Accessed March 12, 2026.
[33] CAL FIRE. Office of the State Fire Marshal. Fire Hazard Severity Zones. https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones. Accessed March 12, 2026.

https://experience.arcgis.com/experience/5065c998b4b0462f9ec3c6c226c610a9. Homeowners can enter their address in this viewer to find whether their property is located within a specific FHSZ.

How Fire Hazard Severity Zone Maps Impact Homeowners

FHSZ maps have no direct impact on insurance coverage. The CDI states that the FHSZ maps are intended to drive local planning decisions, not insurance decisions, and that FHSZ maps have nothing to do with insurance rating.[34]

Though not used directly for insurance rating, FHSZ mapping does have significant indirect impacts. Properties located in High or Very High FHSZs are subject to certain legal requirements. New state building code requirements effective January 2026 for homes within a FHSZ or a WUI area include fire-resistant materials and construction methods. Buildings in these areas are subject to defensible space requirements. If you sell a home located in these areas, you are required to disclose fire risk and compliance to potential buyers using a specific form.

These regulations are in place to increase fire-resistance of communities and ensure property owners are aware of the risks involved in living in a wildfire-prone area.

California Wildland-Urban Interface Code Effective January 1, 2026

Title 24, Part 7 of the California Building Standards Code, also referred to as the 2025 California Wildland-Urban Interface Code (CWUIC),[35] became effective January 1, 2026.

Title 24, Part 7, Chapter 5, Special Building Construction Regulations establishes minimum standards to locate, design and construct buildings and structures or portions thereof for the protection of life and property, to resist damage from wildfires, and to mitigate building and structure fires from spreading to wildland fuels.[36] Chapter 5 requirements for construction within a FHSZ or a WUI area include:

- Specifications for fire-resistance-rated construction and non-combustible materials
- Ignition-resistant construction and material
- Replacement or repair of roof coverings

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[34] California Department of Insurance. CAL FIRE Hazard Maps Do Not Affect Insurance Rates or Availability. https://www.insurance.ca.gov/0400-news/0102-alerts/2025/CAL-FIRE-hazard-maps-do-not-affect-insu.cfm. Accessed March 6, 2026.
[35] 2025 California Wildland-Urban Interface Code, Title 24, Part 7, 2024 IWUIC Amended, Effective Date: Jan 01, 2026. https://codes.iccsafe.org/content/CAWUIC2025P2. Accessed January 22, 2026.
[36] 2025 California Wildland-Urban Interface Code, Title 24, Part 7, 2024 IWUIC Amended, Effective Date: Jan 01, 2026. https://codes.iccsafe.org/content/CAWUIC2025P2. Accessed January 22, 2026.

Defensible Space Requirements and the New Ember-Resistant Zone 0

The State Board of Forestry and Fire Protection is responsible for the existing defensible space regulations[37] for buildings or structures located in the SRA or in Very High FHSZ in the LRA. If you have a home or building in the SRA or in the Very High FHSZ in the LRA, you are responsible for ensuring that your property complies with defensible space requirements to protect structures from wildfire. The Board of Forestry and Fire Protection webpages include an illustration of existing Defensible Space Zones 0, 1, and 2 (Figure 5), and links to Zones 0, 1, and 2 resources.[38]

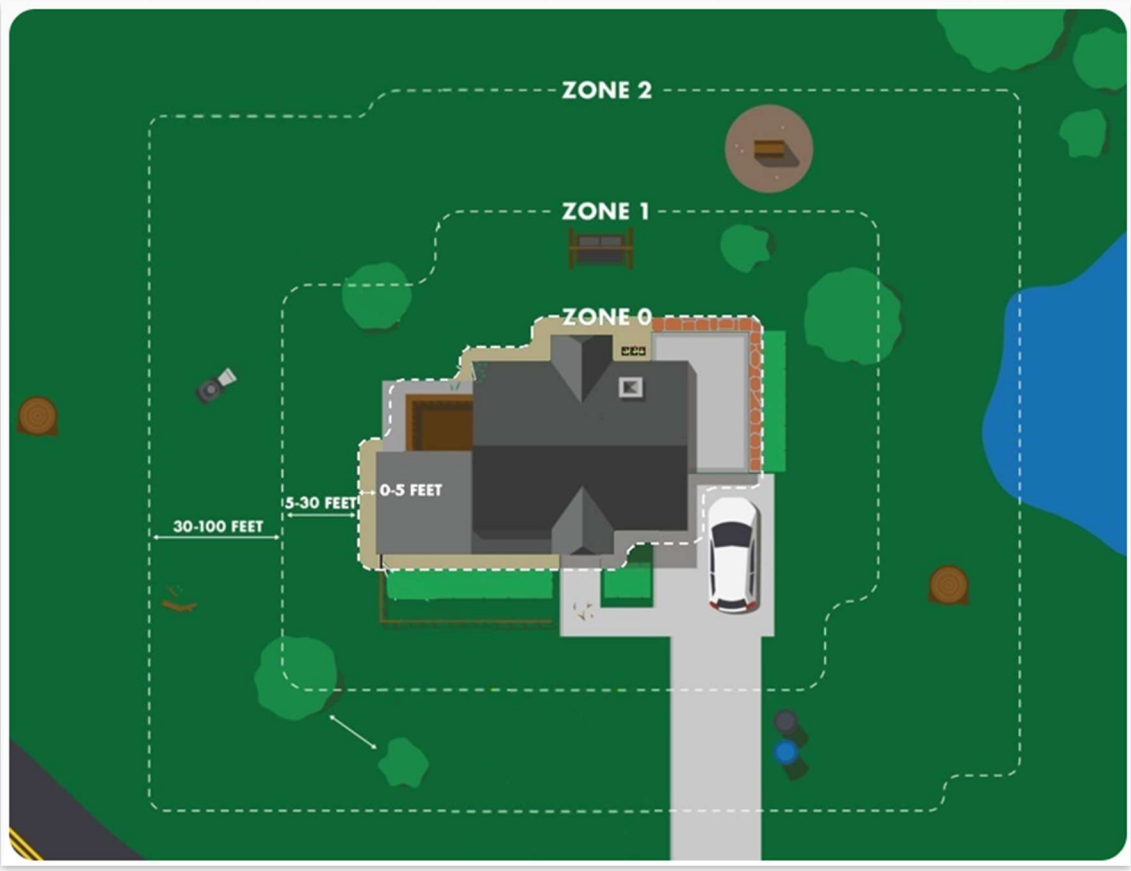


Figure 5 Board of Forestry and Fire Protection Defensible Zones 0, 1, and 2

It is important to note that “ember-resistant Zone 0” does not mean all vegetation, including trees, within 0-5 feet must be removed. New ember-resistant Zone 0

[37] California Public Resources Code Division 4 - Forests, Forestry and Range and Forage Lands Part 2 - Protection of Forest, Range and Forage Lands Chapter 3 - Mountainous, Forest-, Brush- and Grass-Covered Lands Section 4291. https://law.justia.com/codes/california/code-prc/division-4/part-2/chapter-3/section-4291/. Accessed January 14, 2026.
[38] State of California Board of Forestry and Fire Protection. https://bof.fire.ca.gov/projects-and-programs/defensible-space-zones-0-1-and-2. Accessed January 14, 2026.

vegetation options will be finalized later in 2026. The next public workshop meeting is scheduled for April 23, 2026. New ember-resistant Zone 0 requirements enhance existing defensible space requirements in High and Very High FHSZs in the LRA to create an ember-resistant zone within 0 to 5 feet of a building. [39] Compliance with existing or enhanced defensible space requirements addresses home ignition potential and reduces home ignitability. Reducing the ignitability of enough homes can break the WUI fire chain of events and help more homes escape destruction or survive undamaged.

AB38 Defensible Space Compliance Documentation and Disclosure

AB38 became effective in 2021, requiring sellers of property located in a High or Very High FHSZ to provide buyers with documentation stating the property complies with state defensible space requirements or local vegetation management ordinances, as applicable. The law provides that if documentation demonstrating compliance cannot be obtained by the close of escrow, a written agreement may be executed showing that the buyer agrees to obtain documentation of compliance within one year of the close of escrow. [40]

The law also requires a Defensible Space Disclosure be provided by sellers of property located in a High or Very High FHSZ to buyers of homes constructed before January 1, 2010. The Disclosure must include specified information and a copy of a final inspection report, or information on where the report may be obtained. A sample Defensible Space Disclosure notice is reproduced at Appendix D.

California Homeowners Insurance Crisis

Devastating property losses and casualties resulting from numerous wildfires in California WUI areas and other natural disasters beginning in 2018 have precipitated a continuing homeowners insurance crisis. Beginning in 2022 and 2023, insurers began dramatically raising California homeowners fire insurance premiums in what were considered wildfire risk areas, and some insurers began to stop issuing policies in high-risk areas or withdraw from the California homeowners' insurance market altogether. Like many homeowners throughout the state that are severely impacted by the insurance crisis, many Orange County homeowners are also impacted.

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[39] Board of Forestry and Fire Protection. Summary of October 2025 Draft Zone 0 Regulation Language. https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/bof-website/projects-and-programs/defensible-space-zones-0-1-2/october-zone-0-summary-and-rule-plead.pdf?rev=927f9551dc7b4f15b8263671cca15ef2&hash=F80F2C5451370BB3C855E38CCCC516D4. Accessed February 17, 2025.

[40] Assembly Bill 38, Wood. Fire safety: low-cost retrofits: regional capacity review: wildfire mitigation. Approved October 2, 2019. California-2019-AB38-Chaptered

Actions have been taken by the state legislature and the CDI during the last three years to strengthen the property insurance market, increase insurer commitments to write more policies in wildfire-distressed areas, and provide a framework to support homeowners in securing premium reductions from insurers when they take specific actions to reduce their community- and property-level wildfire risk.[41] Despite these actions, many homeowners remain vulnerable to dramatic policy premium increases, nonrenewal, or the inability to secure traditional insurance coverage.

A recent New York Times article[42] cites a 2023 California Association of Realtors survey wherein "nearly 7 percent of realtors surveyed…said that they had deals fall out of escrow that year because buyers couldn't find adequate, affordable coverage." As further cited in the article: "The percentage of realtors reporting that they had deals fall through for lack of insurance has more than doubled since 2023, to 16.6 percent."

Unabated Growth of the California FAIR Plan

The continuing statewide insurance crisis is further demonstrated by the unabated growth in California FAIR Plan residential insurance policies. The FAIR Plan provides basic fire insurance coverage for eligible high-risk properties when such coverage is demonstrated by the applicant to be unavailable in the traditional insurance market.[43] FAIR Plan coverage is limited, relatively expensive, and is the insurer of last resort for these properties. During the period from September 2023 to September 2025, the number of FAIR Plan residential dwelling policies in force (PIF) increased from 320,581 to 625,033 as shown at

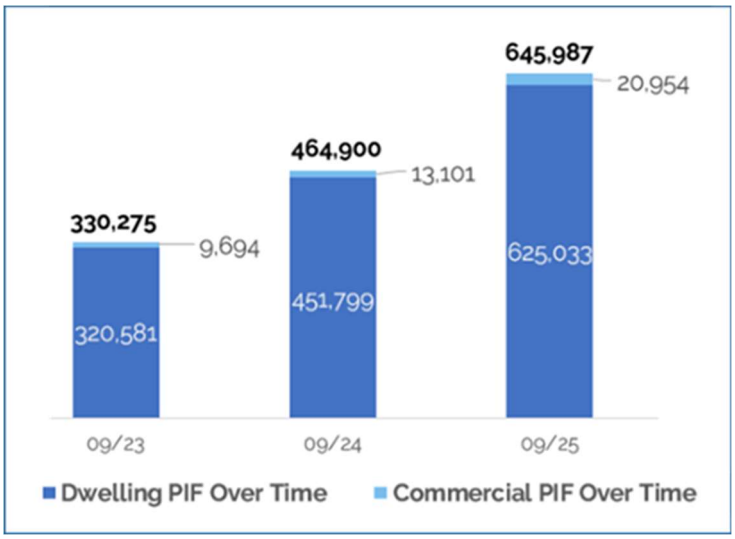


Figure 6 Total FAIR Plan Dwelling and Commercial Policies Have Increased, September 2023 to September 2025

[41] California Department of Insurance. Sustainable Insurance Strategy. https://ains.assembly.ca.gov/system/files/2023-12/insurance-commissioner-ricardo-lara-california-sustainable-insurance-strategy-presentation-to-assembly-insurance-committee-12-13-2023.pdf. Accessed January 29, 2026.

[42] New York Times.*California Promised Insurance Relief, But Delivered Loopholes*. November 1, 2025. https://www.nytimes.com/2025/11/01/us/los-angeles-california-fire-insurance-regulations.html. Accessed March 25, 2026.

[43] The California FAIR Plan. https://www.cfpnet.com/. Accessed March 25, 2026.

Figure 6.[44] FAIR Plan data for Orange County residential policies in 2022 is shown in Appendix E.

The FAIR Plan is a syndicated fire insurance pool comprised of all insurers licensed to conduct property and casualty business in California. The FAIR Plan was established by statute[45] in August 1968 as an insurance placement facility and all licensed property/casualty insurers that write basic property insurance are required to be members of the FAIR Plan. The FAIR Plan issues policies on behalf of its member companies, and each member company participates in the profits, losses, and expenses of the FAIR Plan in direct proportion to its market share of business written in the state. The FAIR Plan is not a state agency or public entity; it does not receive public or taxpayer funding. As the total number of FAIR Plan policies continues to grow unabated, so does the financial strain on the overall FAIR Plan fire insurance pool.

Insurance Relief for Homeowners: Safer from Wildfires Insurance Regulation

The first of the wildfire safety regulatory incentives was the Safer from Wildfires regulation enacted in fall 2022.[46] Safer from Wildfires requires insurers to offer premium discounts based, in part, on mandatory factors including community-level wildfire risk mitigation designations and property-level wildfire risk mitigation efforts. Every action taken under Safer from Wildfires qualifies applicants and policyholders for insurance discounts.

Safer from Wildfires: Community-Level Wildfire Risk Mitigation

There are two examples of community-level wildfire risk mitigation designations listed in the Safer from Wildfire regulation: 1) Fire Risk Reduction Community Listing[47] approved by the Board of Forestry and Fire Protection, and 2) Firewise USA Site Designation[48] approved by the National Fire Protection Association. Other examples of community-level wildfire risk mitigation designations include local Fire Safe Council supported by the California Fire Safe Council, Community Wildfire Protection Plan supported by the

[44] Key Statistics & Data. The California FAIR Plan. https://www.cfpnet.com/key-statistics-data/. Accessed March 25, 2026.
[45] California Insurance Code sections 10090 et seq. https://law.justia.com/codes/california/code-ins/division-2/part-1/chapter-9/section-10090/. Accessed April 21, 2026.
[46] California Code of Regulations, Title 10, Section 2644.9
[47] Fire Risk Reduction Community listed by the Board of Forestry and Fire Protection pursuant to Public Resources Code Section 4290.1. https://bof.fire.ca.gov/projects-and-programs/fire-risk-reduction-community-list. Accessed February 10, 2026.
[48] Firewise USA program managed by National Fire Protection Association (NFPA). https://www.nfpa.org/Education-and-Research/Wildfire/Firewise-USA. Accessed April 21, 2026.

U.S. Fire Administration, and the Wildfire Prepared Neighborhood™ Pilot Program[49] being launched by the Insurance Institute for Business & Home Safety (IBHS).

Safer from Wildfires: Property-Level Wildfire Risk Mitigation

Safer from Wildfires also requires insurers to offer premium discounts based, in part, on the reduced wildfire risk resulting from each and every property-level wildfire risk mitigation action. These individual property-level wildfire risk mitigation efforts include measures addressing the immediate surroundings of a building and building hardening. The IBHS offers homeowner guidance based on its research,[50] and a property-level Wildfire Prepared Home™ designation[51] that recognizes mitigation measures addressing both immediate surroundings and home hardening.

Safer from Wildfires: Property-Level Measures Addressing Immediate Surroundings - Defensible Space

The following measures are specified in Safer from Wildfires to address the immediate surroundings of a building. Each of these actions qualifies for insurance discount:

a. Clearing of vegetation and debris from under decks
b. Clearing of vegetation, debris, mulch, stored combustible materials, and any and all movable combustible objects from the area within five (5) feet of the building
c. Use of only noncombustible materials in any improvements to the property, including fences and gates situated within five (5) feet of the building
d. Removal or absence of combustible structures, including sheds and other outbuildings, from the area within thirty (30) feet of the building or as much of such area as is under the control of the applicant or policyholder
e. Whether the property upon which the building is situated complies with state or local defensible space requirements, as applicable

Safer from Wildfires: Property-Level Building Hardening Measures

The following building hardening measures are specified in Safer from Wildfires. Each of these actions qualifies for insurance discount:

a. Class-A fire rated roof
b. Enclosed eaves

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[49] Institute for Business & Home Safety. Wildfire Prepared Neighborhood Pilot Program. https://wildfireprepared.org/wildfire-prepared-neighborhood-pilot-program/. Accessed March 19, 2026.
[50] IBHS Research. *Wildland Fire Embers and Flames: Home Mitigations That Matter*. April 2023. https://ibhs1.wpenginepowered.com/wp-content/uploads/Home-Mitigations-that-Matter-FINAL.pdf. Accessed February 10, 2026.
[51] Institute for Business & Home Safety. Wildfire Prepared Home: Take Proven Steps to Reduce Your Risk. https://wildfireprepared.org/. Accessed March 19, 2026.

c. Fire-resistant vents
d. Multipane windows, including dual pane windows, or functional shutters, which when closed, cover the entire window and do not have openings
e. At least six (6) inches of noncombustible vertical clearance at the bottom of the exterior surface of the building, measured from the ground up

Safer from Wildfires: Optional Factors

The Safer from Wildfires regulation also incorporates other optional factors that are substantially related to risk of wildfire loss. These optional factors may include, but are not limited to: fuel, slope, access, aspect, structural characteristics, wind, and other community-level or property-level mitigation efforts, or designations as recommended by a state or local fire safety agency or organization as reducing wildfire risk.

Reducing Wildfire and Insurance Risk: AB888 The California Safe Homes Grant Program

AB888 established the California Safe Homes Grant Program in October 2025 to be developed and administered by the Department of Insurance for the purpose of achieving the following goals:

(1) Reducing local and statewide wildfire losses
(2) Improving insurability and resilience of vulnerable communities
(3) Home hardening of insurable properties to mitigate wildfire risk and enable consumers to get access to insurance premium incentives offered by insurance companies and in alignment with the department's rules.

Eligible California Safe Home Grant Program applicants include qualifying individuals and qualifying cities, counties, and special districts. For individuals, grant funds may be awarded if the following criteria are met:

(1) The property of the applicant is covered by an admitted insurer or the California FAIR Plan
(2) The property of the applicant is in a ZIP Code that overlaps with a High or Very High FHSZ.
(3) The income of the applicant is no higher than the low-income limit for the county in which they reside

As of January 1, 2026, the Department of Insurance was developing the grant application portal and planned to begin accepting California Safe Homes Grant applications in spring 2026.[52]

Our Shared Responsibilities

Orange County Fire Authority (OCFA)

OCFA serves all unincorporated areas of Orange County and its 23 Orange County member cities. The OCFA Board of Directors is made up of elected officials from the County and its member cities. The 11 Orange County cities that are not served by OCFA have their own city fire departments, i.e., their own fire service agencies having jurisdiction. The list of OCFA member cities and other Orange County fire service agencies is included at Appendix F.

OCFA education and outreach programs are comprehensive. Online materials and event scheduling is accessible at their website. and a staff of seven community education specialists and a community education supervisor are available to coordinate and attend events. The Wildfire Preparedness[53] webpages cover multiple topic areas including:

- Ready, Set, Go!
- Home Assessment
- Defensible Space Disclosure Inspection
- Pest Control (tree pests management)
- Immediate Zone
- FHSZ Maps
- Insurance
- Contractors (specializing in wildfire preparedness)

OCFA takes a systematic approach to mitigating risk through its Community Risk Reduction Department (formerly Fire Prevention). OCFA Community Risk Reduction (CRR) staff identifies community risks, collaborates with developers, agencies, and residents to build and maintain safe communities.[54] In addition to the extensive Wildland Preparedness webpages, the CRR department webpages include a section on Wildland & Vegetation with specific information for homeowners in wildland interface areas. The CRR department supports homeowners' risk reduction efforts by providing an online

[52] CalMatters. California homeowners could qualify for grants for new roofs and fire safety. January 1, 2026. https://calmatters.org/economy/2026/01/california-safe-homes-grants/. Accessed February 17, 2026.
[53] Orange County Fire Authority. Wildfire Preparedness. https://ocfa.org/ready-set-go/. Accessed February 24, 2026.
[54] Orange County Fire Authority. About Us. Departments. https://ocfa.org/about-us/departments/community-risk-reduction/. Accessed February 24, 2026.

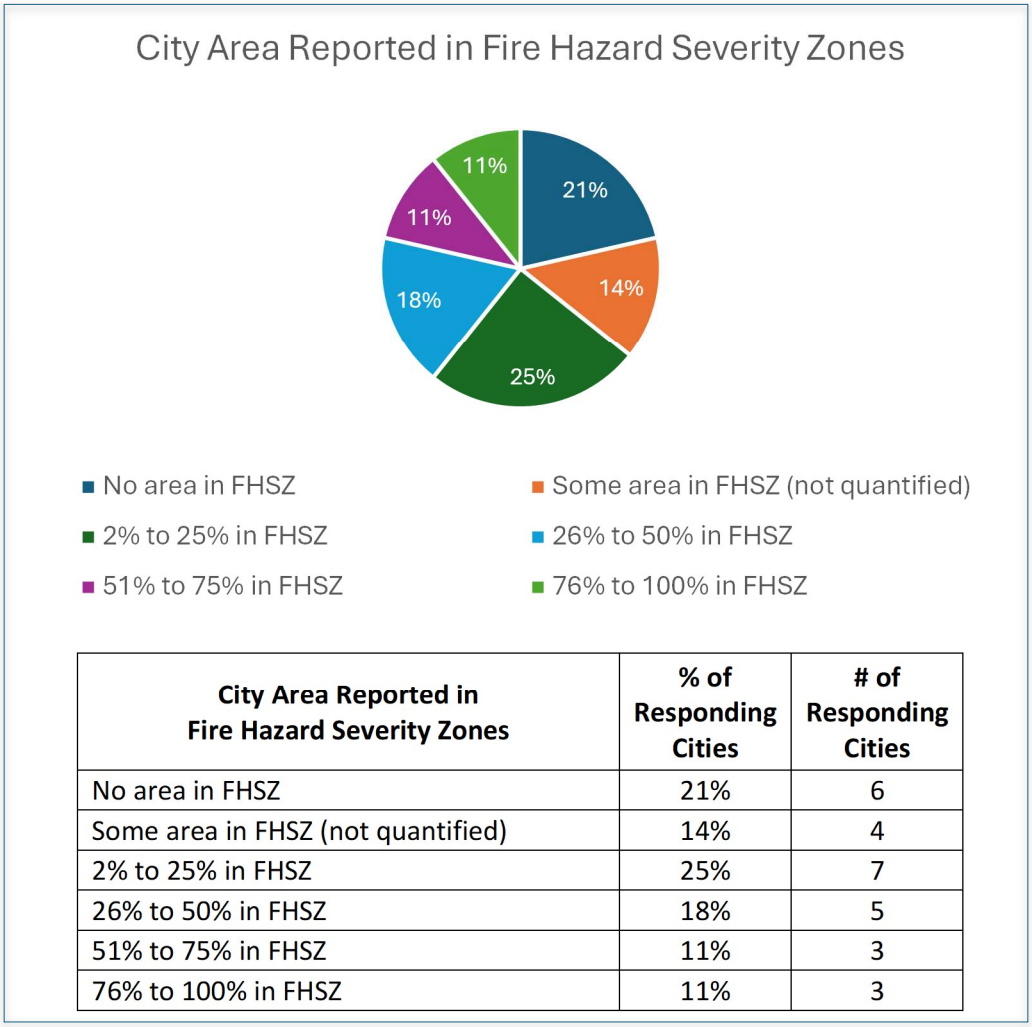
home assessment tool[55] that covers the basics of both home hardening and defensible space principles. The online assessment tool guides the homeowner through a series of questions and ends with the opportunity to receive an emailed report providing recommendations for fire mitigation strategies. Before beginning the online questionnaire, homeowners are given the option to request an in-person home assessment with an OCFA Fire Prevention Specialist.

Fire Hazard Severity Zone Survey Results - Local Governments and Fire Service Agencies

This investigation included a survey of Orange County cities to gather information about their efforts to reduce risk of wildfire in WUI areas and their outreach programs for homeowners. The Grand Jury invited 34 Orange County cities to respond to the survey and received 28 responses. Of these 28 responses, 20 were from various city departments, and eight were from city fire departments.

The Orange County cities that responded to the survey reported having from zero to 100% of their city land area within Moderate, High, or Very-High FHSZs. Reported land areas may not match each individual city's FHSZ map. A summary of the survey results for city area reported in FHSZs are shown at Figure 7:

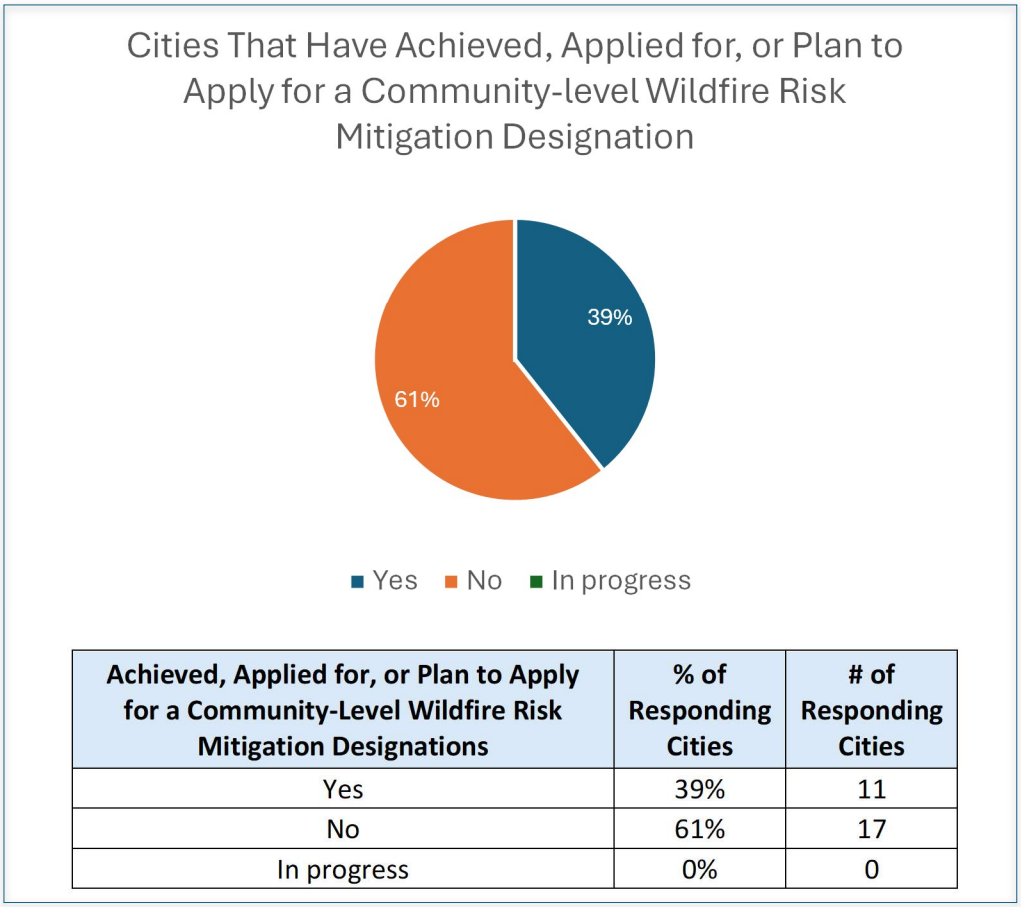
[55] Orange County Fire Authority. Home Assessment Tool. https://ocfa.org/ready-set-go/home-assessment/. Accessed February 24, 2026.



City Area Reported in Fire Hazard Severity Zones	% of Responding Cities	# of Responding Cities
No area in FHSZ	21%	6
Some area in FHSZ (not quantified)	14%	4
2% to 25% in FHSZ	25%	7
26% to 50% in FHSZ	18%	5
51% to 75% in FHSZ	11%	3
76% to 100% in FHSZ	11%	3

Figure 7 City Area Reported in Fire Hazard Severity Zones

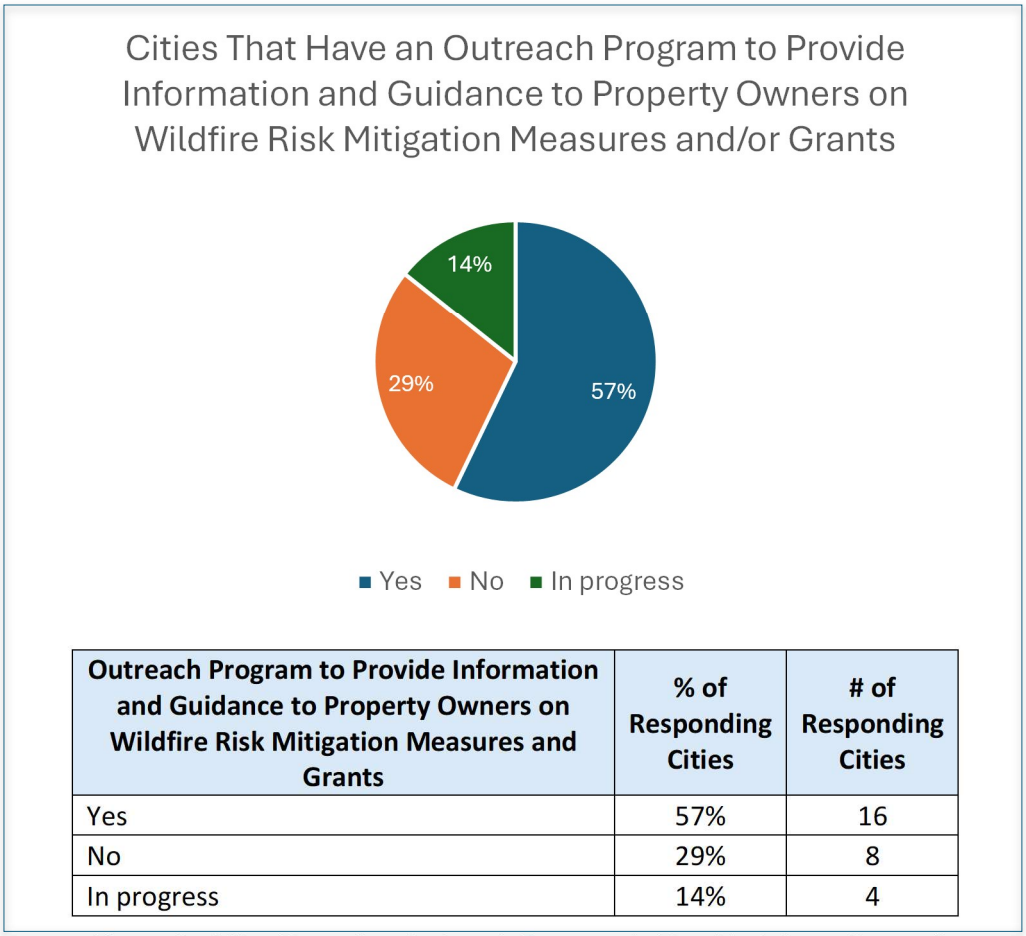
11 of 28 responding cities reported having achieved or have applications pending approval for community-level wildfire risk mitigation designations. Achievement of community-level wildfire risk mitigation designations is a significant way local governments, local fire departments, unincorporated areas, and special districts can reduce wildfire and insurance risk for their residents. A summary of the survey results for cities that have achieved or applied for community-level wildfire risk mitigation designation are shown at Figure 8.



Achieved, Applied for, or Plan to Apply for a Community-Level Wildfire Risk Mitigation Designations	% of Responding Cities	# of Responding Cities
Yes	39%	11
No	61%	17
In progress	0%	0

Figure 8 Cities Reporting Achieved, Applied for, or Plan to Apply for a Community-Level Wildfire Risk Mitigation Designation

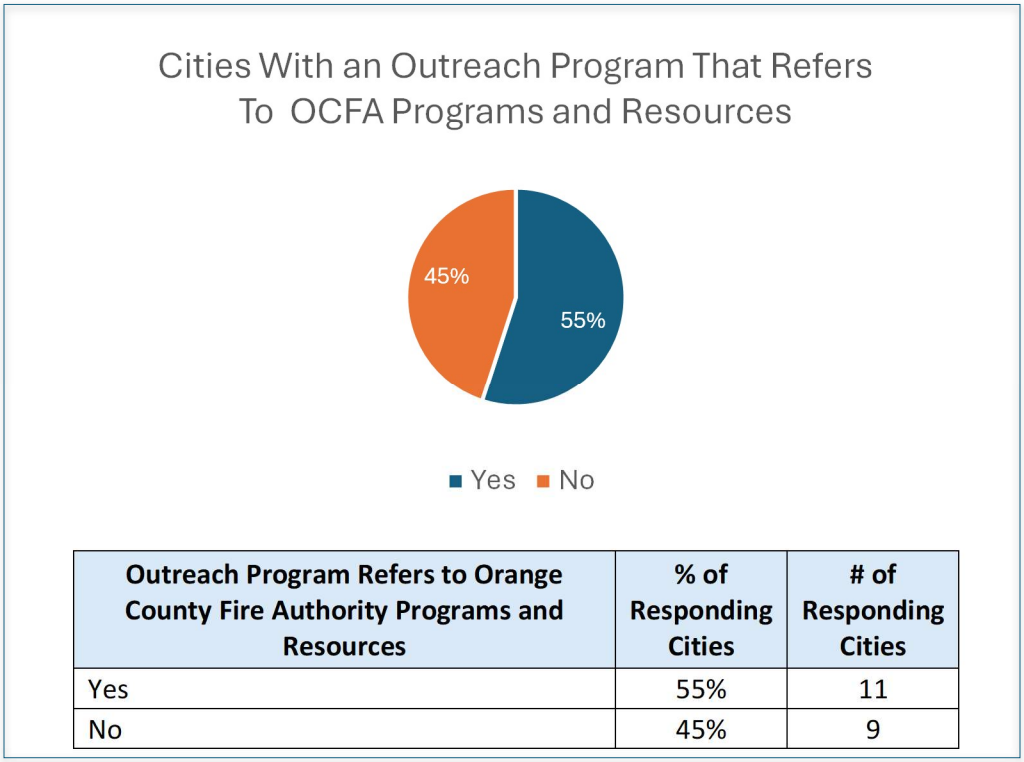
16 of 28 responding cities reported having an outreach program that provides information and guidance to property owners on wildfire risk mitigation measures and grant programs. A summary of the survey results on cities reporting whether they have these outreach programs in place are shown at Figure 9. These outreach programs are needed to help homeowners achieve awareness and ability to plan and take actions required to reduce individual and community wildfire and insurance risk.



Outreach Program to Provide Information and Guidance to Property Owners on Wildfire Risk Mitigation Measures and Grants	% of Responding Cities	# of Responding Cities
Yes	57%	16
No	29%	8
In progress	14%	4

Figure 9 Cities Reporting Outreach Program to Provide Information and Guidance to Property Owners on Wildfire Risk Mitigation Measures and/or Grants

11 of the 16 cities reported having their own outreach programs, are Orange County Fire Authority (OCFA) member cities, and referred to one or more of OCFA's comprehensive programs and resources (see Figure 10). While OCFA member cities' use of OCFA outreach programs and resources is efficient and beneficial to their residents, the availability of a direct local contact at the city who is knowledgeable and can provide even a minimum of information and guidance on wildfire mitigation resources would help remove barriers to homeowners' actions to reduce wildfire risk.



Outreach Program Refers to Orange County Fire Authority Programs and Resources	% of Responding Cities	# of Responding Cities
Yes	55%	11
No	45%	9

Figure 10 Cities Reporting Their Outreach Program Refers to Orange County Fire Authority Outreach Programs and Resources

Orange County Homeowners Associations Play an Important Role

According to the California Community Managers Association, there are 4,927 homeowners associations (HOA) in Orange County, and 82% of Orange County residents live in HOAs.[56] These HOAs communicate directly with their residents, and thus have the ability to mobilize people and resources to effectively achieve and maintain community-level wildfire risk mitigation designations and reduce their residents' homeowner insurance premiums.

HOAs are the local contact for their residents, and through their architectural and landscape standards can effectively communicate information on home hardening and defensible space requirements. HOAs often host community leaders and local fire service agencies for fire prevention workshops and other outreach events for HOA residents. Their local contact function can also provide information and organize opportunities to volunteer and support local fire prevention overall through activities such as Citizens Brigade[57] and Bike Brigade.[58] These HOA-hosted workshops, outreach

[56] California Association of Community Managers. Estimated number of residents living in HOAs based on average of 2010-2014 Census reports of 3.04 persons per household. www.cacm.org.
[57] *Weathered: After the LA Firestorm.* PBS, KCET, 2026.
[58] Ellis, Rebecca. Los Angeles Times. January 10, 2026. *Topanga Canyon felt abandoned. So residents are banding together to fight fire.* https://www.latimes.com/california/story/2025-01-10/topanga-canyon-felt-abandoned-so-*residents*-are-banding-together-to-fight-fire. Accessed March 6, 2026.

events, and local contact functions are effective means to help homeowners achieve awareness and ability to plan and take actions necessary to reduce wildfire and insurance risk.

HOAs often have significant responsibility for large open space areas of Orange County that can total hundreds of acres of fuel modification zones. The HOAs' collaborative role with local fire service agencies in managing these fuel modification zones is as important as their role with HOA residents in the shared responsibilities for wildfire and insurance risk reduction.

Homeowners are Responsible for Reducing Home Ignition Potential

Fire science research has demonstrated that ignition-resistant homes can survive wildfire without firefighter protection.[59] Where there are enough ignition-resistant homes, the WUI fire chain of events can be broken to prevent fire disasters, and these homes can escape destruction or survive undamaged. Taking the actions necessary to make homes ignition resistant to windborne embers is the responsibility of homeowners. The role of the homeowner is critical in the shared responsibilities for reducing wildfire and insurance risk in WUI areas.

Homeowners need support from local governments and fire service agencies to achieve the awareness and ability to plan and take actions necessary to make homes ignition resistant. This support is most effectively delivered through local outreach programs; effective communications in outreach programs have been found to be the more local, personalized efforts such as one-on-one consultation with fire experts, townhall events, small workshops, tours, and demonstrations.[60] For example, provision of in-person or online home assessments that result in written recommendations to homeowners for specific wildfire risk mitigation actions. Documentation of the recommended actions taken can then be presented to homeowners' insurers for the insurance discounts required by Safer from Wildfires.

Safer from Wildfires home hardening and defensible space measures protect homes and communities, save homeowners, local governments, and fire authorities as well as insurance companies from catastrophic loss while also providing discounts for homeowners' insurance premiums.

Reducing wildfire risk in the wildland-urban interface helps ensure that insurance coverage remains accessible. California's wildfire and insurance crisis demands coordinated action from local governments and fire authorities, communities, and homeowners to reduce risk of wildfire.

[59] Cohen, *The Wildland-Urban Interface Fire Problem*, 23.
[60] Gammanco, *The Return of Conflagration,* 34.

FINDINGS

In accordance with California Penal Code Sections 933 and 933.05, the 2025-2026 Orange County Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation “Wildfires Hit Home” the 2025-2026 Orange County Grand Jury has arrived at the following six findings:

F1 More frequent and severe wildfires driven by increasingly hotter, drier, and windier conditions in the Orange County wildland-urban interface are escalating impacts on financial and non-financial resources. Among the financial costs are dramatic increases in homeowners’ insurance premiums, nonrenewals, and inabilities to obtain insurance.

F2 Actions that address conditions in the home ignition zone to significantly reduce ignition potential can prevent a community wildland-urban interface fire disaster or suburban conflagration.

F3 Expanded engagement with the community to raise awareness and provide support regarding home hardening and defensible space will increase effectiveness of wildfire risk mitigation and insurance risk reduction efforts.

F4 Achievement of community-level and property-level wildfire risk mitigation designations (such as Firewise USA Site, Fire Risk Reduction Community or Insurance Institute for Business and Home Safety certification) lessens wildfire risk and helps reduce insurance premium costs.

F5 All county residents should be made aware that Safer from Wildfire regulation requires insurers to provide discounts to homeowners and communities that implement home hardening and defensible space measures regardless of whether a property is located within a Fire Hazard Severity Zone.

F6 AB888, California Safe Homes Grant Program, provides financial assistance to eligible homeowners, cities, counties, and special districts for home hardening and defensible space measures. Applying for and using these grant funds will reduce wildfire losses and improve insurability and resilience of vulnerable communities.

RECOMMENDATIONS

In accordance with California Penal Code Sections 933 and 933.05, the 2025-2026 Orange County Grand Jury requires (or, as noted, requests) responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation described herein, the 2025-2026 Orange County Grand Jury makes the following recommendations:

R1 By December 31, 2026, the Orange County Board of Supervisors should plan to host a county-wide annual wildfire prevention fair for the County and all cities and fire service agencies, including Orange County Fire Authority, to showcase respective wildfire outreach programs, and for the first annual wildfire prevention fair to be scheduled no later than December 31, 2027. [F1, F2, F3, F4, F5, F6]

R2 By December 31, 2026, cities and fire service agencies, including Orange County Fire Authority should commit to participation in a county-wide annual wildfire prevention fair planned by the Orange County Board of Supervisors to showcase wildfire prevention outreach programs. [F1, F2, F3, F4, F5, F6]

R3 By December 31, 2026, cities, unincorporated areas, special districts, and fire service agencies in High and Very-High Fire Hazard Severity Zones should initiate planning activities to achieve community-level wildfire risk mitigation designations and/or establish a local Fire Safe Council within one year. [F4, F5, F6]

R4 By December 31, 2026, to ensure city residents are engaged and aware of wildfire risk reduction resources, OCFA member and non-member cities should provide information, develop their own outreach program, and establish a direct contact person(s) for their residents. This is in addition to whatever referrals or references made to OCFA outreach programs. [F1, F2, F3, F4, F5, F6]

COMMENDATIONS

Yorba Linda Water District

The 2025-26 Orange County Grand Jury extends its special thanks to the Yorba Linda Water District (YLWD) for providing two tours of its facilities, including their non-portable Heli-Hydrants™. The YLWD with foresight and planning installed three Heli-Hydrant™ facilities. One of the tanks was the first to be installed in Southern California. These innovative tanks enable fire department helicopters to access water more quickly and efficiently, improving helicopter firefighting capabilities in areas where wildland vegetation and human development intersect, such as in the Yorba Linda service area.



Source: 2025-2026 Grand Jury

Newport Beach Fire Department

The 2025-2026 Orange County Grand Jury acknowledges and recognizes the Newport Beach Fire Department for their outstanding and continuing efforts to lead the Southern California region in dedication and adherence to the highest level of fire protection and safety. They are a role model for other cities in Orange County and elsewhere. In 2024, the Insurance Services Office honored Newport Beach Fire Department as a Top Tier Class 1 fire agency through its Public Protection Classification Program Newport Beach Fire Department shares the Top Tier Class 1 designation with only about 1% of the top fire departments nationwide.

The Grand Jury particularly commends Newport Beach Fire Prevention leadership, who generously dedicated time and expertise to share insights from their extensive knowledge of fire science.

REQUIRED RESPONSES

California Penal Code Section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g., District Attorney, Sheriff, etc.), such elected County official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

The following excerpts from the California Penal Code provide the requirements for public agencies to respond to the Findings and Recommendations of this Grand Jury report:

§933

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

§933.05.

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons, therefore.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, therefore.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

The Orange County Grand Jury requires the following responses:

Orange County Board of Supervisors	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R1, R2, R3

Orange County Fire Authority Board of Directors	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3
City of Aliso Viejo	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Anaheim	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Brea	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Buena Park	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Costa Mesa	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Cypress	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4

City of Dana Point	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Fountain Valley	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Fullerton	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Garden Grove	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Huntington Beach	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Irvine	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of La Habra	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4

City of La Palma	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Laguna Beach	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Laguna Hills	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Laguna Niguel	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Laguna Woods	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Lake Forest	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Los Alamitos	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4

City of Mission Viejo	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Newport Beach	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Orange	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Placentia	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Rancho Santa Margarita	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of San Clemente	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of San Juan Capistrano	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4

City of Santa Ana	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Seal Beach	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Stanton	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Tustin	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Villa Park	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4
City of Westminster	90 Day Response Requested
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R4
City of Yorba Linda	90 Day Response Required
Findings:	F1, F2, F3, F4, F5, F6
Recommendations:	R2, R3, R4

Acronyms

AB	Assembly Bill
B	Brush
BCR	Benefit Cost Ratio
CAL FIRE	California Department of Forestry and Fire Protection
CAL OES	California Governor's Office of Emergency Services
CC	Contract Counties
CDI	California Department of Insurance
CRR	Community Risk Reduction
CWUIC	California Wildland-Urban Interface Code
FAIR	Fair Access to Insurance Requirement
FEMA	Federal Emergency Management Agency
FHDS	Fire Hardening and Defensible Space
FHSZ	Fire Hazard Severity Zone
G	Grass
HOA	Homeowners Association
IBHS	Insurance Institute for Business & Home Safety®
IWUIC	International Wildland-Urban Interface Code
LRA	Local Responsibility Area
NFPA	National Fire Protection Association
OCFA	Orange County Fire Authority
P&C	Property and Casualty
PIF	Policies in Force
SB	Senate Bill
SRA	State Responsibility Area
USDA	United States Department of Agriculture

USFS	United States Forest Service
WRAP	Wildfire Risk Reduction and Asset Protection
WUI	Wildland-Urban Interface
YLWD	Yorba Linda Water District

Glossary

Aspect	Compass direction that a slope or terrain surface faces, influencing sunlight exposure, temperature, and vegetation.
Catastrophic loss	A sudden, severe, and often, widespread event resulting in extreme financial, loss of life, or permanent injury.
Class-A roof	Highest fire resistance classification for a roof assembly, signifying its effectiveness against severe fire exposure.
Conflagration	A particularly large and destructive fire; in the built environment, this may describe a fire that spreads via structure to structure.
Defensible space	Buffer zone created and managed between buildings and surrounding wildland area to protect buildings from embers, flames, or heat, slow or stop wildfire spread, and help ensure safety of firefighters.
Ember	Small piece of burning or glowing fragment from a fire.
Ember-resistant	Refers to features that reduce the risk of ignition from embers.
Ember spot ignition	Refers to one of the principal ways homes can ignite during extreme WUI fires, by embers directly on a house.
Firebrands	Refers to airborne embers; pieces of burning wood.
Firewise USA	Program administered by NFPA® and co-sponsored by the USDA Forest Service and the National Association of State Foresters.
Fuel modification zone	Designated area where vegetation is managed to reduce wildfire risk for protection of homes and communities.
Fuel reduction	Management of vegetation to reduce risk of wildfires.
Heli-Hydrant™	Patented rapid-fill water tank system for helicopter firefighting operations.
Home hardening	Utilizing building materials, construction methods and maintenance practices to increase resistance to ignition from fire exposure.
Home ignition potential	Susceptibility of a home and its immediate surroundings within 100 feet (thirty meters) to ignite during a wildfire.
Home ignition zone	A home and its immediate surroundings within 100 feet (thirty meters).

Ignition	Process leading to the onset of a sustained combustion reaction; “start of a fire.”
Ignition-resistant	Refers to materials and construction methods designed to resist ignition or sustained flaming combustion; difficult to catch fire when exposed to direct flame or heat.
Wildland fuels	Burnable plant materials that can act as fuel during wildfires, including grasses, shrubs, trees, dead leaves, and fallen pine needles.
Zone 0	Ember-resistant defensible space within the first five feet around a structure, required for properties in State Responsibility Area or Very High Fire Hazard Severity Zone in the Local Responsibility Area.

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Appendix A

CAL FIRE Wildfire Data

Top 20 Deadliest California Wildfires

	FIRE NAME *(CAUSE)*	DATE	COUNTY	ACRES	*STRUCTURES*	DEATHS
1	**CAMP FIRE** *(Powerlines)*	November 2018	Butte	153,336	18,804	**85**
2	**GRIFFITH PARK** *(Unknown)*	October 1933	Los Angeles	47	0	**29**
3	**TUNNEL - Oakland Hills** *(Rekindle)*	October 1991	Alameda	1,600	2,900	**25**
4	**TUBBS** *(Electrical)*	October 2017	Napa & Sonoma	36,807	5,643	**22**
5	**EATON** *(Under Investigation)**	January 2025	Los Angeles	14,021	9,413	**19**
6	**NORTH COMPLEX** *(Lightning)*	August 2020	Butte, Plumas, & Yuba	318,935	2,352	**15**
7	**CEDAR** *(Human Related)*	October 2003	San Diego	273,246	2,820	**15**
8	**RATTLESNAKE** *(Arson)*	July 1953	Glenn	1,340	0	**15**
9	**PALISADES** *(Under Investigation)**	January 2025	Los Angeles	23,707	6,833	**12**
10	**LOOP** *(Unknown)*	November 1966	Los Angeles	2,028	0	**12**
11	**HAUSER CREEK** *(Human Related)*	October 1943	San Diego	13,145	0	**11**
12	**INAJA** *(Human Related)*	November 1956	San Diego	43,904	0	**11**
13	**IRON ALPS COMPLEX** *(Lightning)*	August 2008	Trinity	105,855	10	**10**
14	**REDWOOD VALLEY** *(Power Lines)*	October 2017	Mendocino	36,523	544	**9**
15	**HARRIS** *(Undetermined)*	October 2007	San Diego	90,440	548	**8**
16	**CANYON** *(Unknown)*	August 1968	Los Angeles	22,197	0	**8**
17	**CARR** *(Human Related)*	July 2018	Shasta County, Trinity	229,651	1614	**8**
18	**LNU Lightning Complex** *(Lightning/Arson)*	August 2020	Napa/Sonoma/Yolo/Stanislaus/ Lake	363,220	1,491	**6**
19	**ATLAS** *(Powerline)*	October 2017	Napa & Solano	51,624	781	**6**
20	**OLD** *(Human Related)*	October 2003	San Bernardino	91,281	1,003	**6**

** Fires with the same death count are listed by most recent. Several fires have had 4 fatalties, but only the most recent are listed.
***This list does not include fire jurisdiction. These are the Top 20 regardless of whether they were state, federal, or local responsibility.

7/25/2025

Source: CalFire Redbook Data

Figure 11 Top 20 Deadliest California Wildfires

Top 20 Most Destructive California Wildfires

	FIRE NAME *(CAUSE)*	DATE	COUNTY	ACRES	*STRUCTURES*	DEATHS
1	**CAMP** *(Powerlines)*	November 2018	Butte	153,336	**18,804**	85
2	**EATON** *(Under Investigation)**	January 2025	Los Angeles	14,021	**9,413**	19
3	**PALISADES** *(Under Investigation)**	January 2025	Los Angeles	23,707	**6,833**	12
4	**TUBBS** *(Electrical)*	October 2017	Napa & Sonoma	36,807	**5,636**	22
5	**TUNNEL - Oakland Hills** *(Rekindle)*	October 1991	Alameda	1,600	**2,900**	25
6	**CEDAR** *(Human Related)*	October 2003	San Diego	273,246	**2,820**	15
7	**NORTH COMPLEX** *(Lightning)*	August, 2020	Butte, Plumas, & Yuba	318,935	**2,352**	15
8	**VALLEY** *(Electrical)*	September 2015	Lake, Napa & Sonoma	76,067	**1,955**	4
9	**WITCH** *(Powerlines)*	October 2007	San Diego	197,990	**1,650**	2
10	**WOOLSEY** *(Electrical)*	November 2018	Ventura	96,949	**1,643**	3
11	**CARR** *(Human Related)*	July 2018	Shasta County, Trinity	229,651	**1,614**	8
12	**GLASS** *(Undetermined)*	September 2020	Napa & Sonoma	67,484	**1,520**	0
13	**LNU LIGHTNING COMPLEX** *(Lightning/Arson)*	August 2020	Napa, Solano, Sonoma, Yolo, Lake, & Colusa	363,220	**1,491**	6
14	**CZU LIGHTNING COMPLEX** *(Lightning)*	August 2020	Santa Cruz, San Mateo	86,509	**1,490**	1
15	**NUNS** *(Powerline)*	October 2017	Sonoma	54,382	**1,355**	3
16	**DIXIE** *(Powerline)*	July 2021	Butte, Plumas, Lassen, & Tehama	963,309	**1,311**	1
17	**THOMAS** *(Powerline)*	December 2017	Ventura & Santa Barbara	281,893	**1,063**	2
18	**CALDOR** *(Under Investigation)*	September 2021	Alpine, Amador, & El Dorado	221,774	**1,003**	1
19	**OLD** *(Human Related)*	October 2003	San Bernardino	91,281	**1,003**	6
20	**JONES** *(Undetermined)*	October 1999	Shasta	26,200	**954**	1

"Structures" include homes, outbuildings (barns, garages, sheds, etc) and commercial properties destroyed.
This list does not include fire jurisdiction. These are the Top 20 regardless of whether they were state, federal, local or tribal responsibility.
*Numbers not final *DINS Disclaimer: These numbers are preliminary based on aerial assessments dedicating heat sources which can include chicken coops, outbuildings, sheds, water containers, etc. *Validated inspections are currently being ground-verified by Damage Assessment Teams.

7/25/2025

Source: CalFire Redbook Data

Figure 12 Top 20 Most Destructive California Wildfires

Incident #	County	Fire Name	Date		Direct Protection Area	Acres Burned	Vegetation Type	Cause	Structures		Fatalities	
			Start	Contained					Destroyed	Damaged	Firefighters	Civilians
ORC-127883	ORANGE RIVERSIDE	AIRPORT	9/9/24	10/5/24	CC	23,526	B, G	EQUIPMENT	160	34		
CNF-405	ORANGE	JIM	3/2/22	3/9/22	USFS	553	B, G	HUMAN				
ORC-136890	ORANGE	BOND	12/2/20	12/11/20	CC	6,686	B, G	STRUCTURE	31	21		
ORC-121612	ORANGE	BLUE RIDGE	10/26/20	11/7/20	CC	13,694	B, G	UNDETERMINED	1	12		
ORC-121364	ORANGE	SILVERADO	10/26/20	11/7/20	CC	12,466	B, G	UNDER INVESTIGATION	5	11		
CNF-2664	ORANGE RIVERSIDE	HOLY	8/6/18	9/14/18	USFS	23,025	B, G	ARSON	24	18		
ORC-110494	ORANGE	CANYON 2	10/9/17	10/17/17	CC	9,217	B, G	MISCELLANEOUS	25	55		
ORC-1478	ORANGE	CANYON	9/25/17	10/3/17	CC	2,662	B, G	MISCELLANEOUS	7			
CNF-2873	ORANGE	SILVERADO	9/12/14	9/20/14	USFS	985	B	UNDETERMINED				
ORC-045067	ORANGE	CARBON CANYON	7/7/11	7/8/11	CALFIRE/CC	508	B	UNDETERMINED				

Notes:
B = Brush
G = Grass
CC = Contract Counties
USFS = United States Forest Service
Source: CalFire Redbook Data

Figure 13 Large Fires 300 Acres and Greater - State and Contract Counties Direct Protection Area

Year	County	Fire Name	Total	A < 0.25 Acres	B 0.26 - 9.99 Acres	C 10 - 99 Acres	D 100 - 299 Acres	E 300 - 999 Acres	F 1000 - 4999 Acres	G > 5000 Acres
2024	Orange	Airport	39	31	5	1	1	0	0	1
2023	Orange	-	28	18	10	0	0	0	0	0
2022	Orange	Jim	30	23	4	0	2	1	0	0
2021	Orange	-	7	5	2	0	0	0	0	0
2020	Orange	Bond, Blue Ridge, Silverado	45	33	7	2	0	0	0	3
2019	Orange	-	46	36	7	2	1	0	0	0
2018	Orange	Holy	57	49	5	0	2	0	0	1
2017	Orange	Canyon, Canyon 2	71	56	12	1	0	0	1	1
2016	Orange	-	42	33	4	5	0	0	0	0
2015	Orange	-	3	2	1	0	0	0	0	0
2014	Orange	Silverado	8	6	1	0	0	1	0	0
2013	Orange	-	13	12	1	0	0	0	0	0
2012	Orange	-	19	16	2	1	0	0	0	0
2011	Orange	Carbon Canyon	10	9	0	0	0	1	0	0
2010	Orange	-	7	1	5	1	0	0	0	0
2009	Orange	-	10	6	0	3	1	0	0	0
2008	Orange	-	8	6	2	0	0	0	0	0
2008 - 2024	Annualized	-	26.1	20.1	4.0	0.9	0.4	0.2	0.1	0.4

Yellow highlight signifies named fires including fires that span both Orange and Riverside counties
Source: CalFire Redbook Data

Figure 14 Orange County Wildfires by Size

Appendix B

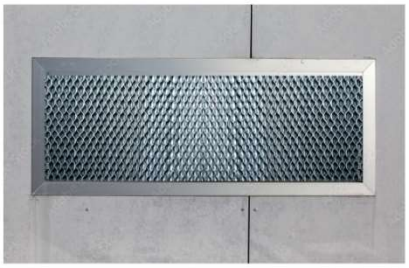
Safer from Wildfires Flyer



Figure 15 Safer from Wildfires Flyer, Page 1

3 Ways to Get Started with Safer from Wildfires

Don't know where to start? Here are 3 low-cost steps you can take today.



Keep embers out
Installing 1/16 to 1/8 inch noncombustible, corrosion-resistant metal mesh screens over attic vents can keep wind-blown embers out of your house.



Clear the first 5 feet
Removing greenery and replacing wood chips with stone or decomposed granite 5 feet around your home prevents fire from getting a foot in the door.



Be safer together
With Firewise USA, communities as small as 8 dwelling units or as big as 2,500 can create an action plan and start being safer together. Firewise USA is a nationally recognized program with proven results, sponsored by the National Fire Prevention Association.

Do more, save more

Every action under Safer from Wildfires will qualify you for an insurance discount. By doing more, you can save more.

- Class A fire-rated roof
- 5-foot ember-resistant zone around the structure
- Noncombustible 6 inches at the bottom of walls
- Ember- and fire-resistant vents
- Double pane windows or added shutters
- Enclosed eaves
- Cleared vegetation and debris from under decks
- Move sheds and outbuildings at least 30 feet away
- Trim trees and remove brush in compliance with state and local defensible space laws
- Neighborhoods can form a Firewise USA community
- Cities, counties, and local districts can become certified as a Fire Risk Reduction Community

Scan to find more resources

Figure 16 Safer from Wildfires Flyer, Page 2

Appendix C

Fire Hazard Severity Zone Map of Orange County

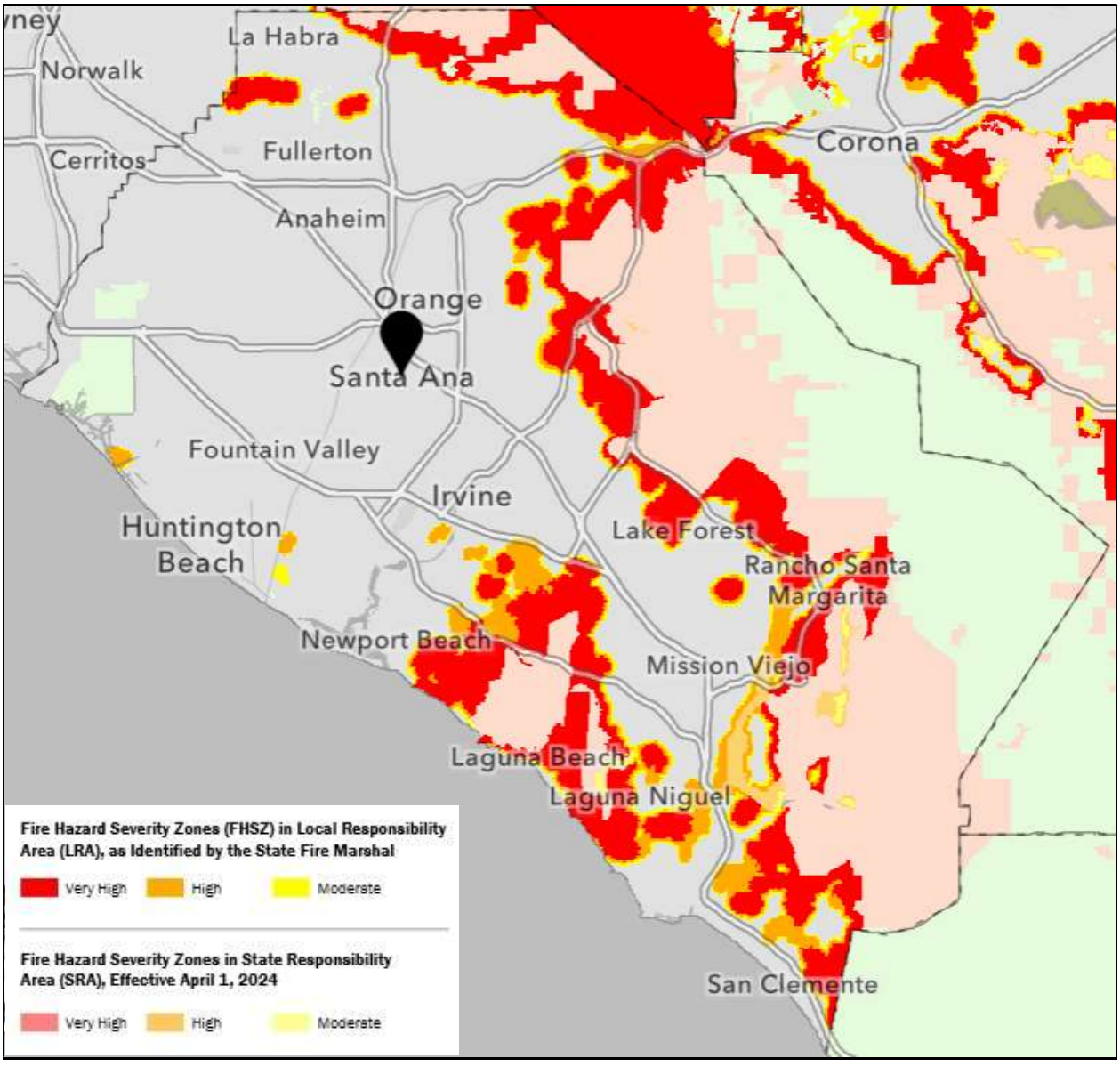
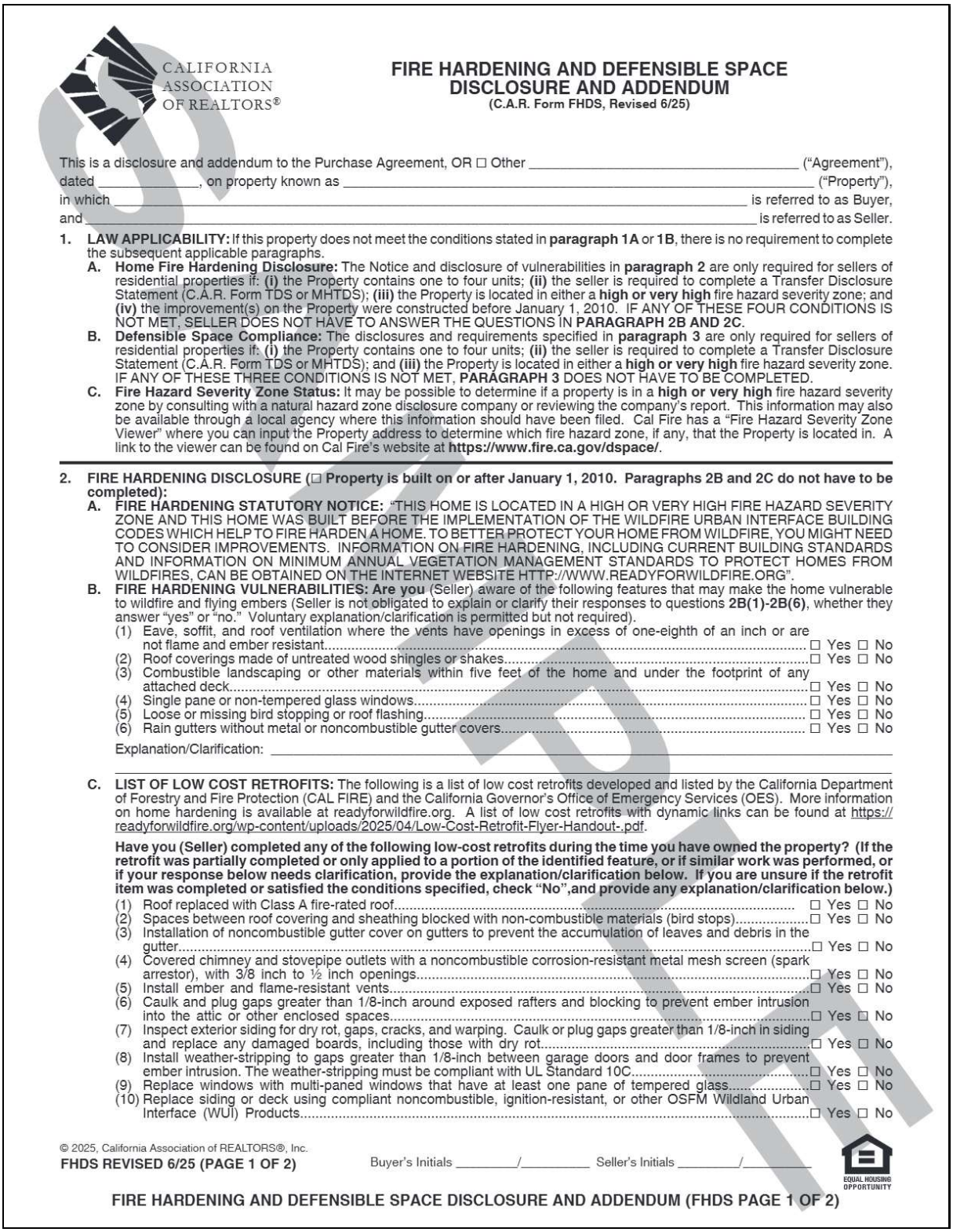


Figure 17 Fire Hazard Severity Zone Map of Orange County

Appendix D



CALIFORNIA ASSOCIATION OF REALTORS®

FIRE HARDENING AND DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM
(C.A.R. Form FHDS, Revised 6/25)

This is a disclosure and addendum to the Purchase Agreement, OR ☐ Other _____ ("Agreement"), dated _____, on property known as _____ ("Property"), in which _____ is referred to as Buyer, and _____ is referred to as Seller.

1. **LAW APPLICABILITY:** If this property does not meet the conditions stated in **paragraph 1A** or **1B**, there is no requirement to complete the subsequent applicable paragraphs.
   A. **Home Fire Hardening Disclosure:** The Notice and disclosure of vulnerabilities in **paragraph 2** are only required for sellers of residential properties if: **(i)** the Property contains one to four units; **(ii)** the seller is required to complete a Transfer Disclosure Statement (C.A.R. Form TDS or MHTDS); **(iii)** the Property is located in either a **high or very high** fire hazard severity zone; and **(iv)** the improvement(s) on the Property were constructed before January 1, 2010. IF ANY OF THESE FOUR CONDITIONS IS NOT MET, SELLER DOES NOT HAVE TO ANSWER THE QUESTIONS IN **PARAGRAPH 2B AND 2C**.
   B. **Defensible Space Compliance:** The disclosures and requirements specified in **paragraph 3** are only required for sellers of residential properties if: **(i)** the Property contains one to four units; **(ii)** the seller is required to complete a Transfer Disclosure Statement (C.A.R. Form TDS or MHTDS); and **(iii)** the Property is located in either a **high or very high** fire hazard severity zone. IF ANY OF THESE THREE CONDITIONS IS NOT MET, **PARAGRAPH 3** DOES NOT HAVE TO BE COMPLETED.
   C. **Fire Hazard Severity Zone Status:** It may be possible to determine if a property is in a **high or very high** fire hazard severity zone by consulting with a natural hazard zone disclosure company or reviewing the company's report. This information may also be available through a local agency where this information should have been filed. Cal Fire has a "Fire Hazard Severity Zone Viewer" where you can input the Property address to determine which fire hazard zone, if any, that the Property is located in. A link to the viewer can be found on Cal Fire's website at **https://www.fire.ca.gov/dspace/**.

2. **FIRE HARDENING DISCLOSURE (☐ Property is built on or after January 1, 2010. Paragraphs 2B and 2C do not have to be completed):**
   A. **FIRE HARDENING STATUTORY NOTICE:** "THIS HOME IS LOCATED IN A HIGH OR VERY HIGH FIRE HAZARD SEVERITY ZONE AND THIS HOME WAS BUILT BEFORE THE IMPLEMENTATION OF THE WILDFIRE URBAN INTERFACE BUILDING CODES WHICH HELP TO FIRE HARDEN A HOME. TO BETTER PROTECT YOUR HOME FROM WILDFIRE, YOU MIGHT NEED TO CONSIDER IMPROVEMENTS. INFORMATION ON FIRE HARDENING, INCLUDING CURRENT BUILDING STANDARDS AND INFORMATION ON MINIMUM ANNUAL VEGETATION MANAGEMENT STANDARDS TO PROTECT HOMES FROM WILDFIRES, CAN BE OBTAINED ON THE INTERNET WEBSITE HTTP://WWW.READYFORWILDFIRE.ORG".
   B. **FIRE HARDENING VULNERABILITIES: Are you** (Seller) aware of the following features that may make the home vulnerable to wildfire and flying embers (Seller is not obligated to explain or clarify their responses to questions **2B(1)-2B(6)**, whether they answer "yes" or "no." Voluntary explanation/clarification is permitted but not required).
      (1) Eave, soffit, and roof ventilation where the vents have openings in excess of one-eighth of an inch or are not flame and ember resistant..... ☐ Yes ☐ No
      (2) Roof coverings made of untreated wood shingles or shakes..... ☐ Yes ☐ No
      (3) Combustible landscaping or other materials within five feet of the home and under the footprint of any attached deck..... ☐ Yes ☐ No
      (4) Single pane or non-tempered glass windows..... ☐ Yes ☐ No
      (5) Loose or missing bird stopping or roof flashing..... ☐ Yes ☐ No
      (6) Rain gutters without metal or noncombustible gutter covers..... ☐ Yes ☐ No

      Explanation/Clarification: _____
   C. **LIST OF LOW COST RETROFITS:** The following is a list of low cost retrofits developed and listed by the California Department of Forestry and Fire Protection (CAL FIRE) and the California Governor's Office of Emergency Services (OES). More information on home hardening is available at readyforwildfire.org. A list of low cost retrofits with dynamic links can be found at https://readyforwildfire.org/wp-content/uploads/2025/04/Low-Cost-Retrofit-Flyer-Handout-.pdf.

      Have you (Seller) completed any of the following low-cost retrofits during the time you have owned the property? (If the retrofit was partially completed or only applied to a portion of the identified feature, or if similar work was performed, or if your response below needs clarification, provide the explanation/clarification below. If you are unsure if the retrofit item was completed or satisfied the conditions specified, check "No",and provide any explanation/clarification below.)
      (1) Roof replaced with Class A fire-rated roof..... ☐ Yes ☐ No
      (2) Spaces between roof covering and sheathing blocked with non-combustible materials (bird stops)..... ☐ Yes ☐ No
      (3) Installation of noncombustible gutter cover on gutters to prevent the accumulation of leaves and debris in the gutter..... ☐ Yes ☐ No
      (4) Covered chimney and stovepipe outlets with a noncombustible corrosion-resistant metal mesh screen (spark arrestor), with 3/8 inch to ½ inch openings..... ☐ Yes ☐ No
      (5) Install ember and flame-resistant vents..... ☐ Yes ☐ No
      (6) Caulk and plug gaps greater than 1/8-inch around exposed rafters and blocking to prevent ember intrusion into the attic or other enclosed spaces..... ☐ Yes ☐ No
      (7) Inspect exterior siding for dry rot, gaps, cracks, and warping. Caulk or plug gaps greater than 1/8-inch in siding and replace any damaged boards, including those with dry rot..... ☐ Yes ☐ No
      (8) Install weather-stripping to gaps greater than 1/8-inch between garage doors and door frames to prevent ember intrusion. The weather-stripping must be compliant with UL Standard 10C..... ☐ Yes ☐ No
      (9) Replace windows with multi-paned windows that have at least one pane of tempered glass..... ☐ Yes ☐ No
      (10) Replace siding or deck using compliant noncombustible, ignition-resistant, or other OSFM Wildland Urban Interface (WUI) Products..... ☐ Yes ☐ No

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Buyer's Initials _____/_____ Seller's Initials _____/_____
EQUAL HOUSING OPPORTUNITY

DRAFT

Figure 18 Fire Hardening and Defensible Space Disclosure, Page 1

(11) Cover openings to operable skylights with a noncombustible metal mesh screen with openings in the screen not to exceed 1/8 inch.....☐ Yes ☐ No
(12) Install a minimum 6-inch metal flashing, applied vertically on the exterior of the wall at the deck-to-wall intersection to protect the combustible siding material.....☐ Yes ☐ No

Explanation/Clarification: _____

3. **DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM: (Paragraph 3 is only required to be completed if all three conditions in paragraph 1B are met; the Defensible Space Decision Tree (C.A.R. Form DSDT) may be consulted for additional information on how to complete this paragraph):**
   A. **LOCAL COMPLIANCE REQUIREMENTS:** The Property (☐ **IS,** ☐ **is NOT)** subject to a local vegetation management ordinance requiring defensible space around an improvement on the Property. (**Paragraphs 3B** and **3C** must be completed regardless of the answer to **paragraph 3A** if the conditions in **paragraph 1B** are met.)
   B. **SELLER REPRESENTATION OF PROPERTY COMPLIANCE** with the applicable State defensible space requirement or local vegetation management ordinance (hereafter, State or local defensible space law) at the time of Seller signature:
      (1) Seller is UNAWARE of whether the Property is in compliance with the applicable State or local defensible space law. Seller does NOT have a report prepared by an Authorized Defensible Space Inspector.
      OR (2) ☐ Property **IS** in compliance with State or local defensible space law, whichever is applicable. If ONLY State law applies, Seller must have obtained compliance within the last 6 months. Seller shall Deliver to Buyer documentation of compliance within **3 (or _____) Days** after Seller's execution of this FHDS form or the time specified in **paragraph 3N(1)** of the Agreement, whichever occurs last. If this paragraph is checked, also check **paragraph 3C(5)** below.
      OR (3) ☐ Property **is NOT** in compliance with State or local defensible space law, whichever is applicable. If Seller has, or agrees to obtain, a report prepared by an Authorized Defensible Space Inspector, Seller shall Deliver such report to Buyer within **3 (or _____) Days** after Seller's execution of this FHDS form or the time specified in **paragraph 3N(1)** of the Agreement, whichever occurs last.
   C. **BUYER AND SELLER AGREEMENT** REGARDING WHICH PARTY SHALL OBTAIN COMPLIANCE WITH APPLICABLE STATE OR LOCAL DEFENSIBLE SPACE REQUIREMENTS:
      (1) **BUYER RESPONSIBILITY – NO LOCAL ORDINANCE.** Buyer shall obtain documentation of compliance with the State defensible space law within one year of Close Of Escrow.*****
      OR (2) ☐ **BUYER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which requires compliance as a result of a sale of the Property. The local ordinance allows either Seller or Buyer to obtain documentation of compliance. Buyer shall comply with the requirements of the ordinance after Close Of Escrow.
      OR (3) ☐ **BUYER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which does NOT require compliance as a result of a sale of the Property. Buyer shall obtain documentation of compliance with the State defensible space law within one year of Close Of Escrow,***** or if applicable comply with the local requirement after Close Of Escrow.
      OR (4) ☐ **SELLER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which requires compliance as a result of a sale of the Property. The local ordinance requires Seller to obtain documentation of compliance prior to Close of Escrow. Seller shall obtain documentation of compliance prior to the time for Buyer's final verification of condition.
      OR (5) ☐ **SELLER RESPONSIBILITY – STATE OR LOCAL COMPLIANCE ALREADY COMPLETE.** If ONLY state law applies, Seller has obtained documentation of compliance with State defensible space requirement within the last 6 months. For either State or local law, Seller shall Deliver documentation of compliance to Buyer;
      OR (6) ☐ **SELLER RESPONSIBILITY – AGREEMENT TO OBTAIN STATE COMPLIANCE.** Seller shall obtain documentation of compliance and Deliver to Buyer prior to the time for Buyer's final verification of condition.
   D. The local agency from which a copy of the documentation in **paragraph 3B(2)**, **3B(3)**, **3C(4), 3C(5),** or **3C(6),** as applicable, may be obtained is _____, which may be contacted at _____.

***** The requirement to provide documentation of compliance with State defensible space requirements only applies if there is a state or local agency, or other governmental entity, or qualified non-profit entity in the jurisdiction where the Property is located that is authorized to inspect the Property and provide documentation of compliance ("Authorized Defensible Space Inspector").

4. ☐ **FINAL INSPECTION REPORT DISCLOSURE:** The Property was newly constructed, or was rebuilt following damage by a fire and the construction required a permit, and Seller has obtained a final inspection report addressing compliance with home fire hardening recommended building standards as described in Government Code § 51182. Seller has a copy of the report, and it is attached, or ☐ Seller does not have a copy of the report and Buyer may obtain a copy at _____.

Seller represents that Seller has provided the answers on paragraphs 2B and 3B of this form based on Seller's awareness on the date of Seller's signature below, and the answers on paragraph 2C are accurate. Seller acknowledges receipt of this Fire Hardening and Defensible Space Disclosure and Addendum and agrees to the applicable terms in paragraph 3C.

Seller _____ Date _____
Seller _____ Date _____

By signing below, Buyer acknowledges that they have received a copy of this Fire Hardening and Defensible Space Disclosure and Addendum, and they have read and understand the form and agree to the terms in paragraph 3C.

Buyer _____ Date _____
Buyer _____ Date _____

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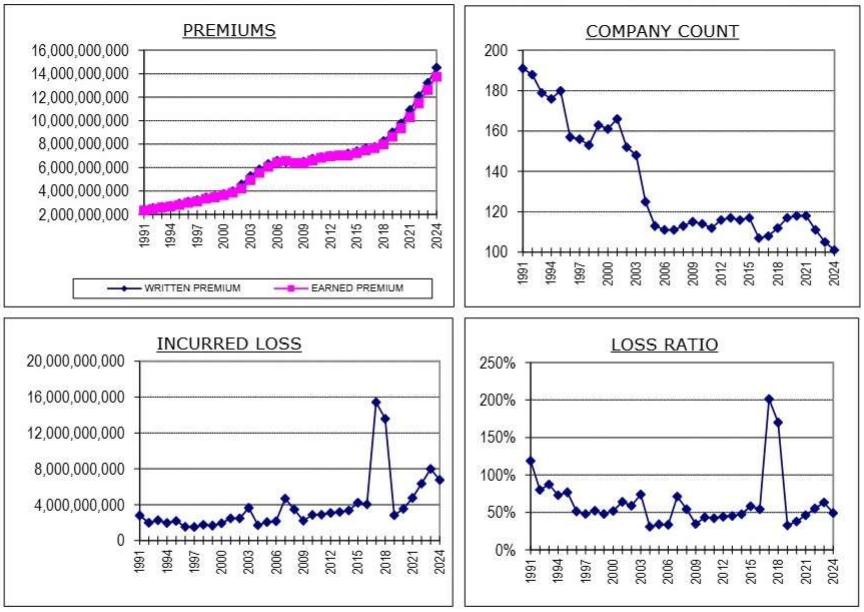
Figure 19 Fire Hardening and Defensible Space Disclosure, Page 2

Appendix E

California Department of Insurance Data

1991-2024 CALIFORNIA P&C HISTORICAL PREMIUM AND LOSS
Line of Business: HOMEOWNERS MULTIPLE PERIL [04]

YEAR	WRITTEN PREMIUM	% Chg.	Co.Count	EARNED PREMIUM	INCURRED LOSS	LOSS RATIO
1991	2,398,651,496		191	2,349,924,901	2,791,008,371	118.77%
1992	2,555,745,940	6.5%	188	2,468,835,484	1,980,200,380	80.21%
1993	2,669,536,350	4.5%	179	2,588,229,132	2,260,932,154	87.35%
1994	2,757,073,066	3.3%	176	2,688,902,970	1,957,548,203	72.80%
1995	2,934,990,317	6.5%	180	2,828,528,558	2,170,026,959	76.72%
1996	3,090,172,058	5.3%	157	2,992,922,532	1,536,204,414	51.33%
1997	3,219,673,063	4.2%	156	3,128,673,253	1,493,329,331	47.73%
1998	3,445,849,365	7.0%	153	3,358,899,095	1,758,775,892	52.36%
1999	3,560,100,595	3.3%	163	3,476,827,465	1,663,998,077	47.86%
2000	3,740,477,538	5.1%	161	3,676,266,079	1,908,291,220	51.91%
2001	3,992,960,925	6.8%	166	3,866,932,308	2,474,244,352	63.98%
2002	4,565,626,156	14.3%	152	4,211,592,936	2,476,270,849	58.80%
2003	5,296,194,308	16.0%	148	4,935,892,774	3,647,291,668	73.89%
2004	5,843,429,606	10.3%	125	5,560,574,064	1,715,301,749	30.85%
2005	6,305,176,422	7.9%	113	6,065,178,507	2,063,072,529	34.02%
2006	6,591,912,516	4.5%	111	6,436,870,073	2,147,266,579	33.36%
2007	6,453,088,200	-2.1%	111	6,568,857,449	4,675,914,725	71.18%
2008	6,355,980,869	-1.5%	113	6,386,251,776	3,452,898,028	54.07%
2009	6,513,371,686	2.5%	115	6,391,096,439	2,209,791,955	34.58%
2010	6,758,183,845	3.8%	114	6,612,865,838	2,870,059,793	43.40%
2011	6,896,796,197	2.1%	112	6,832,454,959	2,890,230,414	42.30%
2012	7,018,043,553	1.8%	116	6,962,824,501	3,076,419,837	44.18%
2013	7,033,097,194	0.2%	117	7,038,071,457	3,189,727,981	45.32%
2014	7,202,319,845	2.4%	116	7,031,937,018	3,351,846,286	47.67%
2015	7,409,994,305	2.9%	117	7,248,990,918	4,230,850,026	58.36%
2016	7,645,677,515	3.2%	107	7,475,784,553	4,047,329,931	54.14%
2017	7,761,932,830	1.5%	108	7,664,490,935	15,418,577,650	201.17%
2018	8,266,332,994	6.5%	112	7,983,075,132	13,577,455,112	170.08%
2019	9,004,847,173	8.9%	117	8,631,287,540	2,818,562,833	32.66%
2020	9,767,233,243	8.5%	118	9,362,270,255	3,539,955,749	37.81%
2021	10,912,068,287	11.7%	118	10,298,463,872	4,753,166,698	46.15%
2022	12,084,613,385	10.7%	111	11,480,004,192	6,333,910,318	55.17%
2023	13,218,555,040	9.4%	105	12,615,427,773	7,990,111,685	63.34%
2024	14,516,380,112	9.8%	101	13,749,361,196	6,760,543,067	49.17%



Note: This report includes only California licensed companies with written premium greater than zero.

California Department of Insurance

Rate Specialist Bureau - April 30, 2025

Figure 20 California Property and Casualty Insurance Company Homeowners Premium and Loss

Zip Code	Fire Hazard Severity Zone	CDI Wildfire Distress Area	City	Vanity City or Location	Residential Dwellings Insured by Voluntary Market	Residential Dwellings Insured by FAIR Plan	Percentage of Residential Dwellings Insured by FAIR Plan
90620	None		Buena Park		10,826	20	0.2%
90621	VH, H, M, None		Buena Park	Los Coyotes CC	3,863	19	0.5%
90623	None		La Palma		3,701	7	0.2%
90630	None		Cypress		10,692	22	0.2%
90631	VH, H, M, None		La Habra	Westridge CC	12,999	274	2.1%
90680	None		Stanton		3,591	9	0.3%
90720	None		Los Alamitos		5,821	4	0.1%
90740	None		Seal Beach		4,741	6	0.1%
90742	None		Huntington Beach	Sunset Beach	303	4	1.3%
90743	None		Seal Beach	Surfside	139	2	1.4%
92602	VH, H, M, None		Irvine	Loma Ridge	5,755	23	0.4%
92603	VH, H, M, None		Irvine	Turtle Rock, Shady Canyon	4,115	20	0.5%
92604	None		Irvine		4,660	3	0.1%
92606	None		Irvine		3,195	1	0.0%
92610	VH, H, M, None		Lake Forest	Foothill Ranch	2,996	41	1.4%
92612	H, M, None		Irvine	William R. Mason Regional Park	1,574	1	0.1%
92614	None		Irvine		3,102	4	0.1%
92617	M, None		Irvine	UCI	993	0	0.0%
92618	VH, H, M, None		Irvine	Laguna Altura, Borrego Canyon	9,789	17	0.2%
92620	VH, H, M, None		Irvine	Stonegate	12,171	11	0.1%
92624	H, M, None		Dana Point	Capistrano Beach	2,255	4	0.2%
92625	VH, H, M, None		Newport Beach	Corona Del Mar	4,423	7	0.2%
92626	None		Costa Mesa		8,817	4	0.0%
92627	H, M, None		Costa Mesa	Talbert Regional Park	9,748	14	0.1%
92629	VH, H, M, None		Dana Point	Crown Valley Pkwy.	7,229	8	0.1%
92630	VH, H, M, None		Lake Forest	Saddleback Church	14,090	24	0.2%
92637	VH, H, M, None		Laguna Woods	Laguna Canyon	545	0	0.0%
92646	None		Huntington Beach		14,923	11	0.1%
92647	None		Huntington Beach		11,451	14	0.1%
92648	None		Huntington Beach		8,997	6	0.1%
92649	H, M, None		Huntington Beach	Brightwater Dr., Oceanridge Dr.	8,363	6	0.1%
92651	VH, H, M, None		Laguna Beach		8,760	459	5.0%
92653	VH, H, M, None		Laguna Hills	North Laguna Hills	6,266	13	0.2%
92655	None		Unincorporated OC	Midway City	1,408	1	0.1%
92656	VH, H, M, None		Aliso Viejo	Wood Canyon Dr.	7,537	37	0.5%
92657	VH, H		Newport Beach	Newport Coast	3,133	100	3.1%
92660	H, M, None		Newport Beach	Newport Ridge Clubhouse	7,209	15	0.2%
92661	None		Newport Beach	Balboa Peninsula	1,683	4	0.2%
92662	None		Newport Beach	Balboa Island	1,367	1	0.1%
92663	M, None		Newport Beach	Canyon Park	5,479	10	0.2%
92672	VH, H, M, None		San Clemente		8,901	37	0.4%
92673	VH, H, M, None		San Clemente		7,804	42	0.5%
92675	VH, H, M, None		San Juan Capistrano		8,415	58	0.7%
92676	VH	Yes	Unincorporated OC	Silverado	156	550	77.9%
92677	VH, H, M, None		Laguna Niguel	Pacific Island Dr., Salt Creek Open Space	14,861	112	0.7%
92678	VH	Yes	Unincorporated OC	Trabuco Canyon	16	15	48.4%
92679	VH, H, M		Unincorporated OC	Trabuco Canyon, Coto de Caza, Dove Canyon	8,019	1,052	11.6%

Note: P. O. Boxes are excluded from this list. Data is for calendar year 2022 and includes homeowners (excluding condominium), mobile home, dwelling fire owner- and tenant-occupied insuring structures with four or less units.

Source: California Department of Insurance

Figure 21 FAIR Plan Data for Orange County Zip Codes 90620 - 92679

Zip Code	Fire Hazard Severity Zone	CDI Wildfire Distress Area	City	Vanity City or Location	Residential Dwellings Insured by Voluntary Market	Residential Dwellings Insured by FAIR Plan	Percentage of Residential Dwellings Insured by FAIR Plan
92683	None		Westminster		16,837	20	0.1%
92688	VH, H, M, None		Rancho Santa Margarita		7,872	52	0.7%
92691	VH, H, M, None		Mission Viejo	Wilderness Glen Park	11,920	10	0.1%
92692	VH, H, M, None		Mission Viejo		12,832	26	0.2%
92694	VH, H, M, None		Unincorporated OC	Ladera Ranch	7,453	42	0.6%
92697	None		Irvine	UCI	0	0	0.0%
92698	None		Aliso Viejo		0	0	0.0%
92701	None		Santa Ana		3,818	77	2.0%
92703	None		Santa Ana		7,396	97	1.3%
92704	None		Santa Ana		10,533	82	0.8%
92705	VH, H, M, None		Santa Ana	Cowan Heights, Peters Canyon	9,699	34	0.3%
92706	None		Santa Ana		5,507	6	0.1%
92707	None		Santa Ana		7,554	77	1.0%
92708	None		Fountain Valley		13,293	9	0.1%
92780	None		Tustin		7,315	2	0.0%
92782	VH, H, M, None		Tustin	Pioneer Road Park	4,483	12	0.3%
92801	None		Anaheim		6,802	20	0.3%
92802	None		Anaheim		4,421	15	0.3%
92804	None		Anaheim		11,474	22	0.2%
92805	None		Anaheim		8,715	24	0.3%
92806	None		Anaheim		5,357	11	0.2%
92807	VH, H, M, None		Anaheim	Walnut Canyon Reservoir	9,178	67	0.7%
92808	VH, H, M, None		Anaheim	Anaheim Hills	4,648	34	0.7%
92809	None		Anaheim		0	0	0.0%
92821	VH, H, M, None		Brea		8,838	64	0.7%
92823	VH, H, M, None		Brea	Carbon Canyon Rd.	1,380	55	3.8%
92831	VH, H, M, None		Fullerton	Panorama Nature Preserve	5,326	11	0.2%
92832	None		Fullerton		3,846	7	0.2%
92833	VH, H, M, None		Fullerton	Ralph B. Clark Park	10,168	22	0.2%
92835	VH, H, M, None		Fullerton	Rolling Hills Park, Laguna Lake Park	6,157	11	0.2%
92840	None		Garden Grove		8,946	6	0.1%
92841	None		Garden Grove		6,013	2	0.0%
92843	None		Garden Grove		6,064	9	0.1%
92844	None		Garden Grove		2,763	1	0.0%
92845	None		Garden Grove		4,808	1	0.0%
92861	VH, H, M, None		Villa Park		1,964	2	0.1%
92862	VH, H, M, None		Unincorporated OC	Black Star Canyon	6	0	0.0%
92865	None		Orange		4,257	10	0.2%
92866	None		Orange		3,048	1	0.0%
92867	VH, H, M, None		Orange	Santiago Oaks Regional Park	9,943	12	0.1%
92868	None		Orange		2,776	3	0.1%
92869	VH, H, M, None		Orange	El Modena Open Space	8,215	25	0.3%
92870	None		Placentia		10,759	15	0.1%
92886	VH, H, M, None		Yorba Linda	Black Gold GC	13,587	82	0.6%
92887	VH, H, M, None		Yorba Linda	Box Canyon Park	5,210	217	4.0%
92799	None		Santa Ana	Distribution Center	0	0	0.0%
92850	None		Anaheim		0	0	0.0%
92899	None		Anaheim	Distribution Center	0	0	0.0%
				Totals	**588,062**	**4,387**	**0.7%**

Note: P. O. Boxes are excluded from this list. Data is for calendar year 2022 and includes homeowners (excluding condominium), mobile home, dwelling fire owner- and tenant-occupied insuring structures with four or less units.
Source: California Department of Insurance

Figure 22 FAIR Plan Data for Orange County Zip Codes 92680 – 92899

Appendix F

OCFA and Covered Cities



Figure 23 Orange County Fire Authority Covered Cities

Orange County Fire Jurisdictions

Anaheim Fire Department
201 S. Anaheim Blvd., Suite 301
Anaheim, CA 92805
714-765-4000

Brea Fire Department
1 Civic Center Circle
Brea, CA 92821
714-990-7600

Costa Mesa Fire Department
2803 Royal Palm Dr.
Costa Mesa, CA 92628
714-754-5106

Fountain Valley Fire Department
10200 Slater Ave.
Fountain Valley, CA 92708
714-593-4436

Fullerton Fire Department
312 E. Commonwealth Ave.
Fullerton, CA 92832
714-738-6500

Placentia Fire and Life Safety Dept.
401 E Chapman Avenue
Placentia, CA 92870
714 9938117

Huntington Beach Fire Department
2000 Main St.
Huntington Beach, CA 92648
714-536-5411

La Habra - LA County Fire Department
1320N. Eastern Avenue
Los Angeles, CA 90063-3220
323-881-2411

Laguna Beach Fire Department
505 Forest Ave.
Laguna Beach, CA 92651
949-497-3311

Newport Beach Fire Department
3300 Newport Blvd.
Newport Beach, CA 92663
949-644-3104

Orange Fire Department
176 S. Grand Ave.
Orange, CA 92866
714-288-2500

Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602
714-573-6000

The OCFA provides fire services for the following cities: Aliso Viejo • Buena Park • Cypress • Dana Point • Garden Grove • Irvine • Laguna Hills • Laguna Niguel • Laguna Woods • Lake Forest • La Palma • Los Alamitos • Mission Viejo • Rancho Santa Margarita •San Clemente • San Juan Capistrano • Santa Ana • Seal Beach • Stanton • Tustin • Villa Park • Westminster • Yorba Linda • and Unincorporated Areas of Orange County

DIAL 911 FOR EMERGENCY SERVICES

Figure 24 Orange County Fire Jurisdictions

Appendix G

Ready, Set, Go!, Zone 0 At-A-Glance and Links

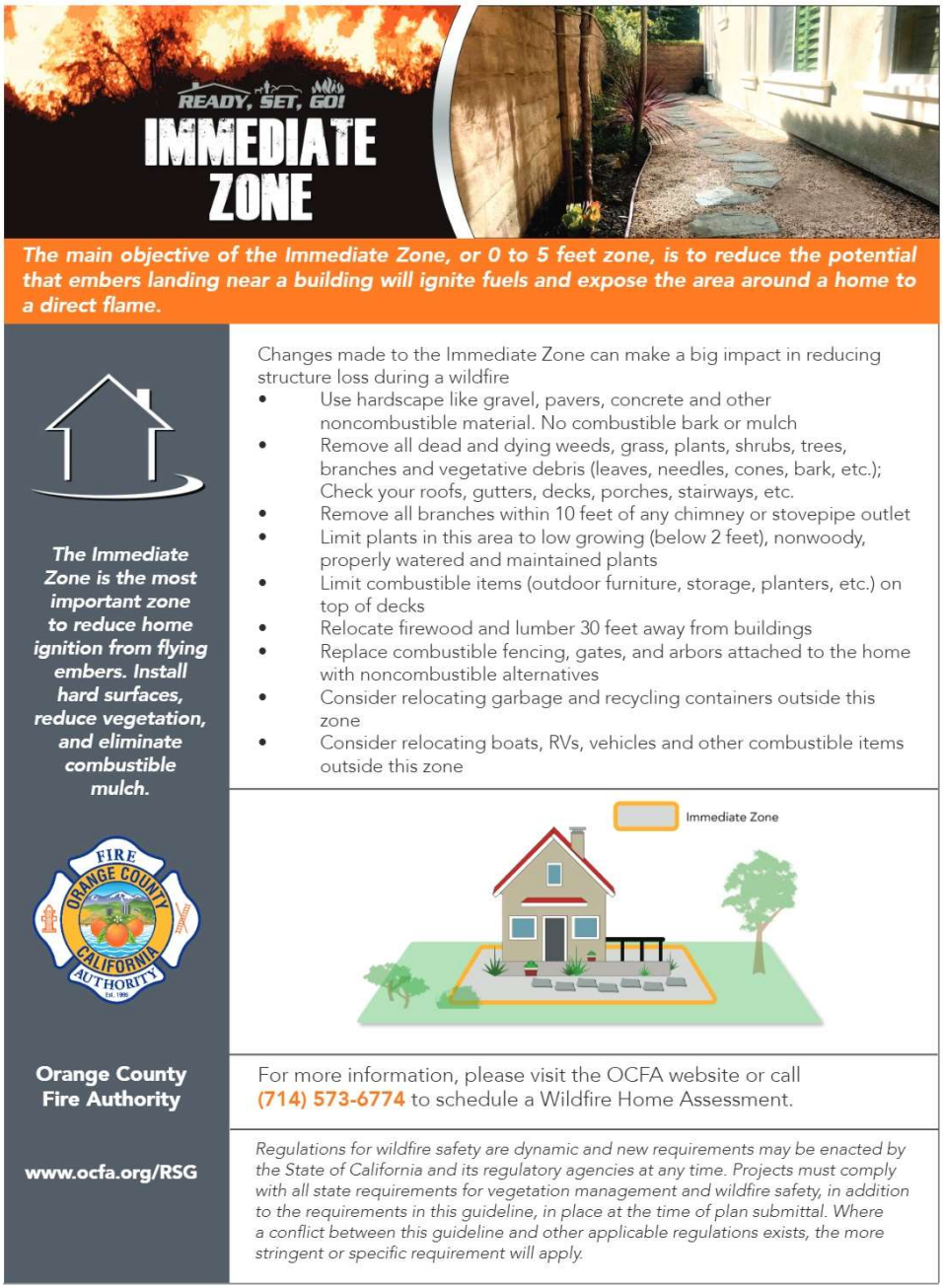


Figure 25 Ready, Set Go! Flyer for Immediate Zone



Defensible Space is an area between your house and an oncoming wildfire, where the vegetation has been controlled, trimmed, or removed to reduce wildfire threat from embers, flames, and intense heat.

Creating Defensible Space is the duty of every resident living in an area at risk for wildfires.

Orange County Fire Authority

www.ocfa.org/RSG

In order to offer wildfire protection, Defensible Space should reach at least 100 feet from the house, garage, and other buildings on the property, or to the property line. In many cases, Defensible Space is simply the front, side, and back yards of your home.

Guidelines for Vegetation Management within 100 feet of your home include:

- Remove all dead and dying plants
- Recommend removal of vegetation found on the Undesirable Plant List and replant using drought-tolerant, fire-resistive plants
- Trim or remove plants to create the recommended vertical and horizontal separation between them
- Remove dry leaves, twigs, pine needles, etc. from the yard, roof, and rain gutters
- Install hard surfaces, reduce vegetation, and eliminate combustible mulch within 5 feet of home

It's not necessary to remove all vegetation around your home, but creating Defensible Space will give firefighters a better chance of keeping wildfire from spreading to your home. Mowing, weeding, pruning, thinning, spacing, and careful plant selection can make the difference between survival and losing your home during a wildfire. Consult a geologist prior to beginning maintenance if you have slope stability issues.



For more information, please visit the OCFA website or call **(714) 573-6774** to schedule a Wildfire Home Assessment.

Figure 26 Ready, Set, Go! Flyer on Defensible Space



The main objective of Home Hardening is to give your home the best chance to survive a wildfire. Home Hardening addresses the most vulnerable components of your home, which includes the construction materials that make up your home and the quality of defensible space surrounding it.

Prepare (harden) your home now before a wildfire starts!

All new homes built in the Wildland Urban Interface (WUI) are required to meet the minimum standards for the protection of life and property by increasing the home's ability to resist ember intrusion, direct flames, and radiant heat. Homes can be retrofitted to these new building requirements using the recommendations listed below:

1. **Roof** - Ember-resistant material. Gaps are filled with ignition-resistant material. No loose roof flashing.
2. **Eaves** - Eaves are maintained with all gaps filled with caulking and painted over.
3. **Vents** - 1/8-inch metal mesh screen or ember proof vents.
4. **Chimney** - 1/2-inch spark arrestor screen. Clear tree branches and/or vegetation at least 10 feet away from opening.
5. **Gutters** - Install gutter guards. Remove combustible debris on a regular basis.
6. **Exterior Siding** - Exterior siding is maintained with all gaps filled with caulking and painted over.
7. **Doors** - Weather-stripping around door frames and doors adjusted for a "tight fit" within the frame.
8. **Windows** - Multi-pane windows, with at least one pane being tempered, and metal framing.
9. **Fences** - Non-combustible or ignition-resistant material. Maintain fencing by keeping vegetation clear.
10. **Patio Covers** - Ignition-resistant material. Fill all gaps and crevices. Install metal flashing between the patio and outside wall.
11. **Balconies & Decks** - Ignition-resistant material. Fill all gaps between the deck and outside wall with caulking or metal flashing. Remove or replace combustible items stored above and below.
12. **Immediate Zone** - No woody vegetation located within 5 feet of the home. No combustible items located within 5 feet of the home (trash bins, patio furniture, storage, mulch, etc.)

Orange County Fire Authority

www.ocfa.org/RSG

Refer to the California Wildland Urban Interface Code (CWUIC) for permits and specific requirements.

For more information, please visit the OCFA website or call **(714) 573-6774** to schedule a Wildfire Home Assessment.

Figure 27 Ready, Set, Go! Flyer for Home Hardening, Page 1

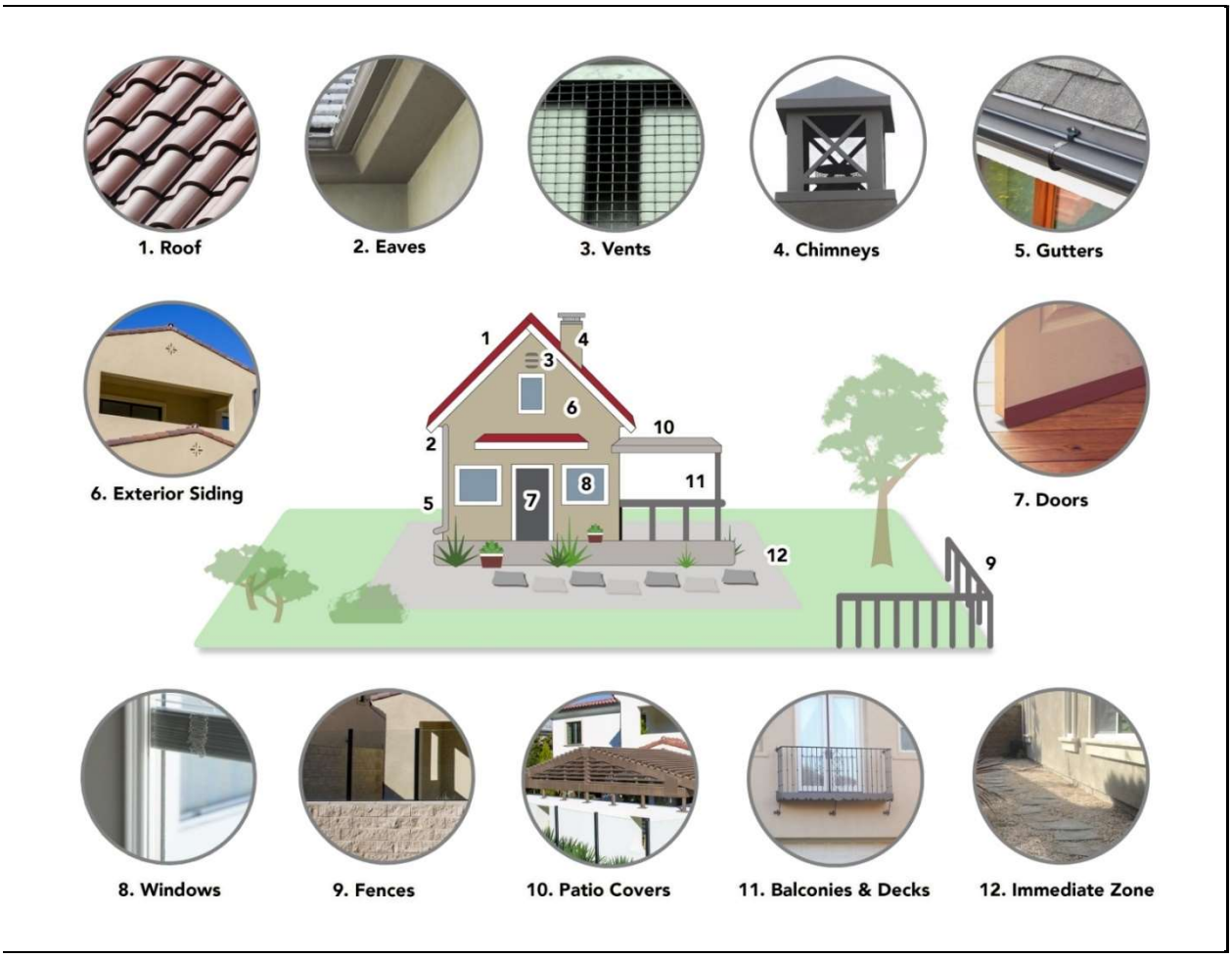


Figure 28 Ready, Set, Go! Flyer for Home Hardening, Page 2



Vegetation Management is controlling plant material to prevent wildfire spread. It requires a constant commitment to follow the 4 R's of Vegetation Management to reduce the threat.

Vegetation Management isn't a one-time fix. It's an ongoing commitment.

Orange County Fire Authority

www.ocfa.org/RSG

Removal:

- Remove all dead and dying plants within 100 feet of your home
- Identify and remove plants found on OCFA's Undesirable Plant List
- Remove dry leaves, bark and pine needles from the yard, roof, and rain gutters

Reduction:

- Prune and thin plants within 100 feet of your home, including your plants within 100 feet of your neighbor's home
- Provide 6 feet vertical separation between shrub tops and lower tree branches to reduce "ladder fuels"
- Use Horizontal Separation Guidelines for plants over 2 feet in height (15 feet minimum or 3 times the tallest plant)
- Keep all shrubs within 10 feet of your home trimmed to 2 feet or lower
- Prune or remove plants near windows
- Remove all tree branches or plants within 10 feet of chimney outlets
- Move wood piles at least 30 feet from your home, or to the property line
- Keep annual grasses and weeds cut to 4 inches or less

Replacement:

- Replace fire-prone plants with fire-resistant and drought tolerant plants. See the OCFA Planting Guide for recommendations
- When putting in new plants, leave enough space for them to grow to mature size
- Any vegetation over 2 feet cannot be within 15 feet of a tree canopy

Resistant:

- Use fire-resistant plants whenever possible
- Keep in mind that even plants listed on the Planting Guide must be maintained using Spacing Guidelines for both vertical and horizontal separation. Plant separation is an important part reducing wildfire threat

For more information, please visit the OCFA website or call (714) 573-6774 to schedule a wildfire home assessment.

Figure 29 Ready, Set, Go! Flyer on Vegetation Management

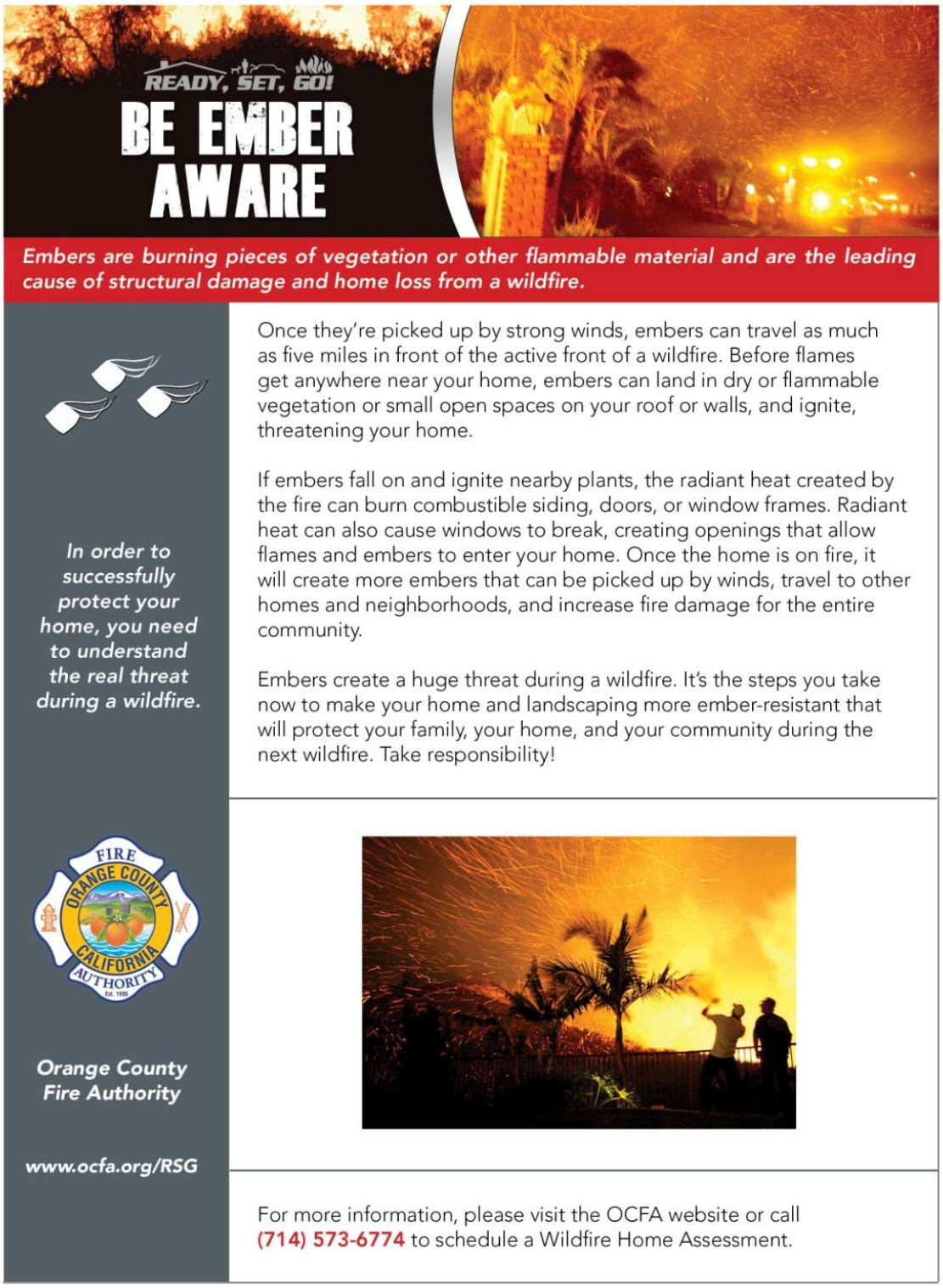


Figure 30 Ready, Set, Go! On Be Ember Aware



A Wildfire Home Assessment is a meeting at your home with a Fire Department representative, who will give you tips on how to better protect your home from a wildfire.

Experts can't tell you when the next wildfire will happen, but they do know that wildfires can happen at any time in Southern California. Many residents have not taken the most basic steps to protect their families, homes and neighborhoods from Orange County's #1 fire risk.

During your FREE Wildfire Home Assessment, the outside of your home and property, along with other risk factors, will be evaluated. Then, you'll be given specific steps you can take to reduce your home's vulnerability to wildfire.

Many proven tips to help your home survive a wildfire are available 24/7 at ocfa.org, including:

Landscaping	Construction	Safety
Plant Selection Spacing Separation Dead & Dying Plants Fuel Modification Creating Defensible Space Vegetation Management	Balconies & Decks Chimneys Fences Garages Patio Covers Rain Gutters Roofs, Eaves, & Vents Walls and Siding Windows	Ember Awareness As Wildfire Approaches Wildfire Evacuation If You Get Trapped Disaster Kits & Go! Bags Red Flag Warnings

Homes survive wildfires because of what you do to prepare for them ahead of time, not by fate or luck. No matter where you live, or how much money you can spend, there are things that you can do right now to help protect your home.

Don't wait. Set up a FREE Home Assessment to protect your home today.

To schedule your FREE Home Assessment:



Orange County Fire Authority

www.ocfa.org/RSG

Figure 31 Ready, Set, Go! Flyer on Home Assessment

Wildfire Home Risk Assessment

Are You READY?

READY! SET! GO!

Directions: Answer each question using assigned point values as it applies to the home. If the question does not apply, score it as a zero. Total the points to determine the risk level for the home.

Home

Condition found	Recommendation	Points	Total
The **home** has all non-combustible siding (brick, stucco, metal)		0	
The home has some vinyl siding	Replace siding with non-combustible material	5	
The home has some wood siding		10	
The **roof material** is non-combustible (metal, composition, tile) with no areas for fire embers to intrude (i.e. has bird stops, flashing at valleys, and blocking)		0	
The roof has wood shakes or areas for fire embers to intrude	Replace wood shake with Class A roof assembly with approved "blocking" material. Eliminate intrusion areas	20	
All **chimneys** have spark arresters		0	
Some chimneys do not have spark arresters	Install spark arresters with 1/2" non-combustible mesh[1]	5	
All **gutters** and roof are clear of combustible debris		0	
Some gutters and/or roof have combustible debris present	Clear all combustible debris from roof and gutters. Install screens on gutters to reduce the accumulation of combustible debris[1]	5	
All **eaves** are boxed to prevent ember collection underneath		0	
Some eaves are not boxed	Plug openings in open-eave areas with durable caulk. Install a non-combustible covering over blocking to eliminate openings	5	
All windows are dual pane with durable frame (one pane is tempered).		0	
Some windows are single pane or have wood frames or do not have any tempered glass	Replace with dual pane windows with a durable frame. One pane should be tempered	5	
All eave and cornice **vents** are baffled. All other vents are protected with 1/8" non-combustible mesh		0	
Some eave vents and cornice vents are present and are not baffled or some vents are not protected by 1/8" non-combustible mesh	Replace eave and cornice vents with approved baffled vents. Protect all other vents with 1/8" non-combustible mesh. Keep the areas around the vents clear of vegetation	10	
Patio cover is constructed or covered with non-combustible material (brick, stucco, metal) or is not within 10' of home		0	
Patio cover is constructed with uncovered combustible material and is within 10' of home	Replace with non-combustible material or cover with non-combustible material (brick, stucco, metal)	5	
All **balconies** are constructed or covered with non-combustible material (brick, stucco, metal, tile, etc.). Undersides are protected to prevent ember accumulation		0	
Some balconies are constructed with combustible material or combustible material is exposed or undersides are unprotected	Replace with non-combustible material or cover with non-combustible material. Protect undersides	5	
All **decks** are constructed with non-combustible material (composite, tile, brick, etc.)		0	
Some decking is constructed with combustible material (un-approved vinyl, wood, etc.)	Replace with non-combustible material or cover with non-combustible material	10	
The undersides of all **raised decks** are constructed or covered with non-combustible material (brick, stucco, metal, tile, etc.)		0	
The undersides of some raised decks are constructed with combustible material and not covered with non-combustible material (brick, stucco, metal, tile, etc.)	Replace with non-combustible deck or cover with non-combustible material (brick, stucco, metal, tile, etc.)	10	
All **fences, gazebos, and trellis's are** 10' or more from the home or are constructed with non-combustible material		0	
Some fencing, gazebos or trellis's are less than 10' from the home and constructed with combustible material	Replace fencing, gazebo or trellis with non-combustible material within 10' from the house	5	

Figure 32 Ready, Set, Go! Flyer on Wildfire Home Risk Assessment, Page 1

Landscape			
Condition found	**Recommendation**	**Points**	
All **vegetation** is green and well watered (not annual grasses) and/or drought resistant		0	
Some vegetation is dead or not drought or fire resistant	Remove ALL dead vegetation and replace with fire resistant planting material. Visit www.ocfa.org for recommendations	10	
All **shrubs** are at least 5' from structures		0	
Some shrubs are within 5' of structures	Replace shrubs with low lying vegetation or thin shrubs to 50% density	10	
All overhanging **limbs** are at least 10' above roofs and at least 10' away from structures		0	
Some overhanging limbs are less than 10' from roofs and structures	Remove all limbs within 10' from structures[1]	5	
All **taller vegetation** is pruned and separated from underbrush and separated from trees. Separation between shrubs and trees is at least 3 times height of shrubs. Separation between low lying vegetation and shrubs is at least 3 times height of low lying vegetation. Spacing between shrubs is at least three times width of shrubs		0	
Some taller vegetation hangs over underbrush creating a "fuel ladder" that can carry fire up and toward the home	Provide separation between low lying vegetation and shrubs. Provide separation between shrubs and trees.	10	
All **outbuildings** and secondary structures are at least 20' from the home or constructed with non-combustible material		0	
Some outbuildings and secondary structures are within 20' of the home and constructed with combustible material	Replace with non-combustible material or cover with non-combustible material	5	

Perimeter			
Condition found	**Recommendation**	**Points**	
Home has at least 100' of **brush clearance** around it or is protected by a formal and compliant "fuel modification" program		0	
Home has 30' - 100' of defensible space	Remove dead or dying vegetation within 100' of homes. Remove native vegetation within 30' of home. Thin native vegetation 50% density within 30' to 100' of home[1]	5	
Home has less than 30' of defensible space		10	
All firewood and other **combustible materials** are stored at least 30' from the home		0	
Some firewood or other combustible materials are stored against or within 30' of home	Move firewood and other combustible storage at least 30' away from home[1]	10	

TOTAL SCORE _____

For follow up questions regarding this risk assessment, please contact:

Consultation Performed by:

Name: _____

Phone: _____

Date: _____

SCORING:
During a wildfire, firefighters are better able to protect homes that have low scores. Firefighters may not be able to protect homes that have higher scores.

0: Your home has the **greatest potential for survivability** during a hostile wildfire.

5-20: Your home has been identified as a **low risk**. Recommendations indicated on this checklist should be addressed to increase the survivability of your home during a hostile wildfire.

25-40: Your home has been identified as a **moderate risk**. Survivability of your home will be an issue during a hostile wildfire. Recommendations indicated on this checklist should be completed.

45 and above: Your home has been identified as a **high risk**. The survivability of your home is low. Your home may be in extreme danger during a hostile wildfire. Recommendations indicated on this checklist are strongly encouraged to be completed.

For additional information on how to increase the chance your home will survive a wildfire, please visit the Orange County Fire Authority's Safety and Education page at **www.ocfa.org** and the State Fire Marshal's wildland urban interface products page at **http://osfm.fire.ca.gov/licensinglistings/licenselisting_bml_searchcotest.**

If you walk your property without an OCFA inspector and have questions afterwards feel free to contact us at 714-573-6774 or rsgoc@ocfa.org

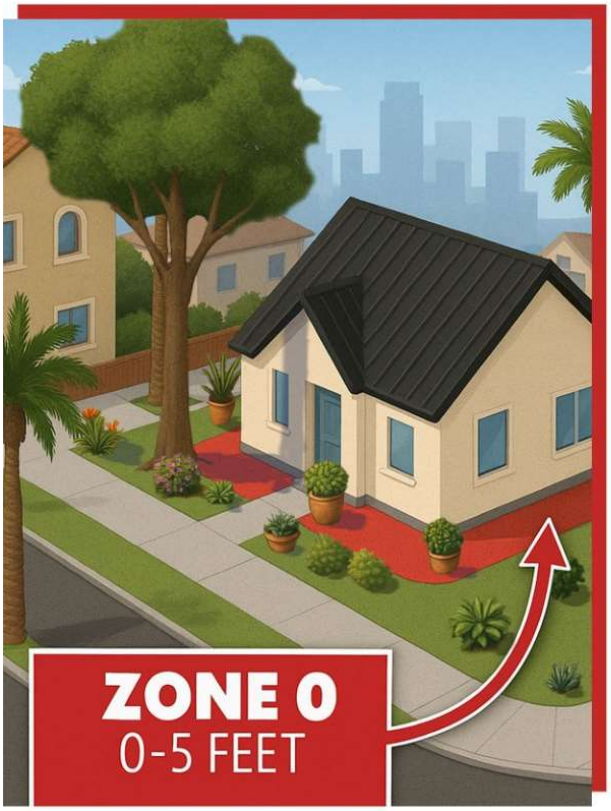
[1] For some homeowners, these recommendations may be requirements of the fire code. If the property is near a wildland area and is subject to a Defensible Space inspection, this is not just a recommendation, but a requirement and subject to a Wildland Inspection Notice.

Figure 33 Ready, Set, Go! Flyer on Wildfire Home Risk Assessment, Page 2

ZONE 0 AT-A-GLANCE

Wind-driven embers during wildfires are a leading cause of homes being destroyed, including in the 2025 Los Angeles fires. Californians can protect their homes by removing items that can ignite from these dangerous embers around the first five feet of their homes.

In 2021 state leaders passed a law that requires statewide guidelines that protect the area immediately adjacent to homes, which is knows as “Zone 0”. Since then, several cities have already adopted Zone 0 requirements on their own and the California Department of Insurance has established the Safer form Wildfires Program to enable home insurance discounts for implantation of these protective measures.



Zone 0 is the first five feet surrounding your home, decks, and attached structures. This area is called the ember-resistant zone and is critical to wildfire defense. The goal is simple: keep this zone completely free of combustible materials so embers or flames cannot ignite your home.

ZONE 0 GUIDELINES

- Use pavers, concrete, or other hardscape materials instead of combustible mulch.
- Clear dead weeds, grass, and debris; check roofs, gutters, and outdoor areas.

  Keep branches trimmed 10 feet away from chimneys and stovepipes.
- Minimize combustible items like furniture and planters on decks.
- Move firewood and lumber to Zone 2 for safety.
- Replace combustible fencing and gates with fire-resistant materials.

  Shift garbage and recycling containers to a safer area outside this zone.
- Relocate boats, RVs, and vehicles away from this zone to reduce fire risks.
- Plants can be added just outside Zone 0 as a way to maintain vegetaition around the home.



Figure 34 Zone 0 At-A-Glance, Page 1

ZONE 0 AT-A-GLANCE

THE SCIENCE BEHIND ZONE 0

In an ongoing collaboration, CAL FIRE - Office of the State Fire Marshal (OSFM) and the Insurance Institute for Business & Home Safety (IBHS) continue to conduct live burn demonstrations using a mitigated and nonmitigated structure.

The demonstrations provide a controlled environment to study how specific structural and landscape modifications mitigate wildfire risk, thereby offering data-driven insights into fire behavior and prevention.

Research has concluded that removing flammable materials within the first five feet of a structure prevents embers from starting a fire, greatly reducing the risk of ignition to exterior walls, eaves, and gutters—areas where wildfire embers can easily take hold. Keeping this area clear is one of the best protection measures you can take to protect your home.



- **Zone 0 Landscaping –** Non-mitigated home had wood mulch, plants, and a wooden fence within five feet, acting as a wick for flames. The mitigated home used gravel, hardscaping, and a metal fence, removing fuel for embers.
- **Vents –** Standard vents let embers enter and ignite the attic. Ember-resistant vents on the mitigated home blocked them.
- **Siding –** Flammable siding to the ground allowed flames to climb. The mitigated home used noncombustible material at the base.
- **Gutters –** Debris-filled plastic gutters fueled ember ignition. The mitigated home had clean metal gutters with noncombustible gutter guards to prevent debris accumulation.
- **Furniture –** Flammable outdoor furniture on the non-mitigated home ignited from embers. The mitigated home used noncombustible furniture, preventing ignition.

MORE RESOURCES LINKTR.EE/CALFIREZONE0
SCIENCE, VIDEOS, AND MORE...

Figure 35 Zone 0 At-A-Glance, Page 2

Links

Immediate Zone
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/12/Immediate-Zone-2025.pdf

Defensible Space
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/03/OCFA-RSG-Defensible-Space-1-1.pdf

Home Hardening
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/12/Home-Hardening-2025.pdf

Vegetation Management
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2026/01/OCFA-RSG-Vegetation-Management.pdf

Be Amber Aware
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/07/OCFA-RSG-Be-Ember-Aware-688b04d7e4fb9.pdf

Home Assessment
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/12/Home-Assessment-2025.pdf

Wildfire Home Risk Assessment
https://storageocfaprod001.blob.core.windows.net/blobocfaprod01/2025/07/OCFA-RSG-Home-Assessment-Form-688b05b09d57e.pdf

Zone 0 At-A-Glance
https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/calfire-website/prepare/zone-0-at-a-glance.pdf

Attachment B

Proposed Response to the 2025-2026 Grand Jury Report

NEWPORT BEACH FIRE DEPARTMENT

100 CIVIC CENTER DRIVE, P.O. BOX 1768, NEWPORT BEACH, CA 92660

PHONE: 949-644-3355 WEB: www.newportbeachca.gov

JEFF BOYLES
Fire Chief

DATE: **July 14, 2026**

RE: **Response to the 2025-2026 Orange County Grand Jury Report "Wildfires Hit Home"**

FROM: **City of Newport Beach**

BACKGROUND

Due to the increased risk posed by wildfires in California, the Orange County Grand Jury issued a report, "Wildfires Hit Home," which aims to: (1) identify the shared responsibilities of local governments and fire service agencies, communities and homeowners to reduce the risk of wildfire in the wildland-urban interface, (2) investigate the status of actions taken by the California legislature and Department of Insurance to provide relief to policyholders, and (3) inform communities and homeowners on home hardening, defensible space, insurance risk reduction, and wildfire safety awareness.

Eighteen of the twenty most destructive fires in California state history have occurred since the year 2000, including the twelve deadliest fires in California state history. These statistics prove that something has changed in the past thirty years. Wildfires are not only occurring more frequently, but they are also more destructive than in years past. The frequency and intensity of wildfires have escalated due to prolonged droughts, rising temperatures, and development encroachment into wildland-urban interface areas. Catastrophic losses from these wildfires have resulted in a continuing insurance crisis.

The Grand Jury report required responses from several Orange County Agencies, including responses from the City of Newport Beach to the following:

- Findings: F-1, F-2, F-3, F-4, F-5, F-6
- Recommendations: R-2, R-3, R-4

RESPONSES TO GRAND JURY REPORT FINDINGS

Finding F-1: More frequent and severe wildfires driven by increasingly hotter, drier, and windier conditions in the Orange County wildland-urban interface are escalating impacts on financial and non-financial resources. Among the financial costs are dramatic increases in homeowners' insurance premiums, non-renewals, and inabilities to obtain insurance.

The City of Newport Beach agrees with the finding.

Response: The City of Newport Beach maintains a proactive, long-standing commitment to wildfire mitigation. For more than 20 years, the City has established and rigorously maintained extensive fuel modification zones, particularly within the Newport Coast area.

As escalating wildfire risks continue to impact both the state economy and the financial well-being of Newport Beach residents, the City actively collaborates with diverse regional and industry partners to mitigate these hazards. These ongoing efforts are designed to reduce local wildfire risk, enhance community resilience, and support the continued insurability of local homes. Most recently, the City partnered with a modern insurance brokerage to directly assist residents facing increasing premiums or policy non-renewals due to localized wildfire risk.

Finding F-2: Actions that address conditions in the home ignition zone to significantly reduce ignition potential can prevent a community wildland-urban interface fire disaster or suburban conflagration.

The City of Newport Beach agrees with the finding.

Response: The City of Newport Beach concurs that managing the Home Ignition Zone (HIZ) is one of the most critical and effective actions homeowners can take to mitigate wildfire risk. Empirical research and scientific testing have proven that proper HIZ maintenance significantly reduces the risk of home ignition caused by ember cast during a wildfire event. To embed this critical practice within the community, the city conducted an extensive public outreach campaign, hosting more than 40 meetings with various community stakeholder groups. These targeted engagements included Homeowners Associations (HOAs), the Chamber of Commerce, and local real estate associations, and were specifically designed to elevate awareness of the Home Ignition Zone as a primary focus for local wildfire resilience and risk reduction.

Finding F-3: Expanded engagement with the community to raise awareness and provide support regarding home hardening and defensible space will increase effectiveness of wildfire risk mitigation and insurance risk reduction efforts.

The City of Newport Beach agrees with the finding.

Response: Robust community engagement is vital to empowering residents with the knowledge required to systematically reduce structural and vegetative vulnerability ahead of a wildfire event. To move beyond generalized hazard mapping, the City of Newport Beach utilized advanced XyloPlan modeling technology to analyze local fire pathways and evaluate specific risk exposure down to the individual parcel level. The City is actively leveraging the data-driven insights from this localized analysis to educate individual homeowners on high-impact, property-specific risk reduction strategies. Successful wildfire mitigation programs use data to shift from activity-based to outcome-based thinking to prioritize mitigation resources. Furthermore, by equipping residents with the Wildfire Prepared Home Standard developed by the Insurance Institute for Business & Home Safety, the City provides a clear, science-backed framework. This ensures that localized home-hardening and defensible space efforts are directly aligned with the objective underwriting expectations of the insurance industry, supporting long-term community resilience and property insurability.

Finding F-4: Achievement of community-level and property-level wildfire risk mitigation designations (such as Firewise USA Site, Fire Risk Reduction Community or Insurance Institute for Business and Home Safety certification) lessens wildfire risk and helps reduce insurance premium costs.

The City of Newport Beach agrees with the finding.

Response: The City of Newport Beach strongly supports comprehensive wildfire and community risk reduction across all operational levels. In executing these programs, the city maintains a critical strategic distinction between administrative activity and measurable outcomes.

To date, Newport Beach has successfully established the Newport Beach Fire Safe Council and secured Firewise USA designations for four local communities, all of which remain in good standing. The city recognizes that achieving these organizational designations does not independently lower localized wildfire risk; rather, they serve as foundational frameworks. While establishing these community-led structures constitutes a necessary and vital precondition for success, the City views them as a starting point rather than the ultimate destination. True risk reduction is realized only through

continuous, physical implementation of home-hardening and defensible space standards across every parcel.

Finding F-5: All county residents should be made aware that Safer from Wildfire regulation requires insurers to provide discounts to homeowners and communities that implement home hardening and defensible space measures regardless of whether a property is located within a Fire Hazard Severity Zone.

The City of Newport Beach agrees with the finding.

Response: The City of Newport Beach actively promotes and disseminates information regarding the California Department of Insurance "Safer from Wildfires" regulatory framework. In an environment of escalating property insurance costs, the ability for property owners to secure mandatory premium discounts serves as a highly effective mechanism to incentivize localized physical risk reduction.

The City maintains that broad, transparent communication regarding these financial incentives is essential at the local, regional, and state levels. By linking physical mitigation measures, such as structure hardening and defensible space compliance, directly to insurance cost relief, public agencies can effectively drive the widespread homeowner action necessary to achieve meaningful, community-wide wildfire resilience.

Finding F-6: AB888, California Safe Homes Grant Program, provides financial assistance to eligible homeowners, cities, counties, and special districts for home hardening and defensible space measures. Applying for and using these grant funds will reduce wildfire losses and improve insurability and resilience of vulnerable communities.

The City of Newport Beach agrees with the finding.

Response: The City of Newport Beach recognizes that external grant funding is an essential tool to expand community-wide resilience, bridging the gap for homeowners who face financial constraints when enacting critical wildfire mitigation measures. Securing and executing these state and federal funds directly enhances localized hazard reduction efforts.

Currently, the City is actively utilizing a grant awarded through the California Department of Forestry and Fire Protection (CAL FIRE) Wildfire Prevention Grants Program, funded by California Climate Investments. This targeted funding is being deployed to execute critical fuel reduction and brush-thinning operations within Buck Gully. By addressing ladder fuels and accumulated

biomass, this project is specifically designed to suppress ground fire intensity and establish an essential buffer to protect adjacent residential structures.

RESPONSES TO GRAND JURY REPORT RECOMMENDATIONS

Recommendation R-2: By December 31, 2026, cities and fire service agencies, including Orange County Fire Authority should commit to participation in a county-wide annual wildfire prevention fair planned by the Orange County Board of Supervisors to showcase wildfire prevention outreach programs.

The recommendation has not yet been implemented, but will be implemented in the future.

Summary/Explanation: The City of Newport Beach remains actively committed to participating in annual wildfire prevention fairs to showcase its public outreach and mitigation programs. The City would be willing to participate should the Orange County Board of Supervisors host an event. Notably, the City collaborates with the Irvine Ranch Conservancy Wildfire Prevention Symposium, a comprehensive countywide event dedicated to addressing wildfire mitigation, public education, and strategic partnerships aimed at reducing regional wildfire risk.

Recommendation R-3: By December 31, 2026, cities, unincorporated areas, special districts, and fire service agencies in High and Very-High Fire Hazard Severity Zones should initiate planning activities to achieve community-level wildfire risk mitigation designations and/or establish a local Fire Safe Council within one year.

The recommendation has been implemented.

Summary/Explanation: The City of Newport Beach has successfully established a local Fire Safe Council and currently maintains four recognized Firewise USA Communities in good standing. We will continue to evaluate additional programs to support community-level wildfire risk.

Recommendation R-4: By December 31, 2026, to ensure city residents are engaged and aware of wildfire risk reduction resources, OCFA member and non-member cities should provide information, develop their own outreach program, and establish a direct contact person(s) for their residents. This is in addition to whatever referrals or references made to OCFA outreach programs.

The recommendation has been implemented.

Summary/Explanation: The City of Newport Beach and the Newport Beach Fire Department have established a comprehensive public outreach program, hosting multiple educational events annually. Furthermore, a dedicated Deputy Fire Marshal is formally assigned as the direct point of contact for residents regarding these wildfire safety initiatives.

Attachment C

Draft Cover Letter to the Presiding Judge of the Orange County Superior Court

NEWPORT BEACH FIRE DEPARTMENT

100 CIVIC CENTER DRIVE, P.O. BOX 1768, NEWPORT BEACH, CA 92660

PHONE: 949-644-3355 WEB: www.newportbeachca.gov

JEFF BOYLES
Fire Chief

July 14, 2026

The Honorable Shiela Hanson
Presiding Judge of the Superior Court
Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: 2025-2026 Orange County Grand Jury Report – "Wildfires Hit Home"

Dear Presiding Judge Hanson,

The City of Newport Beach (City) appreciates the time and effort the 2025-2026 Grand Jury spent on the development of their report, "Wildfires Hit Home."

The City Council reviewed the report and authorized the attached response to the findings and recommendations noted in the report. This response is submitted on behalf of the City of Newport Beach and the City of Newport Beach Fire Department. The City values the opportunity to respond to the report, share our perspective, and provide firsthand knowledge to each of the issues requested by the grand Jury.

If the City of Newport Beach can provide additional information or clarification of our responses, please do not hesitate to contact Fire Chief Jeff Boyles (jboyles@nbfd.net).

Sincerely,

Lauren Kleiman, Mayor
City of Newport Beach

Enc: City of Newport Beach's Response to Findings and Recommendations

cc: Lauren Kleiman, Mayor
City of Newport Beach Council Members
Jeff Boyles, Fire Chief, Newport Beach Fire Department
Lena Shumway, Newport Beach City Clerk
Hugh Nguyen, Orange County Clerk-Recorder

JB:rr

NEWPORT BEACH PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, JULY 9, 2026
REGULAR MEETING – 6:00 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. ELECTION OF OFFICERS

ITEM NO. 1 ELECTION OF OFFICERS

Summary:
The Planning Commission's adopted rules require the election of officers at its annual meeting, which occurs at the first meeting of July each year. Officers include the Chair, Vice Chair, and Secretary and they would serve for a one-year term.

Recommended Action:

1. Find this action not subject to the California Environmental Quality Act ("CEQA") pursuant to 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3;

2. Nominate Planning Commission officers consisting of Chair, Vice Chair, and Secretary; and

3. Appoint the officers by majority approval of a motion either individually or as one motion for all positions.

V. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

VI. REQUEST FOR CONTINUANCES

VII. CONSENT ITEMS

ITEM NO. 2 MINUTES OF JUNE 18, 2026

Recommended Action: Approve and file

VIII. PUBLIC HEARING ITEMS

ITEM NO. 3 1301 DOVE STREET RESIDENTIAL DEVELOPMENT (PA2026-0046)
Site Location: 1301 Dove Street

Summary:

A request to authorize the development of a 139-unit, for-sale residential townhome community on an existing professional office site. The dwelling units, which consist of two to four-bedroom townhomes ranging from approximately 1,425 to 2,362 square feet, would be distributed across 50 buildings with

each building ranging from one to eight units. The buildings would have a maximum height ranging from approximately 33.5 feet to 39 feet above established grade. The proposal includes a two-car garage for each unit, 10 driveway parking spaces, and 42 uncovered guest parking spaces for a total of 330 on-site parking spaces. The development will also include resident-serving amenities including activity areas, outdoor gardens, and seating and walking paths throughout the site. Additionally, a publicly accessible pedestrian strada improved with landscaping and seating areas are provided along the Dove Street frontage. Vehicular access is provided by a single driveway on Dove Street. If approved, the development may occur in two phases. The first phase would include the demolition of the existing parking structure and construction of approximately 76 dwelling units on the rear half of the site. The second phase would include demolition of the existing approximately 218,000-square-foot ten-story office building and construction of the remaining approximately 63 dwelling units in the front half of the site. The following approvals are required to implement the project:

- *Major Site Development Review (SDR):* Required for any project proposing five or more residential units with a tract map. The SDR also allows for deviations from three objective design standards pursuant to Section 20.48.185 (Multi-Unit Objective Design Standards) of the Newport Beach Municipal Code (NBMC); and

- *Vesting Tentative Tract Map (VTTM):* To allow for the subdivision of the existing 6.46-acre site into four parcels and to allow the airspace subdivision of the individual residential units upon two of those parcels, pursuant to Chapter 19.12 (Tentative Map Review) of the NBMC.

Recommended Actions:

1. Conduct a public hearing;

2. Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code (PRC) Section 21080.66 (enacted through Assembly Bill 130) because it has no potential to have a significant effect on the environment; and

3. Adopt Resolution No. PC2026-020 approving the Major Site Development Review and Vesting Tentative Tract Map, filed as PA2026-0046.

ITEM NO. 4 CDM INVESTORS RESIDENCE (PA2022-0148)
Site Location: 2516 and 2518 Bayside Drive

Summary:

A request for a coastal development permit (CDP) to demolish an existing duplex and construct a new three-story, 3,037-square-foot single-unit dwelling with an attached 479-square-foot two-car garage and a 285-square-foot Junior Accessory Dwelling Unit (JADU). The applicant also requests a variance from Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to:

1. Allow a second-floor balcony to encroach 2 feet, 6 inches into the required 5-foot rear setback abutting an undeveloped alley;

2. Allow the construction of walls, planters, and a retaining wall over 8 feet in height within the 5-foot rear alley setback;

The project also includes the removal of landscaping within the adjacent City-owned Bayside Park.

Recommended Actions:

1. Conduct a public hearing;

2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA

Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment; and

3. Adopt Resolution No. PC2026-0021, approving the Coastal Development Permit and Variance filed as PA2022-0148.

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 MOTION FOR RECONSIDERATION

ITEM NO. 6 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES

X. ADJOURNMENT

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. __

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov

PREPARED BY: Benjamin Zdeba, Deputy City Manager, bzdeba@newportbeachca.gov

PHONE: 949-644-3253

TITLE: Planning Commission Agenda Report for July 9, 2026

ELECTION OF OFFICERS:

ITEM NO. 1 ELECTION OF OFFICERS

SUMMARY: Election of Chair, Vice Chair, and Secretary to each serve for one year.

The Planning Commission unanimously elected:

- Commissioner David Salene as Chair;
- Commissioner Jonathan Langford as Vice Chair; and
- Commissioner Greg Reed as Secretary.

CONSENT ITEMS:

ITEM NO. 2 MINUTES OF JUNE 18, 2026

SUMMARY: Draft minutes from June 18, 2026, meeting of the Planning Commission.

The Planning Commission approved the minutes with edits by the following vote:

AYES:	Salene, Langford, Reed, Harris, Gazzano, Rosene, and Ellmore
NOES:	None
ABSENT:	None
ABSTAIN:	None

ACTION: Approved as Amended

PUBLIC HEARING ITEMS:

ITEM NO. 3 1301 DOVE STREET RESIDENTIAL DEVELOPMENT (PA2026-0046)
Site Location: 1301 Dove Street

SUMMARY: A request to authorize the development of a 139-unit, for-sale residential townhome community on an existing professional office site. The dwelling units, which consist of two to four-bedroom townhomes ranging from approximately 1,425 to 2,362 square feet, would be distributed across 50 buildings with each building ranging from one to eight units. The buildings would have a maximum height ranging from approximately 33.5 feet to 39 feet above established grade. The proposal includes a two-car garage for each unit, 10 driveway parking spaces, and 42 uncovered guest parking spaces for a total of 330 on-site parking spaces. The development will also include resident-serving amenities including activity areas, outdoor gardens, and seating and walking paths throughout the site. Additionally, a publicly accessible pedestrian strada improved with landscaping and seating areas are provided along the Dove Street frontage. Vehicular access is provided by a single driveway on Dove Street. If approved, the development may occur in two phases. The first phase would include the demolition of the existing parking structure and construction of approximately 76 dwelling units on the rear half of the site. The second phase would include demolition of the existing approximately 218,000-square-foot ten-story office building and construction of the remaining approximately 63 dwelling units in the front half of the site. The following approvals are required to implement the project:

- *Major Site Development Review (SDR):* Required for any project proposing five or more residential units with a tract map. The SDR also allows for deviations from three objective design standards pursuant to Section 20.48.185 (Multi-Unit Objective Design Standards) of the Newport Beach Municipal Code (NBMC); and

- *Vesting Tentative Tract Map (VTTM):* To allow for the subdivision of the existing 6.46-acre site into four parcels and to allow the airspace subdivision of the individual residential units upon two of those parcels, pursuant to Chapter 19.12 (Tentative Map Review) of the NBMC.

The Planning Commission conducted a public hearing, considered public input, and approved the project with several clean-up revisions to the Conditions of Approval and an additional Condition of Approval requested by the applicant to memorialize an agreement made with the neighboring property owner:

AYES:	Salene, Langford, Reed, Harris, Gazzano, Rosene, and Ellmore
NOES:	None
ABSENT:	None
ABSTAIN:	None

ACTION: Approved as Amended

ITEM NO. 4 CDM INVESTORS RESIDENCE (PA2022-0148)
Site Location: 2516 and 2518 Bayside Drive

SUMMARY: A request for a coastal development permit (CDP) to demolish an existing duplex and construct a new three-story, 3,037-square-foot single-unit dwelling with an attached 479-square-foot two-car garage and a 285-square-

foot Junior Accessory Dwelling Unit (JADU). The applicant also requests a variance from Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to:

1. Allow a second-floor balcony to encroach 2 feet, 6 inches into the required 5-foot rear setback abutting an undeveloped alley; and

2. Allow the construction of walls, planters, and a retaining wall over 8 feet in height within the 5-foot rear alley setback.

The project also includes the removal of landscaping within the adjacent City-owned Bayside Park.

The Planning Commission conducted a public hearing, considered public input, and approved the project as recommended by the following vote:

AYES:	Salene, Langford, Reed, Harris, Gazzano, Rosene, and Ellmore
NOES:	None
ABSENT:	None
ABSTAIN:	None

ACTION: Approved

City of Newport Beach

Tentative Agenda Report - 7/4/2026 - 10/7/2026

Project Title	Comments	Activity Type	ADDRESS	PA #	Staff assigned	Status	District
July 09, 2026 - Planning Commission Meeting							
1301 Dove Street Residential Townhomes		Public Hearing	1301 DOVE ST	PA2026-0046	Oscar Orozco	MORE INFO	District 3
CDM Investors LLC Variance		Public Hearing	2516 BAYSIDE DR	PA2022-0148	Daniel Kopshever	MORE INFO	District 6
July 14, 2026 - City Council Meeting							
2350 Bristol Street Driveway Access	Appeal of Planning Commission Denial	Public Hearing	2350 BRISTOL ST	PA2025-0112	Daniel Kopshever	MORE INFO	District 3
Newport Place PC Amendment-Affordability		Public Hearing	1 CITYWIDE PROJECT	PA2025-0196	Rosalinh Ung	MORE INFO	
Telecom Facilities (CC Initiated 05/25/2021)	Consent	Second Reading	1 CITYWIDE PROJECT	PA2021-103	Benjamin Zdeba	MORE INFO	Citywide
July 16, 2026 - Airport Land Use Commission Meeting							
1300 Dove Townhomes		Public Hearing	1300 DOVE ST	PA2025-0170	Oscar Orozco	MORE INFO	District 3
July 16, 2026 - Zoning Administrator Meeting							
July 23, 2026 - Planning Commission Meeting							
July 28, 2026 - City Council Meeting							
1300 Dove Townhomes	Notice of Intent to Override ALUC's determination OR first reading of ordinances and resolution	Public Hearing	1300 DOVE ST	PA2025-0170	Oscar Orozco	MORE INFO	District 3
Grand Jury Report- CA Housing Mandate	Authorization to respond to OC Grand Jury Report on Housing Mandates	Consent	100 CIVIC CENTER DR	PA2026-0102	Liz Westmoreland	MORE INFO	District 5
Newport Place PC Amendment-Affordability	Second Reading	Consent	1 CITYWIDE PROJECT	PA2025-0196	Rosalinh Ung	MORE INFO	
July 30, 2026 - Zoning Administrator Meeting							
Cafe Lido MUP		Public Hearing	3461 VIA LIDO	PA2025-0261	Oscar Orozco	MORE INFO	District 1

The tentative schedule is a tool to assist the preparation of future agendas. It does not provide a complete description of projects and it does not list all projects currently under review that could be scheduled. The tentative schedule changes without notice.

City of Newport Beach

Tentative Agenda Report - 7/4/2026 - 10/7/2026

Project Title	Comments	Activity Type	ADDRESS	PA #	Staff assigned	Status	District
Chester Residence CDP		Public Hearing	5807 SEASHORE DR	PA2026-0083	Daniel Kopshever	MORE INFO	District 1
Childs Residence Modification Permit		Public Hearing	2391 AZURE AVE	PA2026-0093	Jasmine Leon	MORE INFO	District 3
He and Chen Investment, LLC Residential Condos	Non-Hearing Item		618 HELIOTROPE AVE	PA2026-0067	Jasmine Leon	MORE INFO	District 6
August 06, 2026 - Planning Commission Meeting							
Fletcher Jones Airport Shuttle Parking Lot		Public Hearing	20052 BIRCH ST	PA2023-0220	Jerry Arregui	MORE INFO	District 3
Waiver of Council Policies L-6 and L-2	Public Hearing		20462 BIRCH ST	PA2026-0134	Joshua McDonald	MORE INFO	District 3
Waiver of Council Policy L-6	Public Hearing		700 JASMINE AVE, 1/2	PA2026-0123	Joshua McDonald	MORE INFO	District 6
August 13, 2026 - Zoning Administrator Meeting							
Sherman Gardens MUP		Public Hearing	2647 COAST HWY E	PA2026-0003	Oscar Orozco	MORE INFO	District 6
August 20, 2026 - Planning Commission Meeting							
MacArthur Court Residences		Public Hearing	4665 MACARTHUR CT	PA2026-0041	Melinda Whelan	MORE INFO	District 3
August 25, 2026 - City Council Meeting							
August 27, 2026 - Zoning Administrator Meeting							
Wood Residence CDP		Public Hearing	1232 OCEAN FRONT W	PA2025-0222	Daniel Kopshever	MORE INFO	District 1
September 03, 2026 - Planning Commission Meeting							
September 08, 2026 - City Council Meeting							
September 10, 2026 - Zoning Administrator Meeting							
September 17, 2026 - Planning Commission Meeting							
September 22, 2026 - City Council Meeting							
September 24, 2026 - Zoning Administrator Meeting							

The tentative schedule is a tool to assist the preparation of future agendas. It does not provide a complete description of projects and it does not list all projects currently under review that could be scheduled. The tentative schedule changes without notice.

City of Newport Beach
Tentative Agenda Report - 7/4/2026 - 10/7/2026

Project Title	Comments	Activity Type	ADDRESS	PA #	Staff assigned	Status	District
Hearing Date to be Determined							
Becker Residence		Public Hearing	224 GRAND CANAL	PA2024-0197	Laura Rodriguez	MORE INFO	District 5
Lower Castaways	Resolution declaring Lower Castaways exempt surplus land		100 DOVER DR	RP2026-0001	Lauren Wooding	MORE INFO	District 3
Palmilla Use Permit Amendment		Public Hearing	3110 NEWPORT BLVD	PA2025-0108	Melinda Whelan	MORE INFO	District 1
Saunders Self Storage			3848 CAMPUS DR	PA2023-0145	Liz Westmoreland	MORE INFO	District 3
Pending Coastal Commission							
Coastal Act 30613 CDP Jurisdiction Change	City Project		1 CITYWIDE PROJECT	PA2022-111	Jaime Murillo	MORE INFO	Citywide
Housing Element Implementation Program Amendments	LCP Amendment		1 CITYWIDE PROJECT	PA2022-0245	Benjamin Zdeba	MORE INFO	District 5

The tentative schedule is a tool to assist the preparation of future agendas. It does not provide a complete description of projects and it does not list all projects currently under review that could be scheduled. The tentative schedule changes without notice.

City of Newport Beach
Tentative Agenda Report - 7/4/2026 - 10/7/2026

Planner Contact Information		
Name & Title	Phone	Email
Benjamin Zdeba, Deputy City Manager	949-644-3253	bzdeba@newportbeachca.gov
Cameron Younger, Planning Technician	949-644-3237	cyounger@newportbeachca.gov
Dan Campagnolo, Systems and Administration Manager	949-644-3231	dcampagnolo@newportbeachca.gov
Daniel Kopshever, Assistant Planner	949-644-3235	dkopshever@newportbeachca.gov
David Blumenthal, Contract Planner		dblumenthal@newportbeachca.gov
David Lee, Principal Planner	949-644-3225	dlee@newportbeachca.gov
Jaime Murillo, CDD Director	949-644-3209	jmurillo@newportbeachca.gov
Jasmine Leon, Planning Technician	949-644-3201	jleon@newportbeachca.gov
Jenny Hannsun, Associate Planner	949-644-3212	jhannsun@newportbeachca.gov
Jerry Arregui, Assistant Planner	949-644-3249	jarregui@newportbeachca.gov
Joselyn Perez, Senior Planner	949-644-3312	jperez@newportbeachca.gov
Laura Rodriguez, Assistant Planner	949-644-3216	lrodriguez@newportbeachca.gov
Lauren Wooding, Real Property Administrator	949-644-3236	lwooding@newportbeachca.gov
Liz Westmoreland, Deputy CDD Director	949-644-3234	lwestmoreland@newportbeachca.gov
Melinda Whelan, Assistant Planner	949-644-3221	mwhelan@newportbeachca.gov
Oscar Orozco, Associate Planner	949-644-3219	oorozco@newportbeachca.gov
Rosalinh Ung, Principal Planner (PT)	949-644-3208	rung@newportbeachca.gov
Tonee Thai, Deputy CDD Director & Building Official	949-718-1867	tthai@newportbeachca.gov

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 12

TO:	HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM:	Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov
PREPARED BY:	Daniel Kopshever, Assistant Planner - 949-644-3235, dkopshever@newportbeachca.gov
TITLE:	Resolution No. 2026-52: 2350 Bristol Street Driveway Access Appeal (PA2025-0112)

ABSTRACT:

For the City Council's consideration is an appeal of the Planning Commission's March 19, 2026, decision to deny a staff approval allowing employee and delivery driver use of an existing rear emergency access driveway connecting the property at 2350 Bristol Street to Zenith Avenue. The Applicant contested that unrestricted use of the driveway was consistent with the original entitlements for the site issued by the County of Orange (Use Permit No. UP86-21P and Site Development Permit No. SP86-52P). The appeal was filed on April 2, 2026, by Maryam Parman of Avrek Law firm.

RECOMMENDATIONS:

a) Conduct a de novo public hearing;

b) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 as projects which a public agency rejects or disapproves are not subject to CEQA review; and

c) Adopt Resolution No. 2026-52, *A Resolution of the City Council of the City of Newport Beach, California, Denying an Appeal and Upholding the Decision of the Planning Commission to Deny Employee and Delivery Vehicle Use of an Emergency Access Driveway at an Existing Professional Office Building Located at 2350 Bristol Street Driveway Access (PA2025-0112).*

DISCUSSION:

The project site is located within the Santa Ana Heights neighborhood and is bounded to the north by Bristol Street, professional office buildings to the east, Zenith Avenue and residential neighborhood to the south, and vacant parcels to the west. The project site is developed with an 18,136-square-foot, three-story professional office building originally constructed in 1987. The building is served by a 65-space parking lot, with a portion of the parking located under the upper levels of the building with the remainder provided in a surface lot behind the building. Vehicular access to the site is provided by a driveway on Bristol Street. As shown in Figure 1, there is an additional driveway near the southwest corner of the property, connecting the project site to Zenith Avenue (Zenith Driveway).

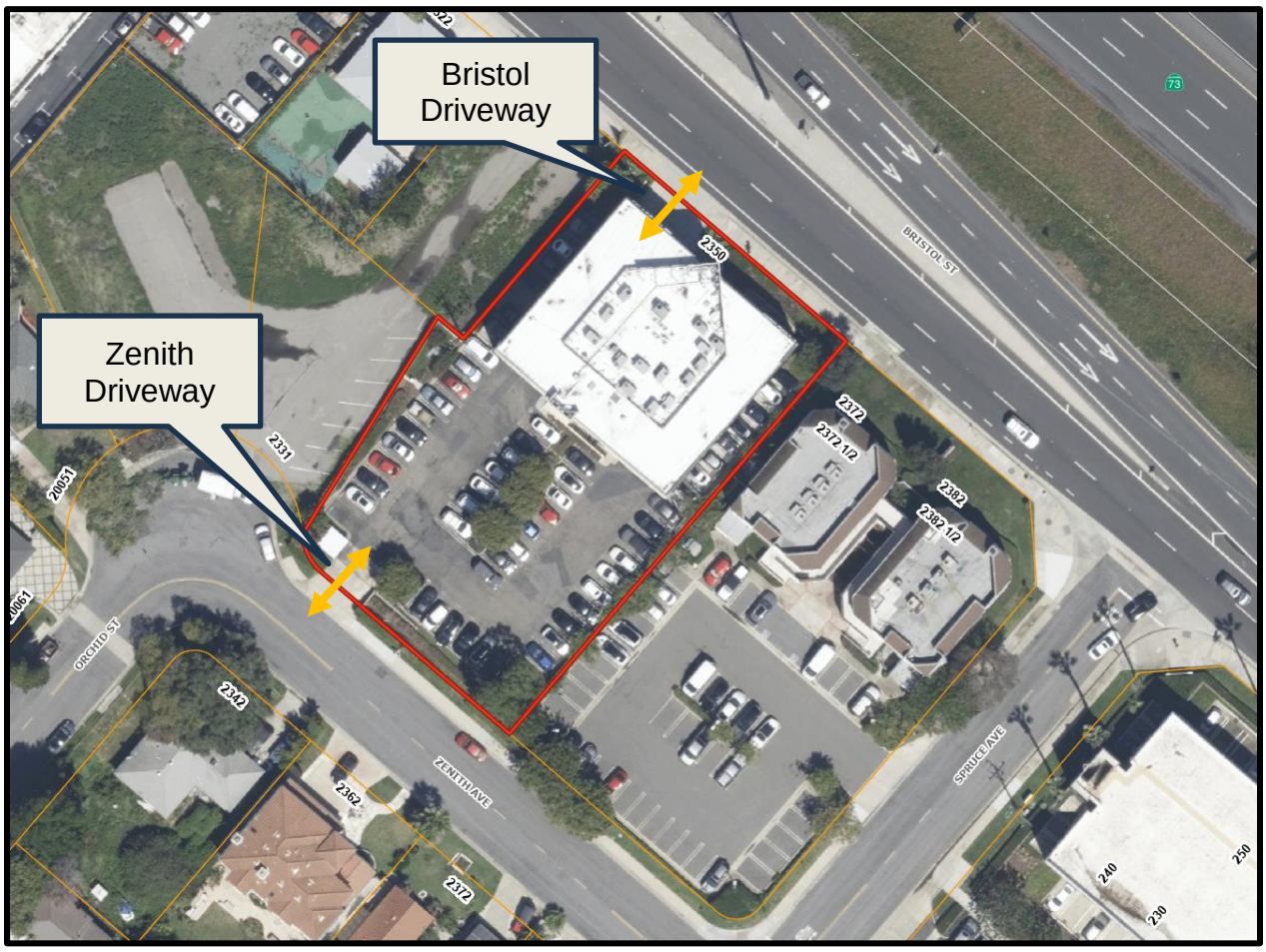


Figure 1, Aerial photograph of the Project Site

Project Background and Original Approvals

The project site was originally within the jurisdiction of the County of Orange (County) before being annexed into the City of Newport Beach (City) in September 2002. The existing development was approved by the County Board of Supervisors on August 20, 1986, pursuant to Use Permit No. UP86-21P and Site Development Permit No. SP86-52P (Original Approvals). The Original Approvals include two approved site plans, Option A and Option B, both depicting a driveway at the southwest corner of the property (Zenith

Driveway) with a clear note stating, “Conc. Bollards – Movable for Emergency Access”. Although the Board of Supervisors approved both site plans, they issued a single resolution with one set of Conditions of Approval.

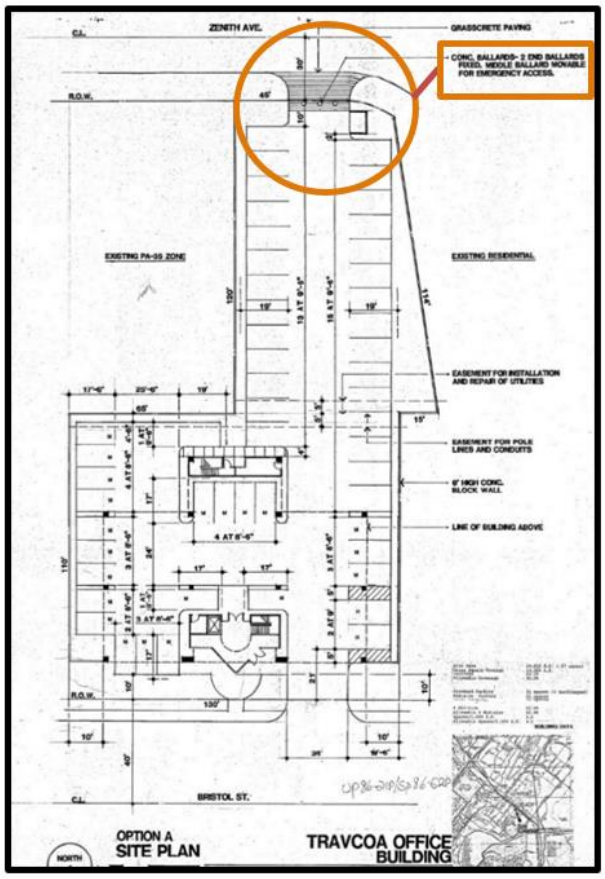


Figure 2, Site Plan A

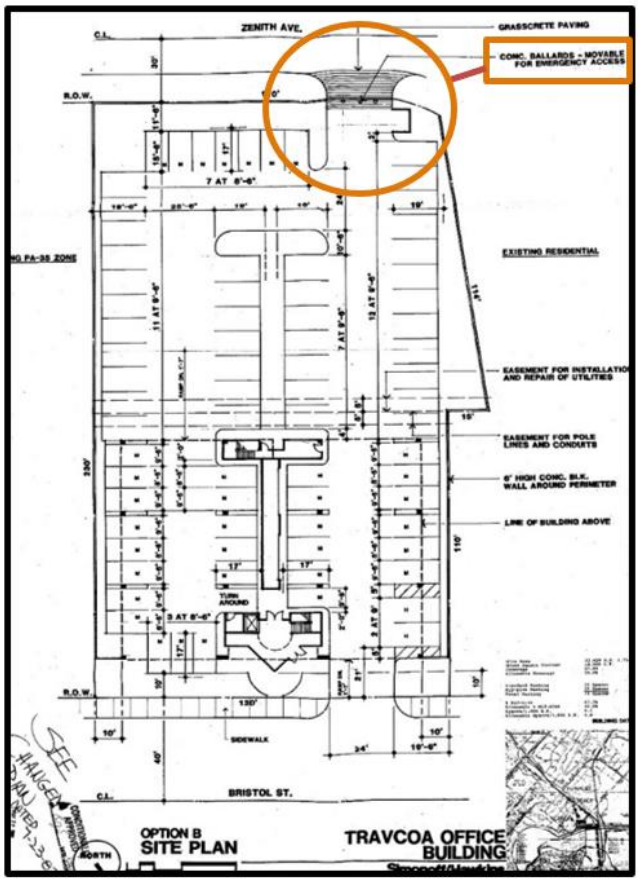


Figure 3, Site Plan B

Following the Original Approvals, a revised plan stamped and dated July 23, 1987, was submitted proposing an unrestricted driveway configuration in place of the approved emergency access design. The unrestricted access was expressly rejected, as there is a large “X” through the revised design for the Zenith Driveway accompanied by a handwritten notation directing the reader to the original approval and to a subsequent Controlled Emergency Access Plan approved by the Orange County Fire Prevention Bureau. The Controlled Emergency Access plan, stamped and dated July 18, 1990, depicts the Zenith Driveway secured with a heavy-duty chain and a lock, keyed for Fire Department access. Ultimately the Zenith Driveway was constructed with a sliding gate, which is consistent with restricted access.

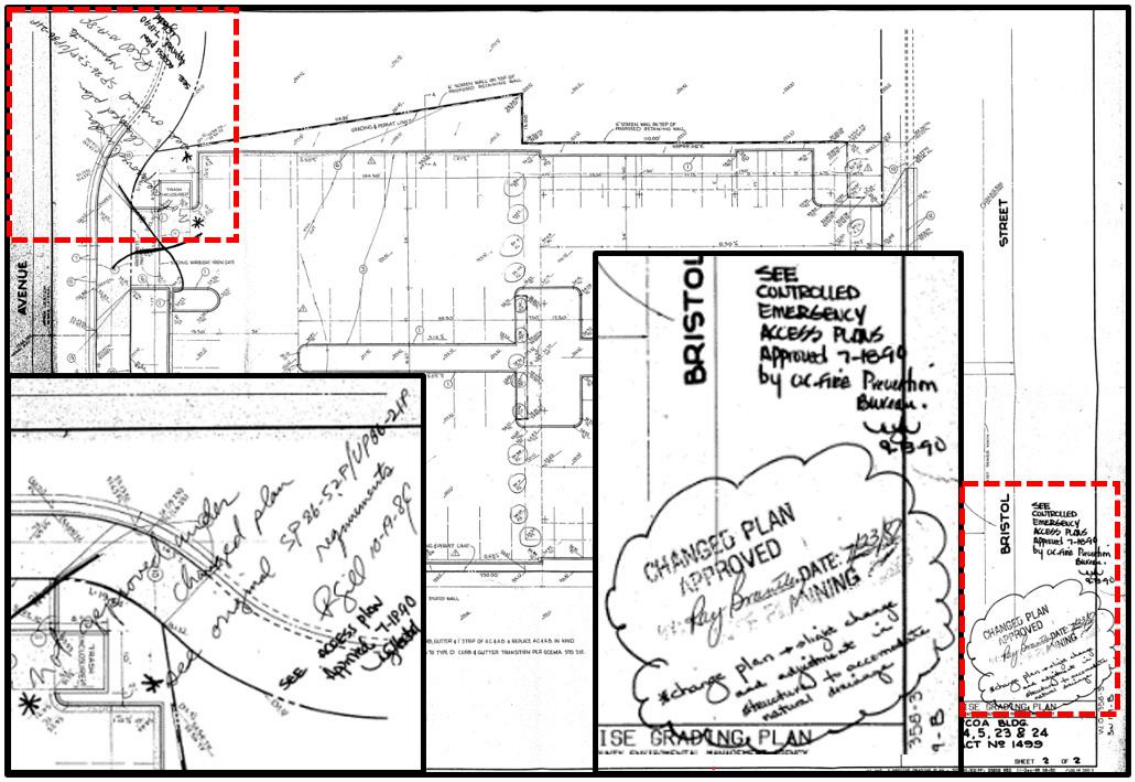


Figure 4, 1987 Revised Plan – Selected Areas Enlarged for Legibility

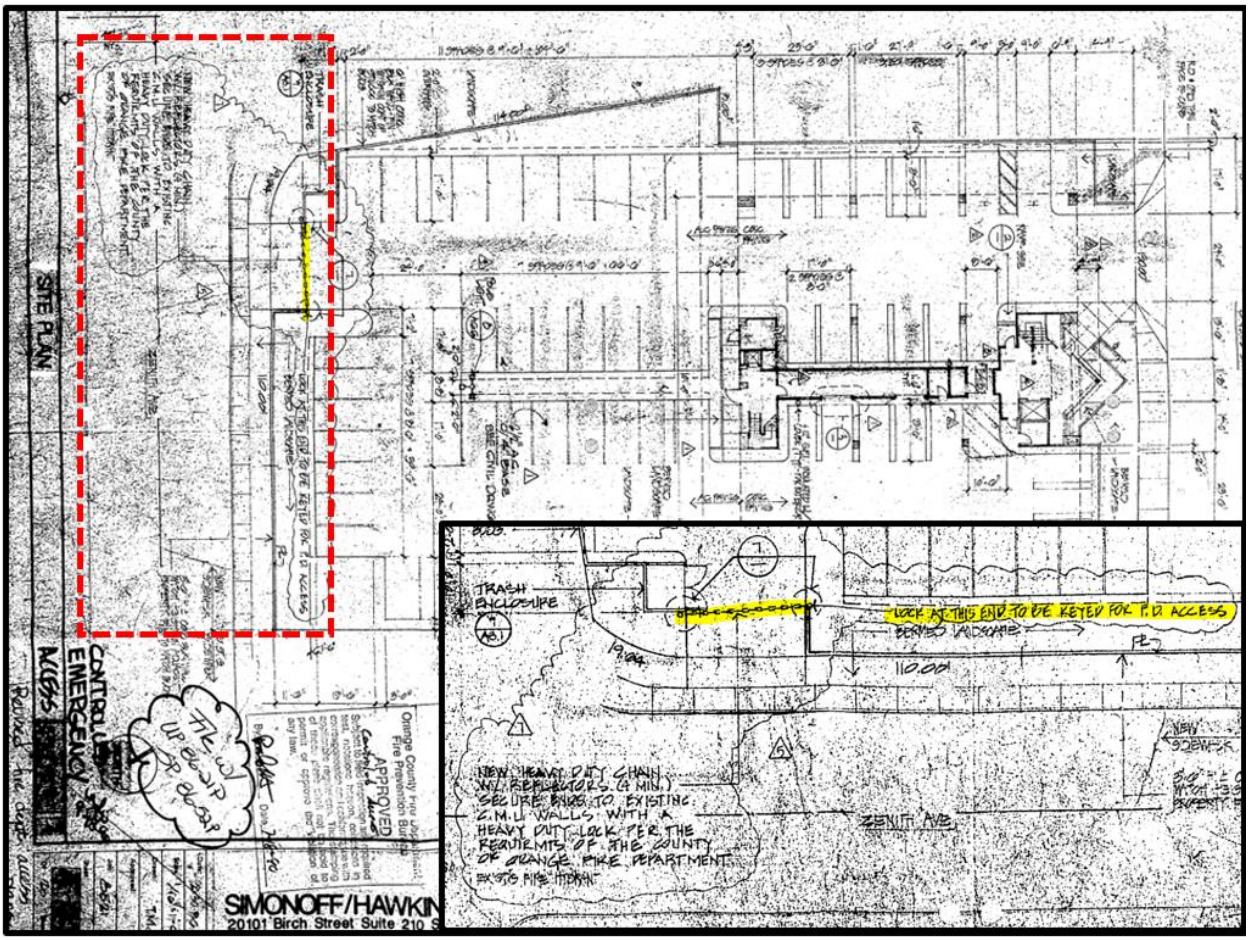


Figure 5, Controlled Emergency Access Plan – Selected Area Enlarged for Legibility

Beginning in December 2024, the City's Code Enforcement Division began receiving complaints regarding employee use of the Zenith Driveway and issued a Notice of Violation on December 18, 2024, for violation of Section 10.50.020(H) (Nuisance – Violation of Permit) of the NBMC.

In response, the Applicant submitted a proposal to allow employees and delivery vehicles to use the Zenith Driveway (Project), asserting that such use is consistent with the Original Approvals. While Section 20.54.070 (Changes to an Approved Project) of the NBMC allows the Community Development Department director (Director) to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC, to allow for additional notice and engagement of the affected surrounding property owners.

Planning Commission Hearing and Decision

On March 19, 2026, the Planning Commission conducted a public hearing on the Project. Eight members of the public spoke in opposition, raising concerns of impacts to the adjacent residential neighborhood resulting from use of the Zenith Driveway for employees and delivery vehicle access. Eight members of the public who work at the subject property spoke in favor of the Project, citing safety concerns with the high speeds on Bristol Street. The Planning Commission expressed several concerns with the Applicant's request, summarized as follows:

1. Emergency Access Restriction is Unambiguous: The evidence in the record supported the determination that the Original Approvals clearly and unambiguously restricted the Zenith Driveway to emergency access only.

2. Incomplete Application: The application lacked substantive materials including a traffic analysis, needed for staff to fully evaluate and make the required findings.

3. Safety Concerns: Any safety concerns raised by the Applicant could be addressed with a complete application required for the staff approval request.

At the close of the public hearing, the Planning Commission determined that the use of the Zenith Driveway would not be consistent with the original approvals nor with Section 20.54.070 of the NBMC and voted unanimously to deny the Project, with a vote of 5 ayes, 0 nays, and 0 abstentions. The Planning Commission staff report, resolution and minutes are included as Attachments B, C and D.

Appeal

On April 2, 2026, the Applicant filed a timely appeal of the Planning Commission's decision, citing three primary grounds: (A) the existing uses are vested, and (B) the existing entitlements do not limit use of the Zenith Driveway to emergency vehicles only,

and (C) the Application was superfluous as the Property already possesses the necessary approvals from the County to use and operate the Zenith Driveway for ingress and egress.

In conjunction with the appeal grounds listed above, the Applicant provided the following to justify the Project:

1. The application was superfluous;
2. The City has waived any defenses that the application was incomplete;
3. The Zenith Driveway is not restricted to emergency vehicles only and the County already determined (via resolution) there are no impacts to other uses within the vicinity nor to public health, safety or welfare;
4. Both driveways are necessary for the Property's safe operations;
5. The continued use of the Zenith Driveway is vested, may constitute a legal non-conforming use, and the City is estopped from challenging the County approvals 40 years later;
6. Other nearby properties have two driveways - one within close proximity to Zenith Avenue;
7. Any decision to limit or revoke the use of the Zenith Driveway would constitute a compensable taking, a dangerous condition, and a substantial impairment of access to the Property;
8. The Owner is still waiting for public records from the County of Orange Department of Public Works, and the Orange County Board of Supervisors related to the Orange County Board of Supervisors' resolution and Bristol Street operations, accidents, etc.;
9. The application is not necessary and non-emergency Zenith Driveway use is existing and should continue.

The complete appeal application and justification is provided as Attachment E.

Pursuant to Section 20.64.030(C)(3) (Conduct of Hearing) of the NBMC, a public hearing on an appeal is conducted "de novo," meaning that it is a new hearing and the prior decision of the Planning Commission to deny the Project has no force or effect. The City Council is not bound by the Planning Commission's prior decision, nor is it limited to the issues raised by the appeal.

Response to Appeal

The Appellant raises several arguments in support of the appeal, including that the existing use of the Zenith Driveway is legally established, the Original Approvals did not limit the driveway to emergency access, the requested application was unnecessary, and restricting employee and delivery vehicle access would adversely affect the operation of the property.

Staff reviewed the Original Approvals, conditions of approval, historic building permits, and supporting documentation submitted by the Appellant. Based on this review, staff determined that the Zenith Driveway was approved as controlled emergency access only rather than for unrestricted use by employees and delivery vehicles. Code Enforcement

complaints regarding employee use of the Zenith Driveway further reflect operational impacts inconsistent with the emergency access only entitlement. Consequentially, the requested operational change requires City approval as a modification to the previously approved project.

The Appellant also contends that the Property requires unrestricted use of both driveways for safe operations and that similar driveway configurations exist on nearby properties. However, the building has operated for decades with primary access from Bristol Street and controlled emergency access to Zenith Avenue. The evidence submitted does not demonstrate that the site cannot continue to operate using its approved primary access from Bristol Street. Each property is subject to its own land use approvals and operational requirements, and the presence of additional driveways on neighboring properties does not establish a basis for modifying the conditions applicable to the Project Site.

The Appellant further argues that continued use of the Zenith Driveway is vested, that limiting its use would constitute a taking, and that the City is precluded from interpreting the Original Approvals after several decades. These assertions are not supported by the record. The Property remains fully operational for office use, thus, maintaining the economic viability. Moreover, it does not eliminate access in that the Property retains primary access from Bristol Street and emergency access to Zenith Avenue, preserving reasonable access in accordance with the original approvals. The requested change would modify the approved operation of the site, and the City Council's action would interpret and apply the existing conditions of approval rather than a regulatory taking.

The Appellant references pending public records requests and other procedural matters. These issues do not affect the merits of the appeal, which are based on the approved plans, conditions of approval, applicable Municipal Code requirements, and the evidence contained in the administrative record.

Finally, the request for unrestricted access to Zenith Avenue directly conflicts with Subsection 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC . This Subsection acknowledges that Santa Ana Heights has long been heavily impacted by nonresidential traffic attempting to avoid congested conditions on surrounding arterials. A primary consideration of the Circulation Plan was the reduction of traffic within residential areas. The Circulation Plan continues that, with the development of business park uses adjacent to residential uses, another consideration was the separation of business park and residential traffic.

For the reasons discussed above and detailed further in the attached resolution, staff concludes that the required findings for approval of the Project cannot be made and recommends that the City Council deny the appeal and uphold the Planning Commission's decision.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, as projects which a public agency rejects or disapproves are not subject to CEQA review.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

ATTACHMENTS:

Attachment A – Resolution No. 2026-52
Attachment B –March 19, 2026, Planning Commission Staff Report
Attachment C – Planning Commission Resolution No. PC2026-008
Attachment D – March 19, 2026, Planning Commission Minutes
Attachment E – Appeal Application and Justification
Attachment F – Project Plans

Attachment A

Draft Resolution No. 2026-__

RESOLUTION NO. 2026-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING AN APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO DENY EMPLOYEE AND DELIVERY VEHICLE USE OF AN EMERGENCY ACCESS DRIVEWAY AT AN EXISTING PROFESSIONAL OFFICE BUILDING LOCATED AT 2350 BRISTOL STREET (PA2025-0112)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by Mira Patel of Newmeyer Dillon Law Firm, ("Applicant") concerning property located at 2350 Bristol Street, and legally described as Lots 4, 5, and 23 of Tract 1499 ("Property");

WHEREAS, the Property was originally within the jurisdiction of the County of Orange ("County") before being annexed into the City in September of 2002;

WHEREAS, the Property is developed with a three-story, 18,136-square-foot office building and an adjoining 65-space surface parking lot that was approved by the County Board of Supervisors on August 20, 1986, pursuant to Use Permit No. UP86-21P and Site Development Permit No. SP86-52P;

WHEREAS, UP86-21P and SP86-52P have two approved site plans, Option A and Option B, that both include a driveway at the rear of the Property, connecting the Property to Zenith Avenue ("Zenith Driveway");

WHEREAS, both Option A and Option B depict movable bollards with language denoting the bollards are movable for emergency access;

WHEREAS, a revised plan stamped and dated July 23, 1987, depicts the bollards removed, however, the revised plan also includes a large "X" through the revised design for the Zenith Driveway and handwritten notation that an unrestricted driveway configuration was not approved, to see the original approval, and to see a subsequent controlled emergency access plan approved by the Orange County Fire Prevention Bureau;

WHEREAS, the Controlled Emergency Access plan, stamped and dated July 18, 1990, depicts the Zenith Driveway to be constructed with a heavy-duty chain and a lock, keyed for Fire Department access;

WHEREAS, in December 2024, the City's Code Enforcement Division began receiving complaints regarding use of the Zenith Driveway by employees and issued a Notice of Violation on December 18, 2024, for violation of Section 10.50.020(H) (Nuisance – Violation of Permit) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, in response to the Notice of Violation, the Applicant requested use of the Zenith Driveway by employees and delivery drivers ("Project") which requires a staff approval consistent with Section 20.54.070 (Changes to an Approved Project) of the NBMC;

WHEREAS, while Section 20.54.070 (Changes to an Approved Project) of the NBMC allows the Community Development Director ("Director") to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, consistent with Section 20.12.020(A) (Rules of Interpretation – Authority) of the NBMC;

WHEREAS, the Property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within Business Park (BP) District of the Santa Ana Heights Specific Plan (SP-7);

WHEREAS, the Property is not located within the coastal zone; therefore, a coastal development permit is not required;

WHEREAS, on March 19, 2026, a public hearing was held by the Planning Commission, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California 92660. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2026-008 denying the Project by a majority vote (5 ayes, 0 nays, 2 absent) on the basis that Use Permit No. UP86-21P and Site Development Permit No. SP86-52P restricting the Zenith Driveway to emergency access only is clear and unambiguous, the application was incomplete such that the required findings could not be made, and any safety concerns raised by the Applicant could be addressed with a complete application required for the Staff Approval;

WHEREAS, on April 2, 2026, the Applicant filed a timely appeal of the Planning Commission's decision, citing three primary grounds: the development was approved by the County in 1986 which makes the existing uses vested; the City incorrectly interpreted the Zenith "Emergency Access" Driveway as allowing for emergency access only; and the application was not necessary as the City advised the Applicant to apply for the modification and the Applicant did so out of an abundance of caution;

WHEREAS, in conjunction with the appeal grounds listed above, the Applicant cited a number of justifications for the Project, including that: the application was superfluous; the City has waived any defenses that the application was incomplete; the Zenith Driveway is not restricted to emergency vehicles only and the County already determined (via resolution) there are no impacts to other uses within the vicinity nor to public health, safety, or welfare; both driveways are necessary for the Property's safe operations; the continued use of the Zenith Driveway is vested, may constitute a legal non-conforming use, and the City is estopped from challenging the County approvals 40 years later; other nearby properties have two driveways- one within close proximity to Zenith Avenue; any decision to limit or revoke the use of the Zenith Driveway would constitute a compensable taking, a dangerous condition, and a substantial impairment of access to the Property; the Owner is still waiting for public records from the County of Orange County Department of Public Works and the Orange County Board of Supervisors related to the Orange County Board of Supervisor's resolution and Bristol Street operations, accidents, etc.; and the application is not necessary and non-emergency Zenith Driveway use is existing and should continue; and

WHEREAS, a public hearing was held by the City Council on July 14, 2026, in the City Council Chambers at 100 Civic Center Drive, Newport Beach, California 92660. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, The City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council of the City of Newport Beach hereby upholds the Planning Commission's decision and denies the Project filed as PA2025-0112, based upon the findings set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

Section 2: The City Council finds the adoption of this resolution is exempt from environmental review pursuant to Section 15270 of the California Environmental Quality

Act ("CEQA") Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, as projects which a public agency rejects or disapproves are not subject to CEQA review.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 14th day of July, 2026.

_____
Lauren Kleiman
Mayor

ATTEST:

_____
Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

_____
Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – Findings and Facts in Opposition of Findings

EXHIBIT "A"

FINDINGS IN OPPOSITION OF STAFF APPROVAL (PA2025-0112)

The City Council may approve a Staff Approval for substantial conformance with Use Permit No. UP86-21P and Site Development Permit No. SP86-52P only after making all four required findings set forth in Section 20.54.070 (Changes to an Approved Project) of the NBMC. In this case, the City Council was unable to substantiate the four required findings based upon the following, and the City Council upholds the Planning Commission's decision:

I. Findings Required to Authorize Changes to an Approved Project:

A. The changes are consistent with all applicable provisions of this Zoning Code;

B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;

C. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and

D. The changes do not result in an expansion or change in operational characteristics of the use.

Facts Not in Support of Finding:

1. Pursuant to Section 20.90.130(B) (Professional and Administrative Office District: SP-7) of the NBMC, professional and administrative offices in the PA subarea of the SP-7 Zoning District are an allowed land use, subject to the approval of a minor use permit. The existing office building at the Property is permitted under County Use Permit No. UP86-21P and Site Development Permit No. SP86-52P, which restricts the Zenith Driveway to emergency access only. Requested operational changes to the Property include the use of the Zenith Driveway for delivery and employee vehicles. Condition of Approval No. 18 of UP86-21P requires that construction details for the controlled emergency access driveway be approved by the Fire Chief, and shall include width, clear height, and means of emergency vehicle override. The plans originally submitted for the Project identify the Zenith Driveway as emergency access and subsequent associated plans approved by the Fire Chief in accordance with UP86-21P and SP 86-52P include a heavy-duty chain blocking vehicle access with a lock accessible only by a Fire Department access key. Since the current request includes non-emergency use of the Zenith Driveway, the proposed operational changes would therefore involve and conflict with a feature of the original project that was specifically addressed or was a condition of approval and would constitute a substantial change from the existing approval.

2. The Project conflicts with Section 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC. Section 20.90.190 acknowledges that Santa Ana Heights has been heavily impacted by nonresidential traffic attempting to avoid congested conditions on

surrounding arterials. A primary consideration of the circulation plan was the reduction of traffic within residential areas. With the development of business park uses within areas adjacent to residential uses, another consideration was the separation of business park and residential traffic including street improvements to mitigate business park uses' traffic impacts to residential neighborhoods. Street Improvement Feature 3, which is approximately 500 feet from the Project, required construction of a cul-de-sac and improvement of Cypress Street south of South Bristol Street. Adding nonresidential traffic into the residential neighborhood is inconsistent with Section 20.90.190(B).

3. The requested operation of the Zenith Driveway for employee and delivery use would impact the operational characteristics of the use. Code Enforcement has received several complaints involving employee vehicles using the Zenith Driveway as well as complaints regarding employees parking on adjacent residential streets. Permitting employee use of the Zenith Driveway is negatively impactful to the adjacent residential neighborhood.

4. The Project was reviewed by the City's Public Works Department, which expressed concerns with allowing unrestricted use of the Zenith Driveway as proposed. The Zenith Driveway provides a depth of approximately 16 feet from the property line to the existing gate. Public Works issued comments noting that, for unrestricted use of the Zenith Driveway, the gated entry would need to be set back so that vehicles using the Zenith Driveway do not impact the public right-of-way, including the sidewalk. The existing condition does not support vehicles queuing while waiting to enter the Property. It should also be noted that, regardless of location, vehicle queueing is not permitted within the public right-of-way.

II. Findings in Response to the Applicant's Project Justification:

1. **The existing approvals restrict the Zenith Driveway to controlled emergency access only**. The approved plans and the plain text of Use Permit No. UP86-21P establish that the southwest driveway was limited to emergency access—not general ingress/egress for employees or deliveries. The plans expressly note "Conc. Bollards – Movable for Emergency Access," and a later Controlled Emergency Access Plan required a heavy-duty chain and Fire Department lock, reflecting controlled emergency-only functionality; the constructed sliding gate is consistent with restricted, not unrestricted, access. The Condition of Approval No. 18 require construction details "for the controlled emergency access" to be approved by the Fire Chief (including width, clear height, and means of emergency vehicle override) and to be "operational in a manner" approved by the City, confirming the driveway's controlled status. Subsequent agency approvals implemented controlled access only, requiring a heavy-duty chain and lock keyed for Fire Department access—measures incompatible with general employee or delivery use. A 1987 submittal proposing an unrestricted configuration was expressly rejected, with a notation directing back to the original approval and later controlled-access plan. Staff's comprehensive review of approvals, conditions, permits, and the Applicant's materials concluded that any non-emergency use would be a change requiring City approval.

2. **The application was required; the appeal's vested rights and nonconforming use claims are unsupported.** Vested rights arise from uses that were lawfully established. The evidence before the City demonstrates that employee and delivery vehicle use of the Zenith Driveway was not approved as part of UP86-21P or SP86-52P. Because the existing entitlements identify the Zenith Driveway as controlled emergency access, converting it to employee and delivery use would modify the approved Project and therefore requires City review under applicable procedures. The City is interpreting and applying existing conditions, not revoking any approved use; the approved configuration—primary access from Bristol Street with controlled emergency access to Zenith—remains intact. Additionally, vested rights arise only from lawfully established uses, and the record shows that employee and delivery use of the Zenith Driveway was not approved.

3. **Evidence of operational necessity or safety grounds to override the emergency-only restriction have not been demonstrated.** The building has operated for decades with primary access from Bristol Street and controlled emergency access to Zenith; the evidence does not establish that unrestricted Zenith access is necessary for safe operation. Although some delivery vehicles may face height limitations, the Applicant did not show the Property cannot safely function using its approved Bristol access. The City Traffic Engineer determined that an alleged neighboring sign does not obstruct sight distance if drivers inch forward toward Bristol, undermining claims of unsafe egress warranting unrestricted Zenith use. At hearing, the Commission identified the application's lack of substantive materials, including a traffic analysis, necessary to support findings for the requested change and found the emergency-access restriction clear and unambiguous.

4. **The record confirms emergency-only restrictions; there is no prior County approval for unrestricted use.** The original site plans identify emergency access at the Zenith Driveway, and later Fire Prevention Bureau plans depict controlled access with a heavy-duty chain and Fire Department lock—evidence that unrestricted ingress/egress was never approved. Code Enforcement complaints regarding employee use of the Zenith Driveway further reflect operational impacts inconsistent with the emergency-only entitlement.

5. **Traffic-separation policies weigh against introducing nonresidential traffic onto Zenith.** Santa Ana Heights has been heavily impacted by nonresidential traffic avoiding arterials; the circulation plan prioritizes reducing traffic in residential areas and separating business park and residential traffic. Allowing employee and delivery use of the Zenith Driveway would introduce additional nonresidential traffic into the adjacent residential neighborhood, contrary to Section 20.90.190(B) of the NBMC.

6. **Operational impacts confirm a change in use and support denial under Section 20.54.070 of the NBMC.** Complaints about employees using the Zenith Driveway and parking on adjacent residential streets indicate that the requested change would expand and alter operational characteristics, adversely affecting the neighborhood. Public Works identified safety and right-of-way concerns: the driveway depth from property line to the existing gate is approximately 16 feet, and for unrestricted use the gate would need to be set back to prevent queuing into the public right-of-way;

vehicle queuing in the right-of-way is not permitted. The application therefore fails to provide the basis for required findings under Section 20.54.070 of the NBMC.

7. **Comparisons to nearby properties are irrelevant to the governing approvals for the Property.** Each property is controlled by its own entitlements and conditions. The question here is compliance with this Project's approvals and whether findings under Section 20.54.070 of the NBMC can be made for this operation.

8. **Application of the existing approvals do not constitute a taking.** The Fifth Amendment provides that private property shall not be taken for public use without just compensation and California's Constitution similarly requires that private property may be taken or damaged for a public use only when just compensation has first been paid to the owner (Cal. Const. Art. 1, § 19). The primary framework for evaluating regulatory takings claims is the ad hoc balancing test established in Penn Central Transportation Co. v. New York City, (1978) 438 U.S. 104 ("Penn Central"). California courts, including the Court of Appeal in Lockaway Storage v. County of Alameda, (2018) 216 Cal.App.4th 161 have identified three primary factors: (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation interfered with distinct investment-backed expectations, and (3) the character of the governmental action. Moreover, certain regulatory actions are treated categorically as a taking without the necessity of the Penn Central inquiry. Moreover, under Lucas v. South Carolina Coastal Council, (1992) 505 U.S. 1003, a narrow exception to the balancing test exists for the extraordinary circumstance of a permanent deprivation of all beneficial use of land. The California Supreme Court in Hensler v. City of Glendale, (1994) 8 Cal. 4th 1 recognized this rule, noting that a regulation denying a coastal owner any construction or beneficial use of property constitutes a compensable taking if, under state law, a right to develop the land existed prior to enactment of the challenged regulation. In this case, whether applying the *Penn Central* balancing test or Lucas, the denial of the Project is not a taking. The Property remains fully operational for office use, thus, maintaining the economic viability of the Property. Moreover, it does not eliminate access in that the Property retains primary access from Bristol Street and emergency access to Zenith, preserving reasonable access in accordance with the original approvals. The City's action interprets and applies existing conditions rather than a regulatory taking.

9. **Estoppel does not apply**. In City of San Marino v. Roman Catholic Archbishop of Los Angeles, (1960) 180 Cal. App. 2d 657, the court reinforced the principle, holding that long-continued but illegal use of property, without more, creates no vested rights in the owner as against the zoning provisions.

In conclusion, the administrative record demonstrates that the Zenith Driveway was approved and constructed as controlled emergency access only. The Applicant's claims of vested rights, necessity, comparables, takings, estoppel, and procedural defects are unsupported by the approvals and evidence. Because the requested use would modify the approved operation, introduce nonresidential traffic into a residential area contrary to policy, and expand operational characteristics without the analysis needed to support required findings, the appeal should be denied and the Planning Commission's decision upheld.

Attachment B

March 19, 2026, Planning
Commission Staff Report

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

March 19, 2026
Agenda Item No. 2

SUBJECT:	2350 Bristol Street Driveway Access (PA2025-0112) ▪ Staff Approval
SITE LOCATION:	2350 Bristol Street
APPLICANT:	Mira Patel, Newmeyer Dillon
OWNER:	2350 SE Bristol LLC
PLANNER:	Daniel Kopshever, Assistant Planner 949-633-3235, dkopshever@newportbeachca.gov

PROJECT SUMMARY

In accordance with Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the applicant requests a staff approval to allow employee and delivery vehicles to use the existing rear driveway on Zenith Avenue, finding the operation consistent with the original entitlements for the commercial office building, as issued by the Orange County Board of Supervisors on August 20, 1986 (Use Permit No. UP 86-21P and Site Development Permit No. SP 86-52P). Pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC, the Community Development Director is referring this decision to the Planning Commission.

RECOMMENDATION

1) Conduct a public hearing;

2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Article 18, Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and

3) Adopt Resolution No. PC2026-___ denying the Staff Approval filed as PA2025-0112 (Attachment No. PC 1).

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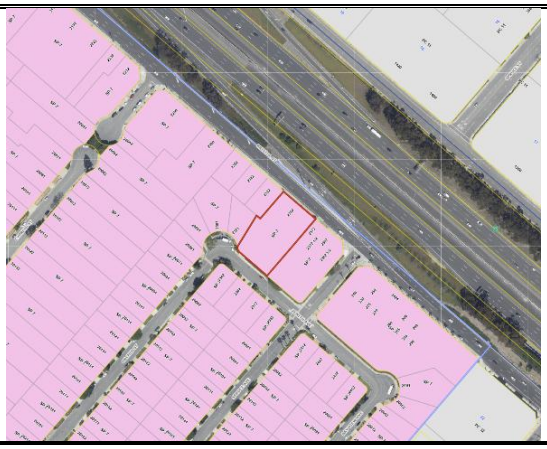
VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	General Commercial Office (CO-G)	Santa Ana Heights Specific Plan (SP-7); Professional & Administrative Office (PA)	Professional office building
NORTH	CO-G / Mixed-Use Horizontal (MU-H2)	Newport Place (PC 11)	Professional office buildings
SOUTH	Single Unit Residential Detached (RS-D)	SP-7/Residential Single Family (RSF)	Single-unit residential dwellings
EAST	CO-G	SP-7/PA	Medical office buildings
WEST	CO-G	SP-7/Professional, Administrative & Commercial Consolidation (PACC)	Vacant lot

INTRODUCTION

Project Setting

The subject property is a 0.7-acre parcel, located within the northern portion of Newport Beach, and addressed at 2350 Bristol Street (Project Site). The Project Site is bounded to the north by Bristol Street, a one-way arterial roadway with traffic heading in an easterly direction, professional office buildings to the east, Zenith Avenue to the south with a residential neighborhood beyond, and vacant parcels to the west. The Project Site is developed with an 18,136-square-foot, three-story professional office building that was originally constructed in 1987. It is primarily occupied by a law firm, which is considered a professional and business office land use. The office is served by a 65-space parking lot, with a portion of the parking tucked under the upper levels of the office building and the remainder located behind the building, in a surface lot. Vehicular access to the site is provided by way of a driveway on Bristol Street. As shown in Figure 1 below, there is also a driveway located near the southwest corner of the property, which connects the Project Site to Zenith Avenue (Zenith Driveway).



Figure 1, Aerial photograph of the Project Site

Entitlement History

The Project Site is within an area known as Santa Ana Heights or Bayview Heights, which was under the jurisdiction of the County of Orange (County) until it was annexed into the City of Newport Beach's (City) jurisdiction in 2008. The office building, then known as the "Travcoa Building," was originally approved by the County Planning Commission on June 17, 1986, pursuant to Use Permit No. UP86-21P and Site Plan No. SP86-52P. UP 86-21P/SP 86-52P authorized the construction of a 14,500-square-foot office building on three parcels and approved a parking modification and variance for building height. Because negotiations were still on-going for the acquisition of an adjacent fourth parcel at the time of the hearing, the initial Planning Commission approval was for a smaller building footprint and project site than the current condition.

UP 86-21P/SP 86-52P was appealed to the County Board of Supervisors. On August 20, 1986, the Board of Supervisors denied the appeal and approved two versions of the project. The Board of Supervisors approved a 14,500-square-foot building on three parcels (Site Plan A) or an 18,000-square-foot building on four parcels (Site Plan B). Both site plans included concrete bollards across the Zenith Driveway with a clear note stating, "Conc. Ballards – Movable for Emergency Access." While Site Plan A and B are excerpted below as Figures 2 and 3 for ease of reference, all plans associated with the original entitlements are provided as Attachment No. PC 2.

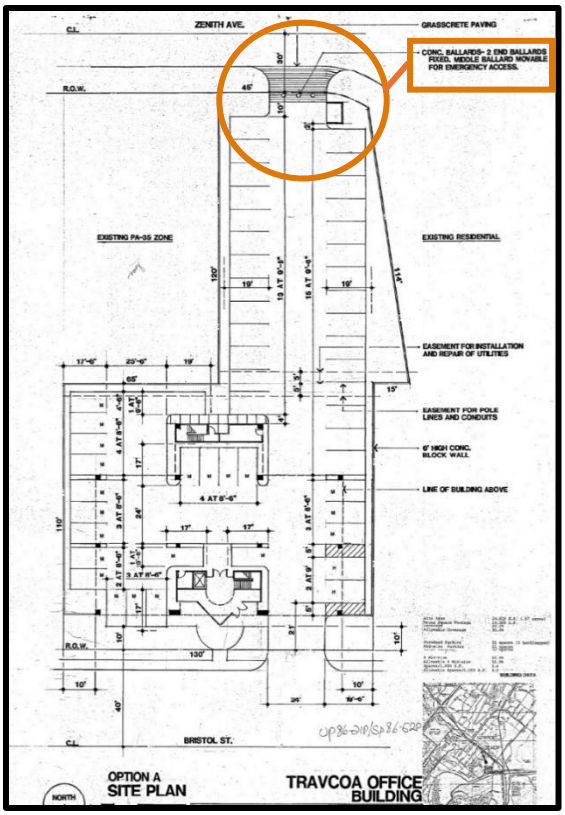


Figure 2, Site Plan A

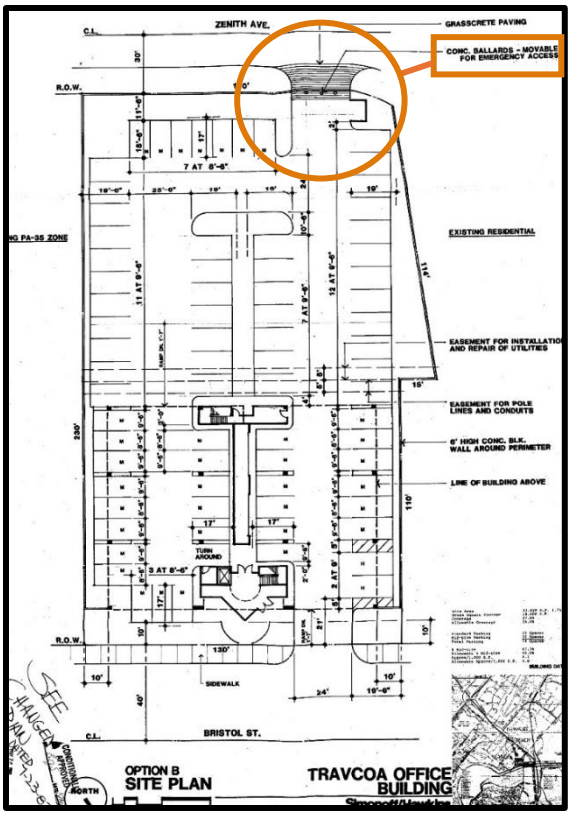


Figure 3, Site Plan B

Although the Board of Supervisors approved both site plans, it issued a single resolution with one set of Conditions of Approval, which is available as Attachment No. PC 3.

Revised Plan and Controlled Emergency Access

A revised site plan stamped and dated July 23, 1987, shows the proposed four-parcel build out. Included in the plans is a revision to the Zenith Driveway, with the concrete bollards removed. However, as noted below in Figure 4, there is a large "X" drawn through the revised design for the Zenith Driveway and a handwritten note stating that an unrestricted driveway configuration was not approved, to see the original approval, and to see a subsequent Controlled Emergency Access plan approved by the Orange County Fire Prevention Bureau.

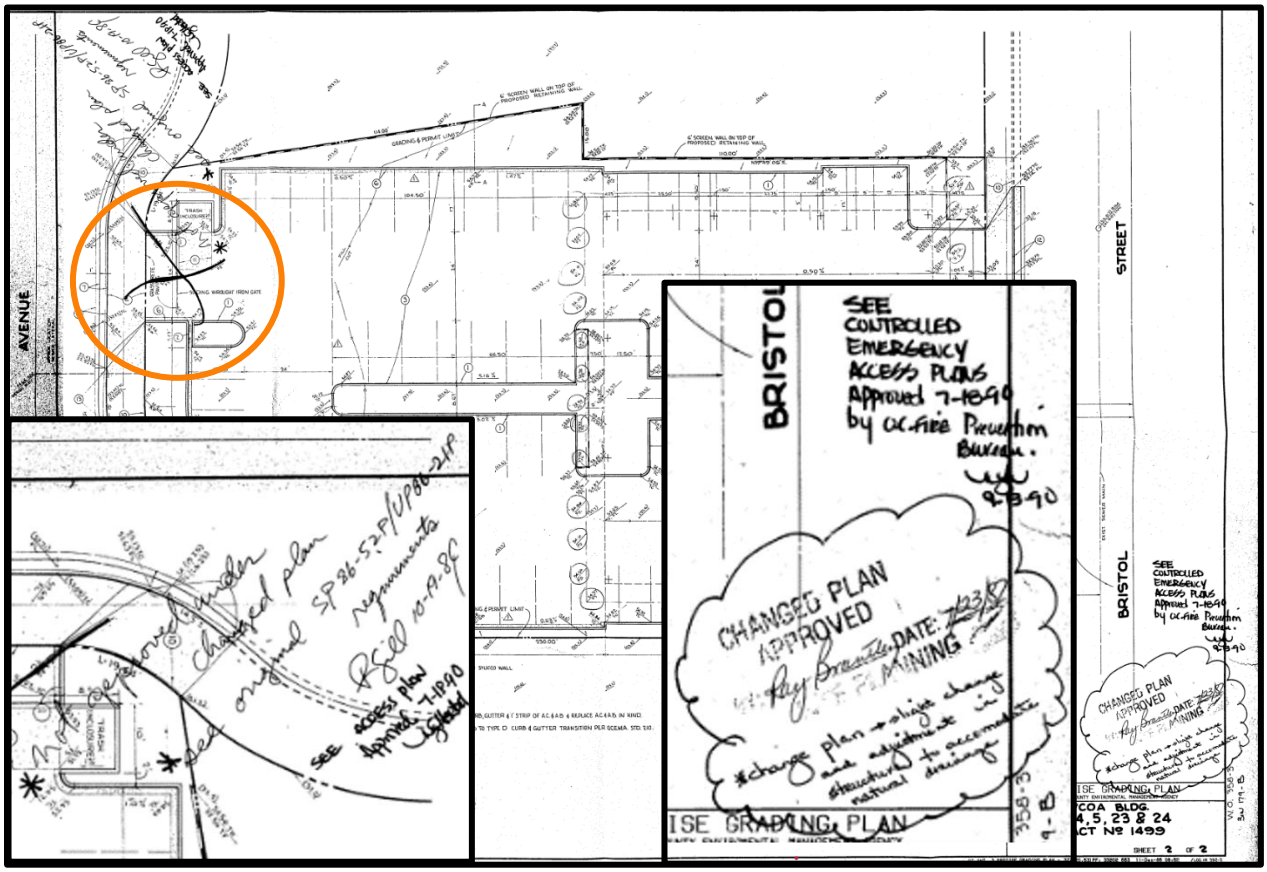


Figure 4, 1987 Revised Plan – Selected Areas Enlarged for Legibility

The Controlled Emergency Access Plan stamped and dated July 18, 1990, shows the Zenith Driveway to be constructed with a heavy-duty chain and a lock, keyed for Fire Department access. The Controlled Emergency Access plan is shown as Figure 5 on the following page for ease of reference and is included as a larger format in Attachment No. PC 4.

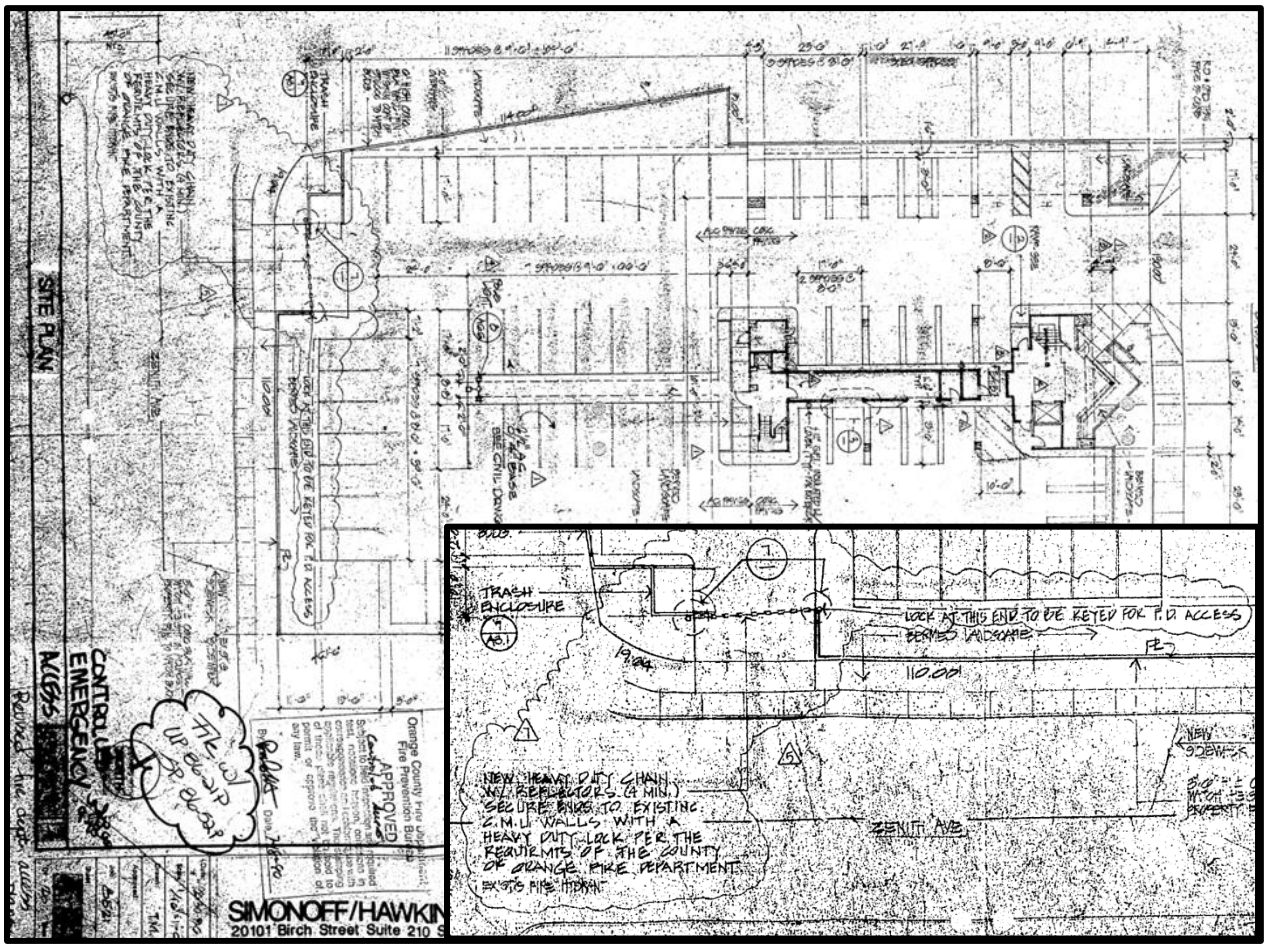


Figure 5, Controlled Emergency Access Plan – Selected Area Enlarged for Legibility

In addition to the plans shown above, the Zenith Driveway is shown with additional configurations in building permit plan sets. The site plan for the building shell (Permit No. BP52461) shows the Zenith Driveway with a sliding wrought iron gate and the grading plan (Permit No. BP55889) also shows the Zenith Driveway with a sliding wrought iron gate. While there are various configurations for the Zenith Driveway shown over the years, the most recent recorded condition is the Controlled Emergency Access Plan shown in Figure 5.

Code Enforcement Activity

In December 2024, the City's Code Enforcement Division first began receiving complaints regarding employee vehicles using the Zenith Driveway. Upon review of the entitlements noted above, Code Enforcement issued a Notice of Violation on December 18, 2024. To date, there have been four Code Enforcement cases related to employee vehicles using the Zenith Driveway and parking on the street in the adjacent residential neighborhood, requiring six site visits by a code enforcement officer and four phone calls.

Project Description

The applicant is requesting a staff approval consistent with Section 20.54.070 (Changes to an Approved Project) of the NBMC to allow the Zenith Driveway to be used by employees and delivery drivers (Project). The applicant has submitted a letter of justification, available as Attachment No. PC 5, which acknowledges the Zenith Driveway as required for emergency access but interprets UP 86-21P/SP 86-52P as not expressly limiting the Zenith Driveway to emergency access. The applicant asserts that "non-emergency vehicles have entered and exited onto Zenith Avenue for nearly 40 years without incident and continued use will allow for adequate and safe maneuvering to enter and exit the subject property onto Bristol Street, which is a multi-lane, higher-speed arterial, in a forward direction as required by Section 20.40.070 (Development Standards for Parking Areas) of the NBMC." The applicant further notes that the Project Site has one driveway along Bristol Street, which immediately enters into a covered entrance with approximately eight feet of clearance. Further, on the northern side of this driveway, there are bushes and structures that make visibility a safety issue for vehicles exiting the property southbound onto Bristol Steet. A Google Street View image of the site entrance from Bristol Street is shown below in Figure 6, and additional site photographs from this entrance are provided as Attachment No. PC 6.



Figure 6, Google Street View image of existing driveway conditions from Bristol Street

While Section 20.54.070 of the NBMC allows the Community Development Director (Director) to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC to allow for additional notice and engagement of the affected surrounding property owners.

DISCUSSION

Analysis

The Planning Commission may only approve the request if it finds that the changes remain substantially consistent with the original approvals and meet the following four required findings:

A. *The changes are consistent with all applicable provisions of this Zoning Code;*
B. *The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;*
C. *The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and*
D. *The changes do not result in an expansion or change in operational characteristics of the use.*

Staff has determined the proposed changes do not meet all four of these findings for the reasons below.

The Project directly conflicts with Subsection 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC. This Subsection acknowledges that Santa Ana Heights has long been heavily impacted by nonresidential traffic attempting to avoid congested conditions on surrounding arterials. A primary consideration of the Circulation Plan was the reduction of traffic within residential areas. The Circulation Plan continues that, with the development of business park uses adjacent to residential uses, another consideration was the separation of business park and residential traffic. Adding nonresidential traffic onto a residential street is inconsistent with Subsection 20.90.190(B) and is therefore inconsistent with Finding A above.

Furthermore, while allowing the Project would not affect the land use classification of the property, staff believes the language within UP 86-21P/SP 86-52P clearly indicates that the Zenith Driveway was intended to be for emergency access only. In addition to the concrete bollards and notes shown on both Site Plans A and B, Condition of Approval (COA) No. 19 of UP 86-21P/ SP 86-52P called the Zenith Driveway “controlled emergency access,” as follows:

> *Prior to the issuance of any building permits, construction details for the controlled emergency access shall be approved by the Fire Chief. These details shall include width, clear height, and means of emergency vehicle override. Prior to issuance of any certificate of use and occupancy, emergency access shall be operational in a manner meeting the approval of the Manager, Construction Division.*

In addition, the revised site plan from 1987 (Figure 4 above) and the subsequent Controlled Emergency Access Plan (Figure 5 above) both explicitly denied an unrestricted configuration that would have allowed uncontrolled access. This again affirms that the Zenith Driveway is intended to only be used for emergency access. Since the emergency-only restriction was a specific feature and condition of the original approval, allowing unrestricted vehicle use would directly conflict with Finding C.

Moreover, allowing employee and delivery vehicles to use the Zenith Driveway would also change operational characteristics of the use to be more disruptive. Increased traffic through the residential neighborhood, rather than the arterial road of Bristol Street, could negatively affect nearby residential uses. To date, the Code Enforcement division has received four complaints regarding employees using the driveway and parking on nearby residential streets.

Lastly, the Project was reviewed by the City's Public Works Department, which expressed concerns with allowing unrestricted use of the Zenith Driveway as proposed. As shown in Figure 7 below, the Zenith Driveway provides a depth of approximately 16 feet from the property line to the exiting gate. Public Works issued comments noting that, for unrestricted use of the Zenith Driveway, the gated entry would need to be set back so that vehicles using that driveway do not impact the public right-of-way, including the sidewalk. The existing condition does not support vehicles queuing while waiting to enter the Project Site. It should also be noted that, regardless of location, vehicle queuing is not permitted within the public right-of-way, pursuant to Section 20.40.030(B) (Requirements for Off-Street Parking - Permanent Availability Required) of the NBMC, which is in this case, the residential street of Zenith Avenue.



Figure 7, Photograph of existing Zenith Driveway condition with car entering

Summary and Alternatives

Staff believes that all findings for approval in support of the proposed project cannot be made. Facts that conflict with the required findings, as described above, are presented in the draft Resolution (Attachment PC No. 1). Should the Planning Commission vote to deny the project, the Zenith Driveway may still be used for emergency access, but the employee and delivery vehicles would only be permitted to access the site from the primary driveway on Bristol Street.

The following alternatives are available to the Planning Commission should it support the project:

1. The Planning Commission may suggest specific project modifications or operational changes that are necessary to alleviate concerns, such as allowing only delivery vehicles to use the Zenith Driveway. If the changes would be substantial, the item should be continued to a future meeting to allow revisions to the project and so that staff may draft associated conditions of approval; or

2. If the Planning Commission believes the facts in support of findings can be made, the Planning Commission may approve the application as requested.

Environmental Review

The project is statutorily exempt from CEQA under Article 18, Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential significant effect on the environment.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Daniel Kopshever

Daniel Kopshever, Assistant Planner

Submitted by:

Benjamin M. Zdeba, AICP
Acting Deputy Community Development Director

JP/djk

ATTACHMENTS

~~PC 1~~ ~~Draft Resolution~~
PC 2 Plans Associated with UP86-21P and SP86-52P
PC 3 UP86-21P and SP86-52P

PC 4 Controlled Emergency Access plan
PC 5 Project Description/Justification
PC 6 Applicant Provided Site Photos
PC 7 Applicant Provided Plans

01/18/23

Attachment No. PC 1

Draft Resolution

Attachment No. PC 2

Plans Associated with UP86-21P and SP86-52P

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ZENITH AVE.

C.L.

R.O.W.

45'

30'

10'

2'

GRASSCRETE PAVING

CONC. BALLARDS- 2 END BALLARDS FIXED. MIDDLE BALLARD MOVABLE FOR EMERGENCY ACCESS.

EXISTING PA-35 ZONE

EXISTING RESIDENTIAL

120'

19'

13 AT 9'-6"

15 AT 9'-6"

19'

114'

EASEMENT FOR INSTALLATION AND REPAIR OF UTILITIES

17'-6"

25'-6"

19'

65'

5'

5'

15'

EASEMENT FOR POLE LINES AND CONDUITS

1 AT 9'-6"

4'-6"

4 AT 8'-6"

4'

6' HIGH CONC. BLOCK WALL

17'

M

4 AT 8'-6"

LINE OF BUILDING ABOVE

110'

3 AT 8'-6"

24'

17'

17'

3 AT 8'-6"

1 AT 8'-6"

2 AT 8'-6"

3 AT 8'-6"

2 AT 9'

H

5'

17'

21'

10'

10'

R.O.W.

130'

10'

10'

24'

19'-6"

40'

C.L.

BRISTOL ST.

Site Area	24,829 S.F. (.57 acres)
Gross Square Footage	14,500 S.F.
Coverage	29.2%
Allowable Coverage	35.0%
Standard Parking	31 spaces (2 handicapped)
Mid-size Parking	21 spaces
Total Parking	52 spaces
% Mid-size	40.4%
Allowable % Mid-size	50.0%
Spaces/1,000 S.F.	3.6
Allowable Spaces/1,000 S.F.	4:0

BUILDING DATA



VICINITY MAP

UP86-21P/SP86-52P

NORTH

0 10 20 40

OPTION A

SITE PLAN

TRAVCOA OFFICE BUILDING

Simonoff/Hawkins And Associates Architecture

City of Newport Beach

ZENITH AVE.

C.L.

30'

R.O.W.

110'

GRASSCRETE PAVING

CONC. BALLARDS - MOVABLE FOR EMERGENCY ACCESS

11'-6"

15'-6"

17'

M M M M M M M

7 AT 8'-6"

2'

19'-6" 25'-6" 19' 19' 24' 19'

10'-6"

EXISTING PA-35 ZONE

EXISTING RESIDENTIAL

11 AT 9'-6"

RAMP DN. 1'-7"

7 AT 9'-6"

12 AT 9'-6"

114'

EASEMENT FOR INSTALLATION AND REPAIR OF UTILITIES

5' 5'

15'

4'

EASEMENT FOR POLE LINES AND CONDUITS

230'

9'-6" 8'-6" 9'-6" 2'-0"

6' HIGH CONC. BLK. WALL AROUND PERIMETER

LINE OF BUILDING ABOVE

110'

17' 17'

TURN AROUND

3 AT 8'-6"

2'-0"

2 AT 9'

5'

H

17'

10'

RAMP DN. 1'-7"

21'

10'

R.O.W.

130'

10'

SIDEWALK

24'

19'-6"

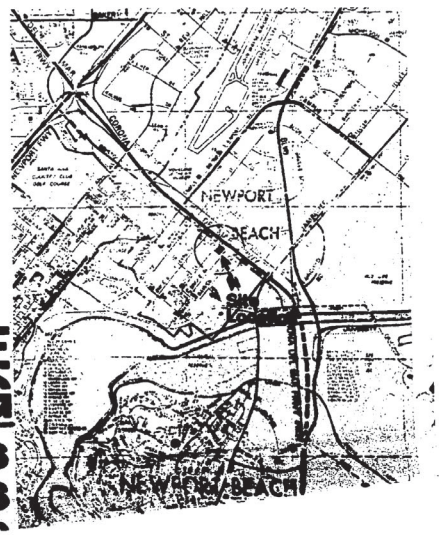
40'

C.L.

BRISTOL ST.

Site Area	32,629 S.F. (.75 ac.)
Gross Square Footage	18,000 S.F.
Coverage	27.6%
Allowable Coverage	35.0%
Standard Parking	39 Spaces
Mid-size Parking	35 Spaces
Total Parking	74 Spaces
% Mid-size	47.3%
Allowable % Mid-size	50.0%
Spaces/1,000 S.F.	4.1
Allowable Spaces/1,000 S.F.	4.0

BUILDING DATA



SEE CHANGED PLAN DATED 1-23-87

CONDITIONALLY APPROVED
DATE MAY 20 1986

NORTH

0 10 20 40

OPTION B
SITE PLAN

TRAVCOA OFFICE BUILDING

Simonoff/Hawkins And Associates Architects

AVENUE

ZENITH

STREET

BRISTOL

Changed Plan
Approved
by Ray Brandt Date: 7-23-90
for Mining
*change plan - slight change and addendum to accomodate structure & natural drainage

SEE CONTROLLED EMERGENCY ACCESS PLANS Approved 7-16-90 by OC Fire Prevention Bureau.

SEE Address Plan Approved 7-19-90

Conditional Plan SP 26-5 Approved 10-9-86

6' SCREEN WALL ON TOP OF PROPOSED RETAINING WALL

GRADING & PERMIT LIMIT

TRASH ENCLOSURE

SLIDING WROUGHT IRON GATE

EXIST. ROLLED CURB & GUTTER

REMOVE EX. DRIVEWAY

3'-6" CMU WALL LEAVE HEADJOINTS OPEN IN BOTTOM COURSE FOR DRAINAGE

EX. 6" WATER MAIN

APPROX. LOCATION EXIST. SEWER LATERAL

EXIST. 5' HIGH STUCCO WALL

OVER-EXCAVATE 5' OUTSIDE BLDG. LINE

BLDG. LINE

TRANS. 6" TO 8" C.F.

PROPOSED RETAINING WALL

2-4" DRAIN PIPES

EXIST. CURB & 12" GUTTER

EXIST. PAVEMENT

EXIST. SEWER MAIN

JOIN EX. SIDEWALK

SPRUCE ST.

CONSTRUCTION NOTES

1. CONST. P.C.C. CURB ONLY PER DETAIL ON SHT. 1
2. CONST. P.C.C. GUTTER PER DETAIL ON SHT. 1.
3. CONST. 2½" A.C. OVER 4" AGG. BASE.
4. CONST. P.C.C. DRIVEWAY PER O.C.E.M.A. STD. 210.
5. CONST. P.C.C. CURB & 2' GUTTER, TYPE A-2, PER O.C.E.M.A. STD. 201
6. CONST. P.C.C. CURB & 1' GUTTER PER DETAIL ON SHT. 1.
7. CONST. P.C.C. CURB & 1.5' GUTTER, TYPE D, PER O.C.E.M.A. STD. 201.
9. REMOVE EX. P.C.C. DRIVEWAY.
10. CONST. P.C.C. SIDEWALK PER O.C.E.M.A. STD. 205.
11. CONST. 6" P.C.C. PVMT.
12. SAWCUT & REMOVE CURB, GUTTER & 1' STRIP OF A.C. & A.B. & REPLACE A.C. & A.B. IN KIND.
13. CONST. ROLLED CURB TO TYPE D CURB & GUTTER TRANSITION PER O.C.E.M.A. STD. 210.

NOTE:
RETAINING WALLS TO BE COVERED UNDER SEPARATE PERMIT.

SECTION A-A
NO SCALE

SECTION B-B
NO SCALE

PRECISE GRADING PLAN
ORANGE COUNTY ENVIRONMENTAL MANAGEMENT AGENCY

TRAVCOA BLDG.
LOTS 4, 5, 23 & 24
TRACT Nº 1499

SHEET 2 OF 2

W.O. 358-B
3W 179-B

OT SHT. 3 PRECISE GRADING PLAN - 377120.53)PF; 33202 553 11-Dec-85 08:52 /LOG IN 392-2

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Attachment No. PC 3

UP86-21P and SP86-52P

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NEW FILE

UP86-21P

City of Newport Beach

Environmental Management Agency
12 Civic Center Plaza
P.O. Box 4048
Santa Ana, CA 92702-4048

DATE: APRIL 4, 1986

TO: J. Newicker DEPT/DIST. City of NPB.

FROM: Chief, Site Planning Section

SUBJECT: UP86-21P/SP86-52P-TRAVCOA-OFFICE BLDG-SANTA ANA

RECEIVED
Planning Department
APR 9 1986
CITY OF NEWPORT BEACH, CALIF.

Response Date: APRIL 25, 1986

PC Hearing Date:

Planner Assigned: RAY BRANTLEY 834-2070

Project Charge No: C74720350

PROPOSAL: CONSTRUCT 14,500 SQ. FT. OFFICE BUILDING 42 FT. HIGH OR ALTERNATE PLAN. *Comm. 13,050* 13,000 35/38 Zone change on 3 lots 4th lot also

LOCATION: 2342 SOUTH BRISTOL STREET-SANTA ANA 18,000

Please review the attached proposal and return any comments or recommendations which you might care to offer. Returned comments, including a "no comment" are requested as an indication that you have received the proposal. Comments must be returned by the date indicated or it must be presumed that the project meets with your approval. If you indicate no comment we will not send revised plans for your review unless significant changes are incorporated in such plans or you ask that revised plans be provided. Please direct your comments to the planner assigned as noted above, or myself. Thank you for your cooperation.

Joan M. Sunderland, Section Chief

Initial Plans XX Revised Plans _____ Date Filed: 4-4

_____ No Comment _____ Comments as follows: _____ See Attached

RECEIVED
Planning Department
MAY 19 1986
CITY OF NEWPORT BEACH, CALIF.

Clevmpc01-24
6/10/85

BY: _____ Date: _____

PLEASE INDICATE TOTAL HOURS SPENT IN REVIEW

City of Newport Beach

86-04-07

ENVIRONMENTAL MANAGEMENT AGENCY

PLANNING APPLICATION

(SEE FILING INSTRUCTIONS BEFORE COMPLETING. FORM MUST BE TYPED)

RECEIVED
APR 04 1986

PROJECT NAME: Travcoa Office Building
LOCATION: 2342 South Bristol Street
Santa Ana, CA 92707
ACREAGE/SQ.FT. .57 Acres

OWNER: Travcoa
ADDRESS: 4000 MacArthur Blvd., #650E
Newport Beach, CA 92660
PHONE: (714) 476-2800

APPLICANT/AGENT: Gregory G. Simonoff
(IF NOT OWNER) FIRM: Simonoff/Hawkins & Associates
ADDRESS: 3300 Irvine Ave., #280
Newport Beach, CA 92660
PHONE: (714) 756-1555

LUE: Community Commercial CP:
ZONE: P. A. -35
P.C./S.P.
SUPV. DIST: 3 CSTL. ZONE ☐
ACCIDENT POTENTIAL ZONE ☐
PREFILING MEETING: ☐

✓	APPLICATION FOR PERMIT	CASE#	SUPPLEMENTAL CHECK LIST *	EMA/DPC DATE	INITIAL
X	INITIAL STUDY	IS86-054	8,14,16,17,22.	4/03/86	RT DM
	REQUEST TO SCHEDULE GPA		1,2,19,20.		
	GENERAL PLAN AMENDMENT		1, 2, 19,21.		
	COMM. PROFILE AMENDMENT		1,20,24.		
	ZONE CHANGE		3, 9,15,16,17,19,20,21,		
	FEATURE PLAN		7,15,16,19,20,21,23.		
	AREA PLAN		6, 15, 16, 19, 20, 21, 23.		
	TRACT MAP		4, 18.		
	PARCEL MAP		5, 18.		Rev DM
X	USE PERMIT	SP86-52P	8,10,11,12,15,16,17, 19,20,21,23.	4/4	
X	SITE DEV. PERMIT	UP86-21P	8,10,11,12,15,16,17, 19,20,21,23.	4/4	
	VARIANCE		8,16,20.		
	COASTAL DEV. PERMIT				
	DETAIL PLAN		8,20.		

PROJECT PROPOSAL: Use Permit Application for a 14,500 square foot office building consisting of one level of parking and two levels of office space on a 22,725 square foot building site. Approval of this application would allow a structure with a height of 42 feet and 52 parking spaces.
Pursuant to a request from the Orange County Planning Commission to incorporate an adjacent parcel into the development, an alternative proposal for the Use Permit is also submitted for consideration. This alternative is for a 18,000 square foot office building consisting of one level of parking and two levels of office on a 30,525 square foot building site. Approval of this alternative would allow a structure with a height of 42 feet and 72 parking spaces. Approval is requested for one alternative or the other. (SEE ATTACHED LETTER OF JUSTIFICATION)

EXISTING SITE CONDITIONS:

Flat site with three existing residences in the process of being demolished.

PREVIOUS GOVERNMENT APPROVALS:

Zone change from "R" to "PA-35". Case no. ZC 8531-P

City of Newport Beach

FORM NO. FD250-670 9/85 (Pg 1 of 2)

CERTIFICATION

(a) There are no assurances at any time, implicitly or otherwise, regarding final staff recommendations to the decision making body about this application.

(b) Major changes of the proposed project may require a new application and payment of new fees.

(c) Board of Supervisors policy contained in Resolution 79-1242 states that except for cases in which an important County policy or other extraordinary interest is determined to be present, the County will not provide an active legal defense to cases involving the issuance of permits or other entitlements for use or development of real property or zoning or General Plan Amendments.

(d) I hereby certify that to the best of my knowledge the information I have presented in this form and the accompanying materials is true and correct. I also understand that additional data and information may be required prior to final action on this application. I have read and understand the content contained in statements (a) thru (d).

SIGNATURE(S) _____ 4-3-90
PROPERTY OWNER OR AGENT

_____ DATE _____

AP#: 439-021-04,05,10,41 LOT 3,4,5, TRACT 1449
(OR ATTACH METES AND BOUNDS)

CAA: 44

C.T. 631.01 BAM: 5450 - 66,67

LEAD SECTION: _____

REFERRED TO:				PUBLIC REFERRAL LIST	
✓ ELEMENT PLANNING	☐ ZONING ADMIN.	✓ GRADING	✓	OCTD
☐ LAND PL.-COASTAL	☐ SITE PLANNING	☐ SURVEYOR	✓	S.A.H.S. P.GR.
☐ LAND PL.-FOOTHILL	☐ SUBDIVISIONS	☐ O.S./REC.	✓	City of NPB
☐ ENVIRONMENTAL ANALYSIS	☐ TRAFFIC ENGINEERING	☐ IHDO	✓	" " CM
✓ ACOUSTICS	✓ TRANSP. PLANNING	☐ HEALTH	☐	
✓ PROJECT PLANNING	✓ STREET & DRAINAGE	✓ FIRE	☐	
	✓ OCTD	☐ CAO	☐	

1. PROPOSED LUE MAP (20)
2. EXISTING LUE MAP (20)
3. a. PROPOSED ZONING MAP (20)
   b. EXISTING ZONING MAP (20)
4. TENTATIVE TRACT MAP (30)
5. TENTATIVE PARCEL MAP (22)
6. AREA PLAN MAP (20)
7. FEATURE PLAN MAP (20)
8. PLOT PLAN (20)
9. SDM (1)
10. FLOOR PLAN (20)
11. LANDSCAPE PLAN (20)
12. ELEVATIONS (20)
13. GRADING PLAN (2)
14. TOPOGRAPHY MAP
15. ENVELOPES ( )
16. PROPERTY OWNERS LIST, ENVELOPES AND AP MAP
17. PHOTOS (SETS) 3 PHOTOS
18. CERTIFICATION LETTERS (2 SETS)
19. AUTHORIZATION LETTER
20. LEGAL DESCRIPTION
21. ✱ AFFORDABLE HOUSING FORM
22. USGS QUAD SHEET
23. COLORED EXHIBITS
24. COMMUNITY PROFILE
25. _____

✱ LEGEND: See checklist on cover sheet ( ) = Quantity

REV. 7/82

FORM NO.

City of Newport Beach

ZENITH AVE.

C.L.

GRASSCRETE PAVING

CONC. BALLARDS- 2 END BALLARDS FIXED. MIDDLE BALLARD MOVABLE FOR EMERGENCY ACCESS.

30'

R.O.W.

45'

10'

2'

EXISTING PA-35 ZONE

EXISTING RESIDENTIAL

120'

19'

13 AT 9'-6"

15 AT 9'-6"

19'

114'

EASEMENT FOR INSTALLATION AND REPAIR OF UTILITIES

17'-6"

25'-6"

19'

65'

5'

5'

15'

EASEMENT FOR POLE LINES AND CONDUITS

1 AT 9'-6"

4'-6"

4 AT 8'-6"

4'

6' HIGH CONC. BLOCK WALL

17'

4 AT 8'-6"

LINE OF BUILDING ABOVE

110'

3 AT 8'-6"

24'

17'

17'

3 AT 8'-6"

1 AT 8'-6"

2 AT 8'-6"

3 AT 8'-6"

2 AT 9'

5'

17'

5'

21'

10'

10'

R.O.W.

130'

10'

10'

40'

24'

19'-6"

C.L.

BRISTOL ST.

UP 86-21P/SP 86-52P

Site Area	24,829 S.F. (.57 acres)
Gross Square Footage	14,500 S.F.
Coverage	29.2%
Allowable Coverage	35.0%
Standard Parking	31 spaces (2 handicapped)
Mid-size Parking	21 spaces
Total Parking	52 spaces
% Mid-size	40.4%
Allowable % Mid-size	50.0%
Spaces/1,000 S.F.	3.6
Allowable Spaces/1,000 S.F.	4.0

BUILDING DATA



VICINITY MAP

NORTH

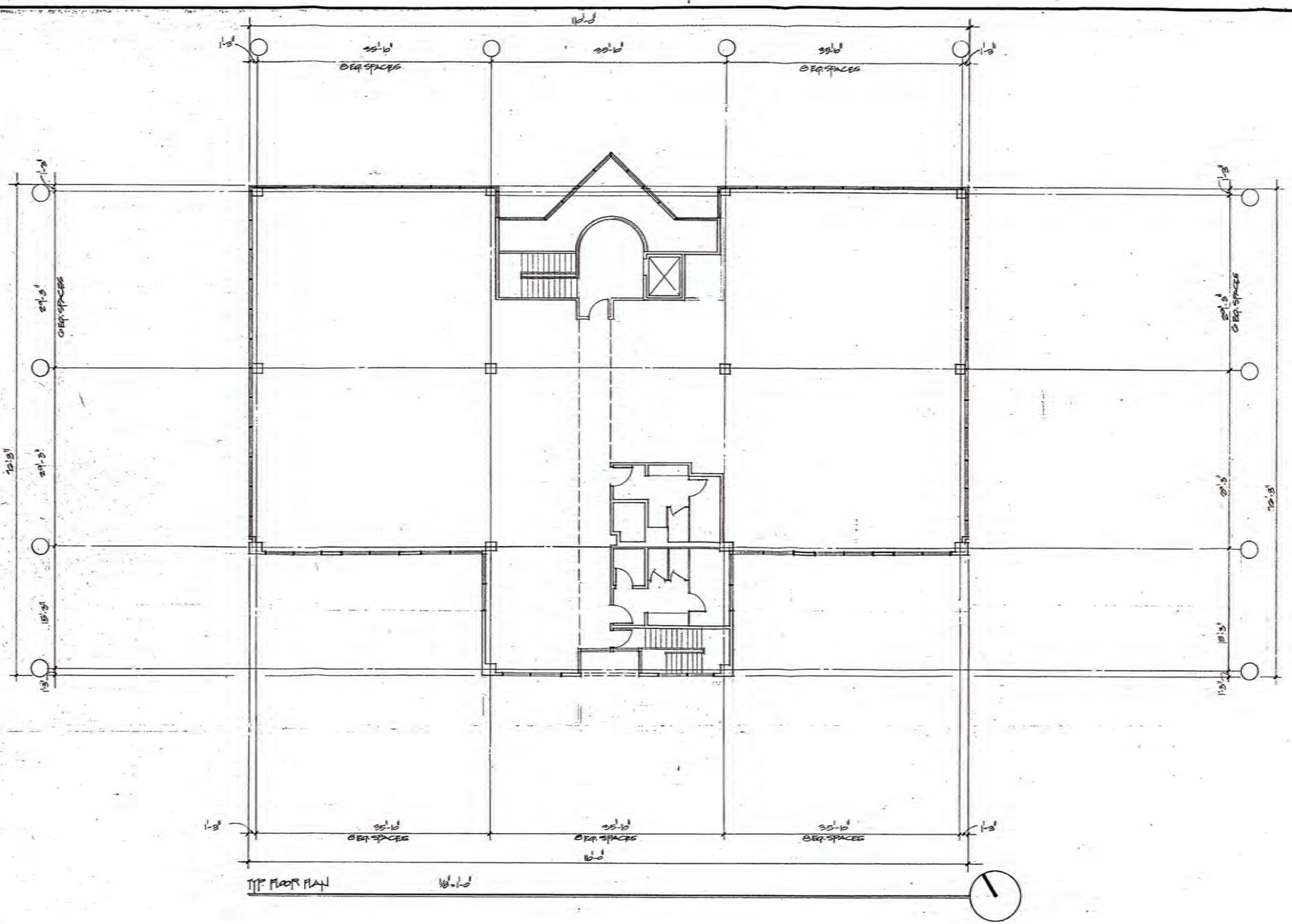
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OPTION A
SITE PLAN

TRAVCOA OFFICE BUILDING

Simonoff/Hawkins And Associates Architecture

City of Newport Beach



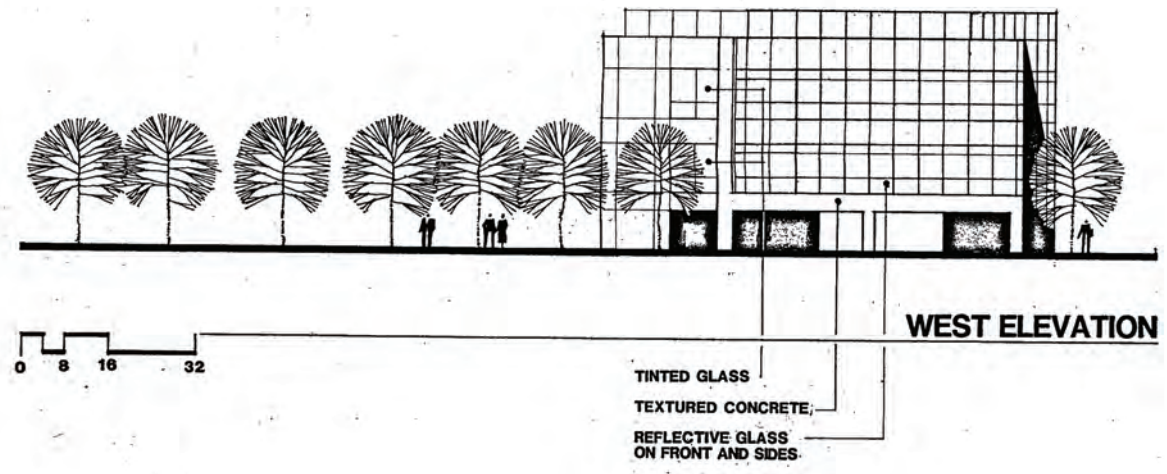
City of Newport Beach

REVISIONS	BY

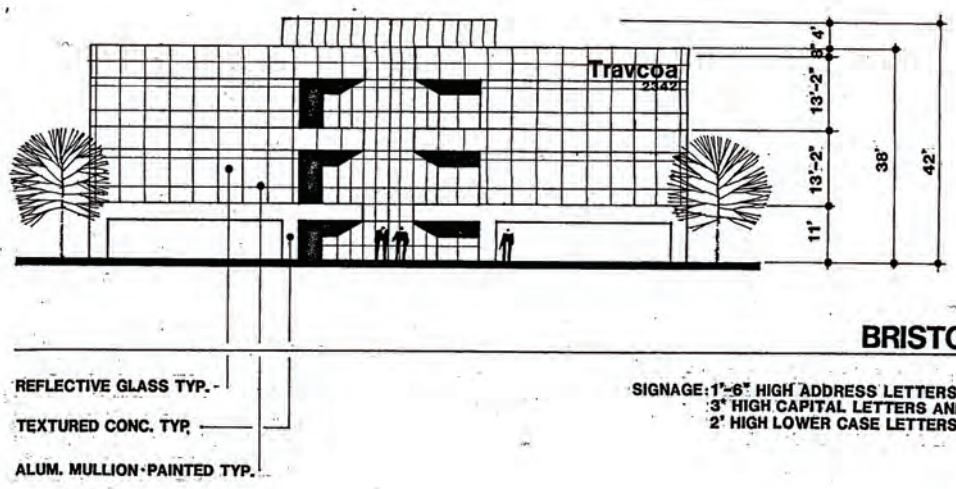
Travcoa
TRAVEL CORPORATION OF AMERICA
4000 MACARTHUR BLVD.
SUITE 650E
NEWPORT BEACH, CA.
92660

SIMONOFF/HAWKINS & ASSOCIATES · ARCHITECTURE
3300 Irvine Avenue · Suite 280 · Newport Beach, California 92660 Telephone 714 756-1555

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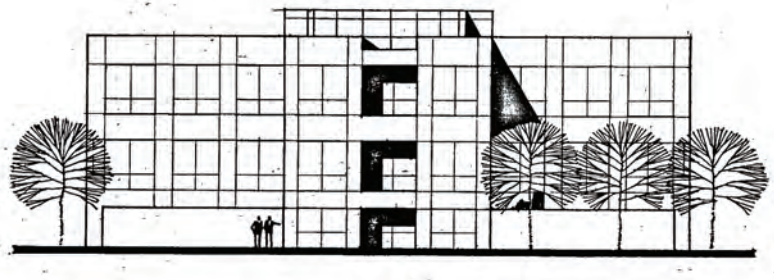


WEST ELEVATION



BRISTOL ELEVATION

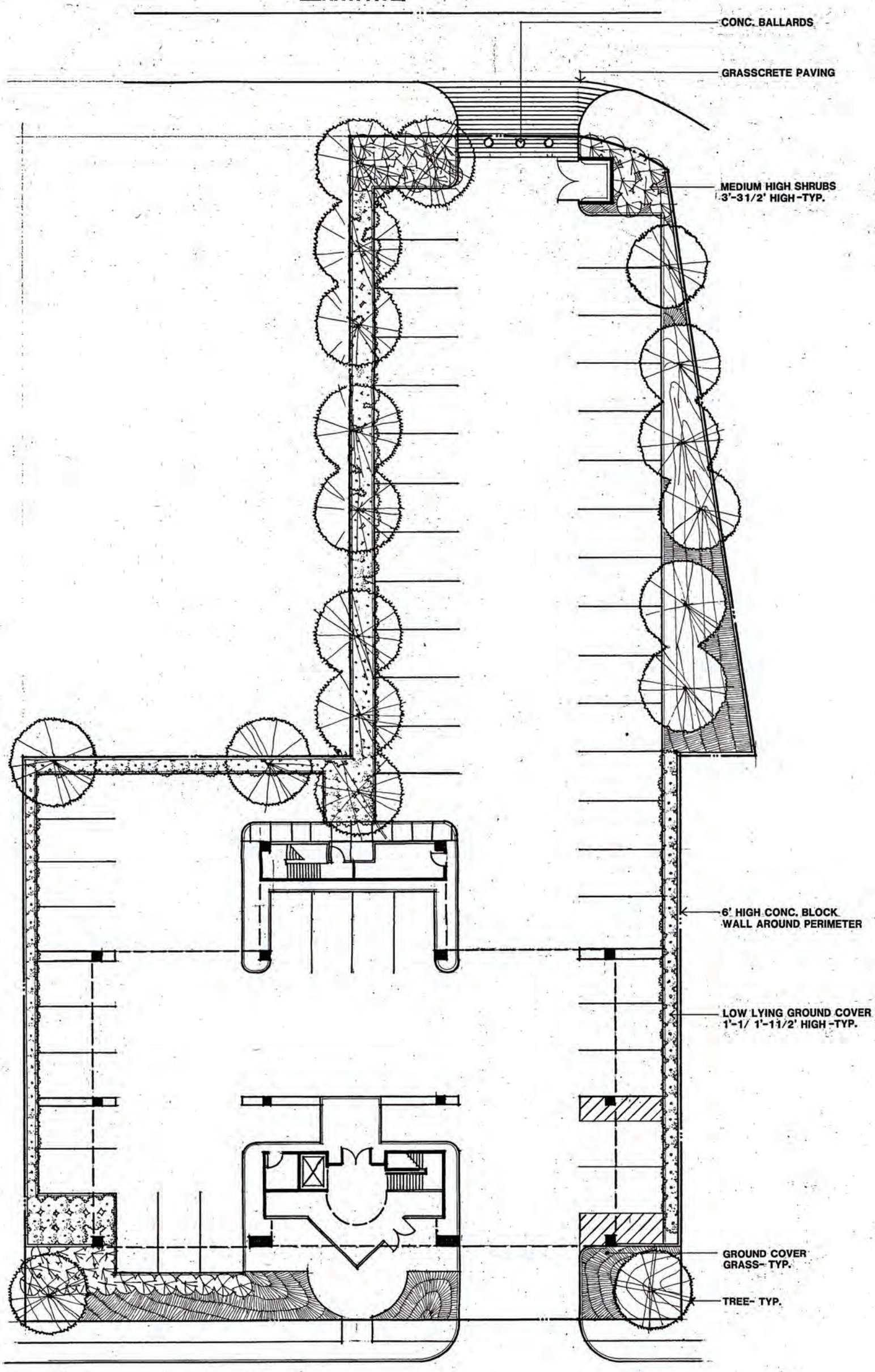
SIGNAGE: 1'-6" HIGH ADDRESS LETTERS
3" HIGH CAPITAL LETTERS AND
2" HIGH LOWER CASE LETTERS



ZENITH ELEVATION

City of Newport Beach

ZENITH AVE.



BRISTOL ST.

NORTH

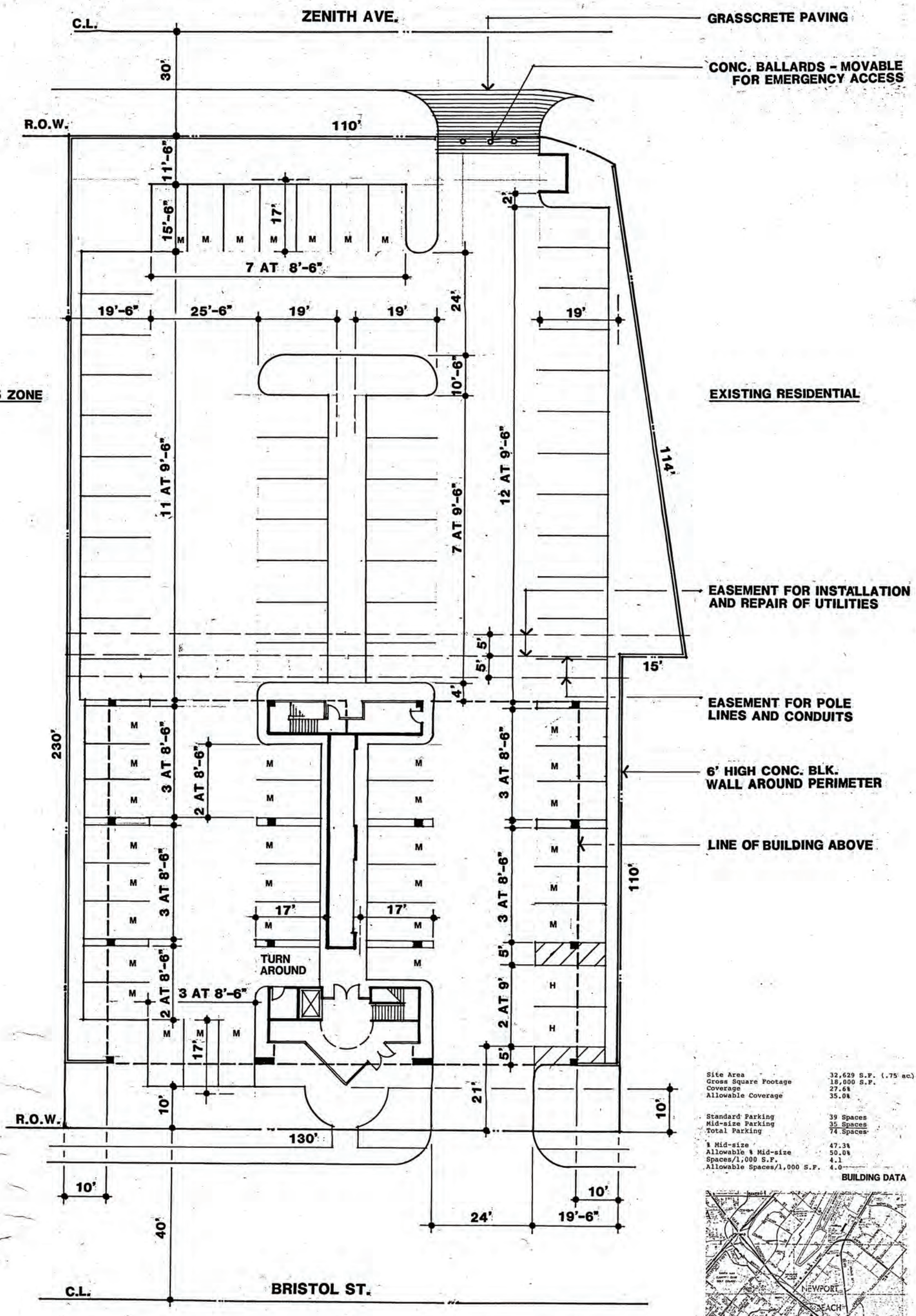
SITE PLAN

0 10 20 40

TRAVCOA OFFICE BUILDING

Simonoff/Hawkins And Associates Architecture

City of Newport Beach



Site Area	32,629 S.F. (.75 ac)
Gross Square Footage	18,000 S.F.
Coverage	27.6%
Allowable Coverage	35.0%
Standard Parking	39 Spaces
Mid-size Parking	35 Spaces
Total Parking	74 Spaces
% Mid-size	47.3%
Allowable % Mid-size	50.0%
Spaces/1,000 S.F.	4.1
Allowable Spaces/1,000 S.F.	4.0

BUILDING DATA



VICINITY MAP

NORTH

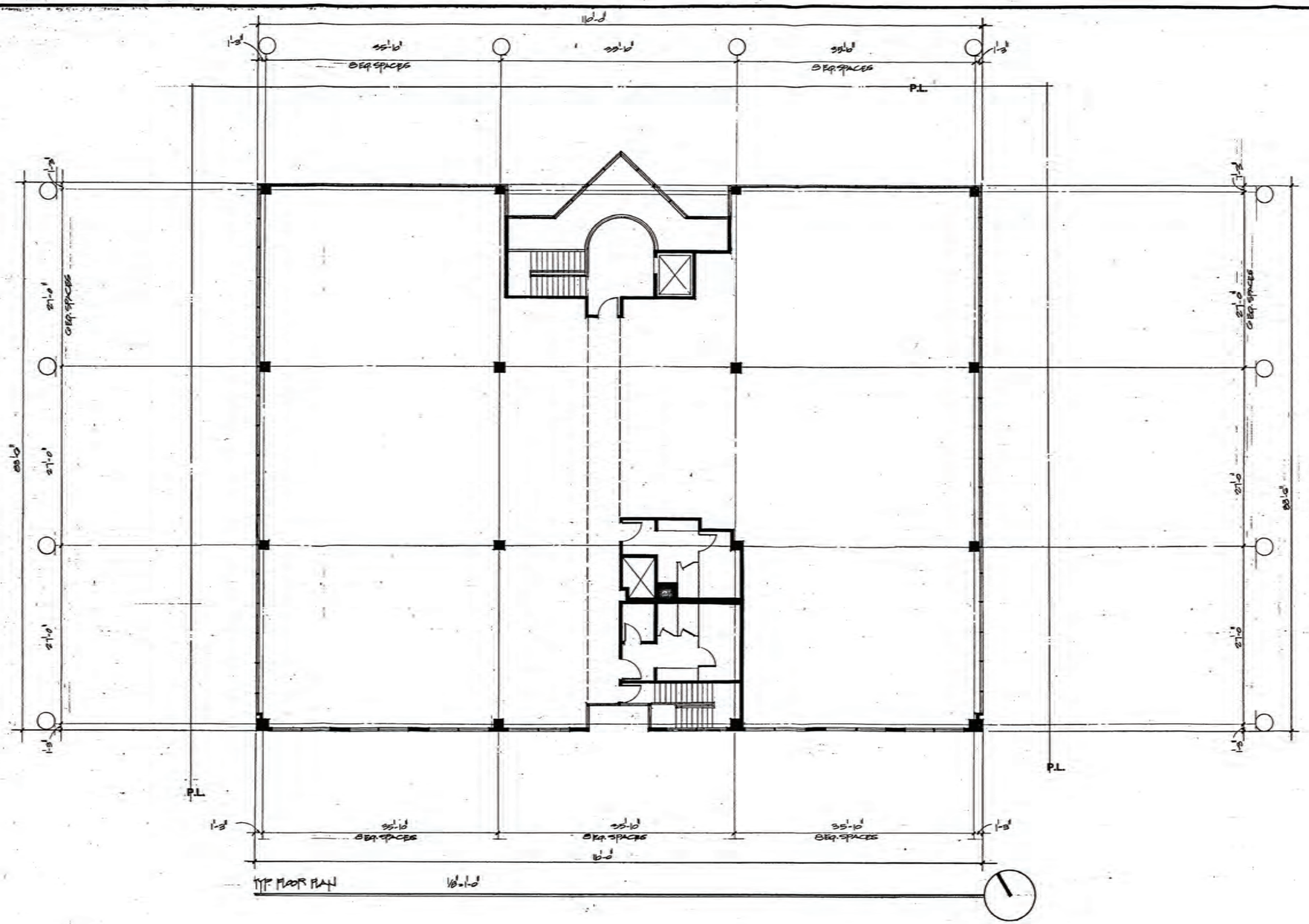
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OPTION B
SITE PLAN

TRAVCOA OFFICE BUILDING

Simonoff/Hawkins And Associates Architecture

City of Newport Beach



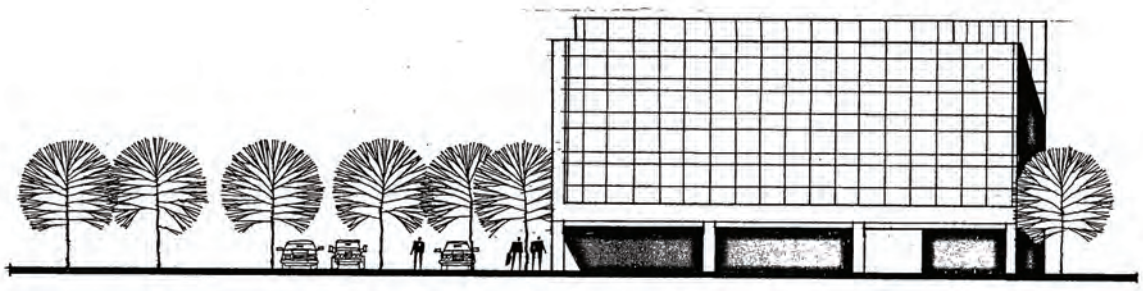
REVISIONS | BY

Travcoa
TRAVEL CORPORATION OF AMERICA
4000 MACARTHUR BLVD. SUITE 650E
NEWPORT BEACH, CA. 92660

SIMONOFF/HAWKINS & ASSOCIATES · ARCHITECTURE
3300 Irvine Avenue Suite 280 Newport Beach California 92660 Telephone 714 756-1555

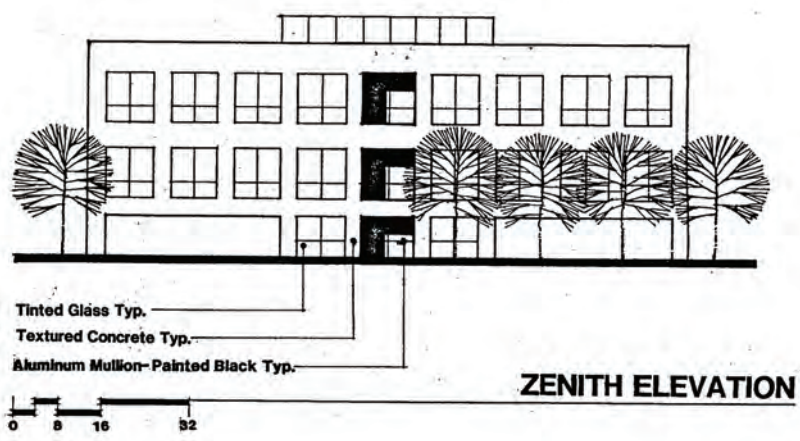
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Of 38

City of Newport Beach



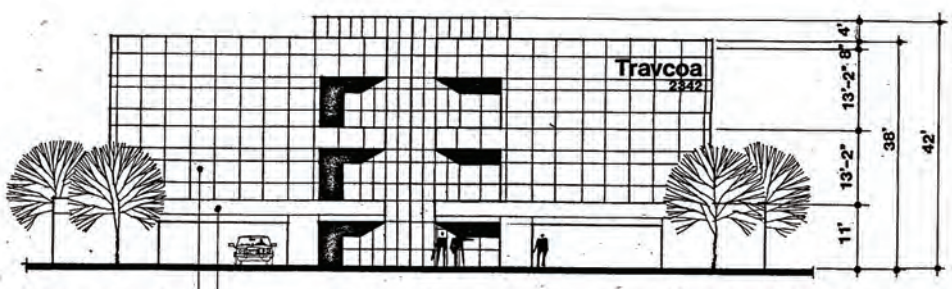
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WEST ELEVATION



0 8 16 32

ZENITH ELEVATION



0 8 16 32

BRISTOL ELEVATION

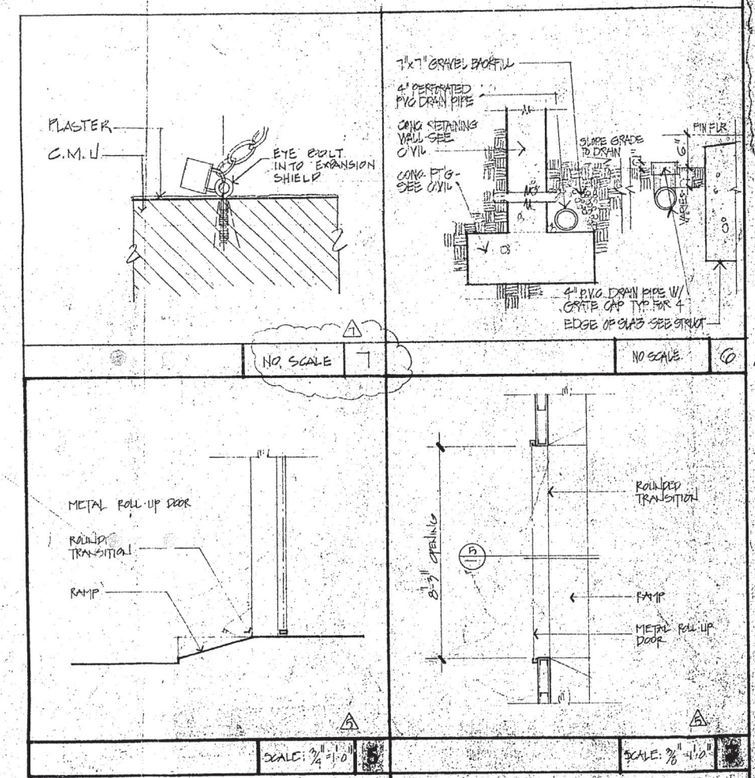
City of Newport Beach

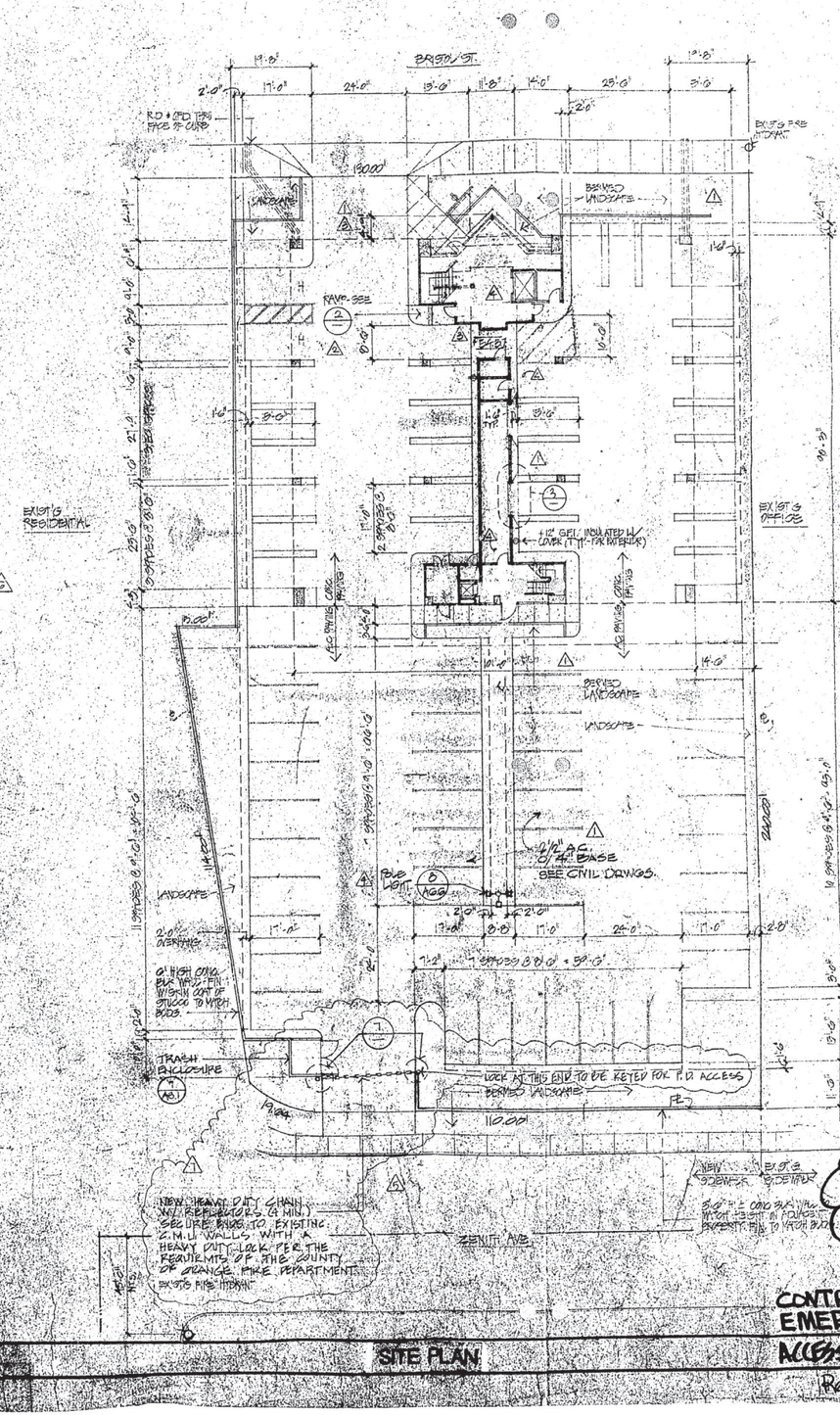
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Attachment No. PC 4

Controlled Emergency Access plan

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SITE PLAN

REVISIONS	BY
1 10.6.87	[redacted]
2 2.2.88	[redacted]
3 7.23.88	[redacted]
4 12.15.89	[redacted]
5 1.12.90	[redacted]
6 3.26.89	[redacted]

TRAVCOA OFFICE BUILDING

TRAVCOA Travel Corporation of America
4000 MacArthur Blvd. Suite 650E
Newport Beach, Ca. 92660 (714) 476-2800

SIMONOFF/HAWKINS & ASSOCIATES ARCHITECTURE
20101 Birch Street Suite 210 Santa Ana California 92707 Telephone 714 756-1555

Date: 2-20-90
Scale: 1/16"=1'-0"
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Approved:
Job: 8621
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Attachment No. PC 5

Project Description/Justification

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2350 SE Bristol, LLC ("Property Owner") hereby applies for Staff Approval to clarify the 1986 Use Permit ("Permit") related to the development and uses for the property located at 2350 SE Bristol Street in Newport Beach ("Subject Property"). The Property Owner seeks to continue to use the back driveway/gate located along Zenith Avenue for necessary and safe ingress/egress to the Subject Property for larger/delivery vehicles and employees.

Staff Approval should be granted as the driveway/gate on Zenith Avenue was previously approved in 1986 and was not expressly limited in the Permit (Exhibit A). Further, the continued use of the driveway/gate will allow for "adequate and safe maneuvering" to enter/exit the Subject Property onto Bristol Street (a multi-lane, higher-speed arterial) in a forward direction as required by the later-adopted Newport Beach Municipal Code ("NBMC") § 20.40.070. (See Attachment 1 below.)

Attachment 1

When the Subject Property development was approved in 1986 by the County of Orange ("County"), the Permit stated that the back gate was to be made available for access by emergency vehicles. (See Exhibit A.) There was no limitation on the use of the Zenith Avenue driveway/gate by other vehicles, such a delivery trucks, customers, employees, etc. In fact, for nearly 40 years, the driveway/gate was used for such purposes, without incident.

During that same 40 year period, Bristol Street (which was once a County road) has been widened into a Major Arterial (tens of thousands of vehicles per day) and the speed increased. Not to mention, the actual speed of traffic heading southbound along Bristol Street is much greater than the posted speed of 45 per hour. Thus, the safety of the Subject Property's owners, tenants, employees and vendors (including delivery vehicles) is of paramount importance. An aerial site picture with dimensions and other various photos of the Subject Property are attached hereto as Exhibit B.

As the City is aware, many vehicles traveling along southbound Bristol Street merged off of SR 73 -- a freeway/tollway with higher speeds. Further, as vehicles pass the Subject Property, many of them are merging back onto SR 73 and/or turning right or left onto Jamboree, another major arterial. It is easy to see that most vehicles traveling southbound on Bristol Street are passing the Subject Property at high speeds, some well over 65 miles per hour.

The Subject Property has one driveway along on Bristol Street, which immediately enters into an 8' garage style/covered entrance. (See Exhibit B pictures.) At the driveway entrance, there are also several bushes and other structure-type materials at the northern side of the driveway, which can make it difficult for vehicles exiting the Subject Property to see oncoming vehicles traveling on southbound Bristol Street. This can create certain safety concerns related to site distance issues. Of note, most if not

all of the neighboring properties near the Subject Property, have at least two driveways (entrances/exits); one along Bristol Street and another either on the side or in the back of the property.

As a result, it is much safer for most vehicles to enter the Subject Property from Bristol Street and exit onto Zenith Avenue. For larger vehicles, and due to the limitations on turning radii within the parking area/aisles, it is safer for those vehicles to enter from Zenith Avenue and exit in a forward direction onto Bristol Street. This of course is assuming such vehicles are lower than eight (8) feet; as vehicles over such height would have to enter/exit the Subject Property from Zenith Avenue. As the later-adopted NBMC requires (adopted after the 1986 Permit), vehicles should not be backing out of the Bristol Street driveway and onto a heavily traveled, high-speed, major arterial.

Finally, as the City does not permit street parking along Bristol Street (or Spruce Avenue), all vehicles (including larger vehicles) must enter/exit the Subject Property to access the same. This further supports the continued use of the Zenith Avenue driveway/gate for safe access to and from the Subject Property.

For the reasons stated, the Property Owner respectfully requests Staff Approval to re-confirm that the Zenith Avenue driveway/gate can continue to be used for the necessary and safe ingress/egress for larger/delivery vehicles and employees.

By submitting this application and request, the Property Owner does not waive any rights to claim that the Permit already allows the existing uses of the Zenith Avenue driveway/gate to continue, and expressly reserves all rights thereto.

Attachment No. PC 6

Applicant Provided Site Photos

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Pictures of Property at 2350 Bristol Street






2350
PRIVATE
PROPERTY
NO
PARKING
VALET
PARKING




1553RPJ



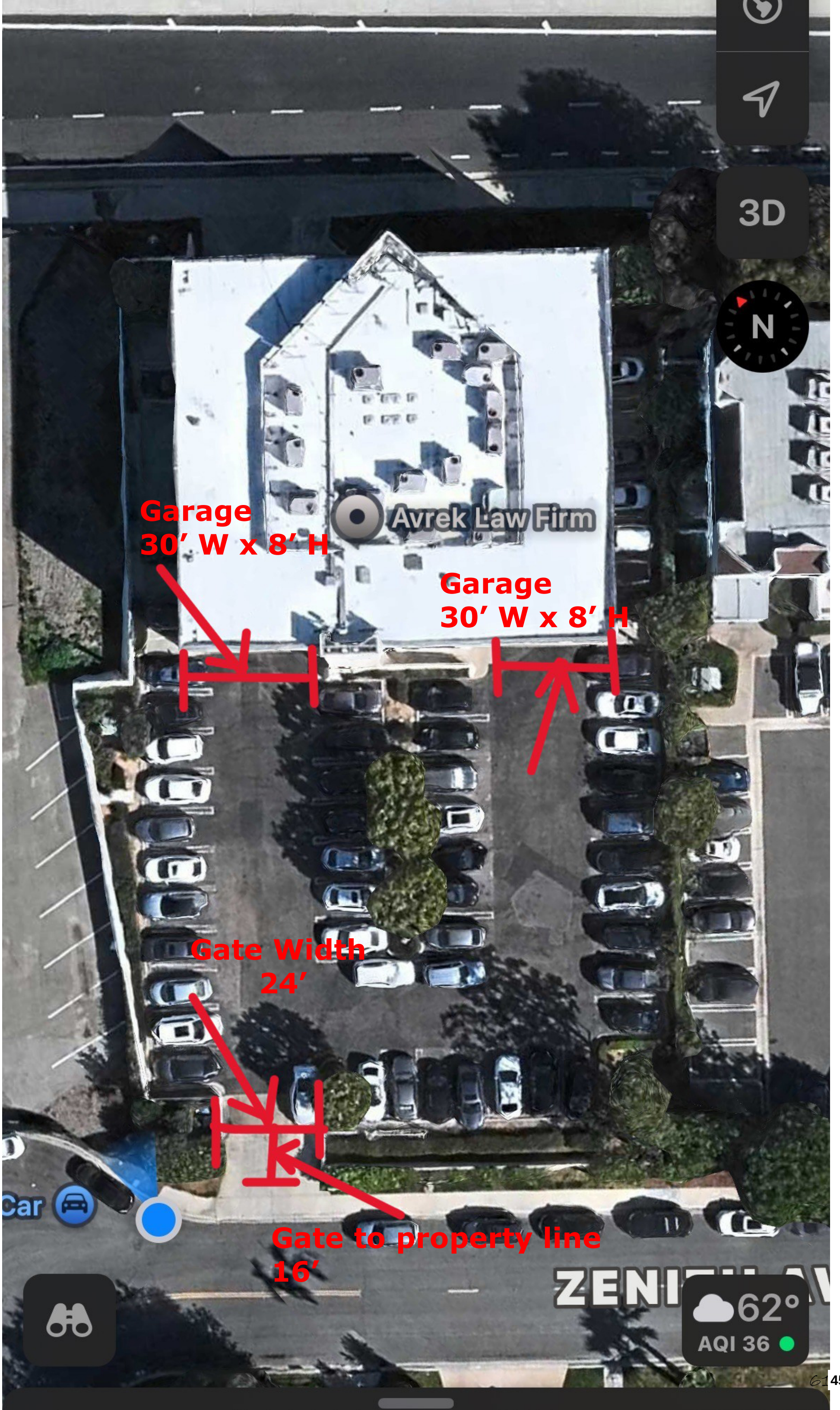




Attachment No. PC 7

Applicant Provided Plans

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3D
N
Garage
30’ W x 8’ H
Avrek Law Firm
Garage
30’ W x 8’ H
Gate Width
24’
Gate to property line
16’
Car
62°
AQI 36

Attachment C

Planning Commission Resolution No. PC2026-008

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

RESOLUTION NO. PC2026-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING A REQUEST TO PERMIT EMPLOYEE AND DELIVERY VEHICLE USE OF AN EMERGENCY ACCESS DRIVEWAY AT AN EXISTING PROFESSIONAL OFFICE BUILDING LOCATED AT 2350 BRISTOL STREET (PA2025-0112)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mira Patel of Newmeyer Dillon Law Firm, ("Applicant") concerning property located at 2350 Bristol Street, and legally described as Lots 4, 5, and 23 of Tract 1499 ("Property").

2. The Property was originally within the jurisdiction of the County of Orange before being annexed into the City in September of 2002.

3. The Property is developed with a three-story, 18,136-square-foot office building and an adjoining 65-space surface parking lot. The development was approved by the County of Orange Planning Commission on June 17, 1986, pursuant to Use Permit No. UP86-21P and Site Development Permit No. SP86-52P.

4. UP86-21P and SP86-52P have two approved site plans, Option A and Option B. Both site plans include a driveway at the rear of the Property, connecting the Property to Zenith Avenue ("Zenith Driveway"). Both Option A and Option B show movable bollards with language denoting the bollards are for emergency access.

5. A revised plan stamped and dated July 23, 1987, shows the bollards removed. However, there is a large "X" drawn through the revised design for the Zenith Driveway and a handwritten notation that an unrestricted driveway configuration was not approved, to see the original approval, and to see a subsequent controlled emergency access plan approved by the Orange County Fire Prevention Bureau.

6. The Controlled Emergency Access plan, stamped and dated July 18, 1990, depicts the Zenith Driveway to be constructed with a heavy-duty chain and a lock, keyed for Fire Department access.

7. In December 2024, the City's Code Enforcement Division began receiving complaints regarding use of the Zenith Driveway by employees and issued a Notice of Violation on December 18, 2024 for violation of Section 10.50.020H (Nuisance - Violation of Permit) of the Newport Beach Municipal Code Section ("NBMC").

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

8. In response, the Applicant is requesting a staff approval consistent with Section 20.54.070 (Changes to an Approved Project) of the NBMC to allow the Zenith Driveway to be used by employees and delivery drivers ("Project").

9. While Section 20.54.070 allows the Community Development Director ("Director") to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, consistent with Section 20.12.020(A) (Rules of Interpretation) of the NBMC.

10. The Property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan (SP-7) Zoning District within the Professional and Administrative Office District (PA) subarea.

11. The Property is not located within the coastal zone; therefore, a coastal development permit is not required.

12. A public hearing was held by the Planning Commission on March 19, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California 92660. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

In accordance with Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the NBMC the Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing and waive the requirement for a new use permit application. However, in this case, the Director has referred the request for Staff Approval to the Planning Commission consistent with Section 20.12.020 (Rules of Interpretation) of the NBMC. The Planning Commission may approve this Staff Approval for substantial conformance with Use Permit No. UP86-21P and Site Development Permit No. SP86-52P only after making all four required findings set forth in Section 20.54.070. In this case, the Planning Commission was unable to substantiate the four required findings based upon the following:

Findings Required to Authorize Changes to an Approved Project:

A. The changes are consistent with all applicable provisions of this Zoning Code;

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;

C. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and

D. [the changes do not result in an expansion or change in operational characteristics of the use.

Facts Not in Support of Finding:

1. Pursuant to Section 20.90.130(F) (Professional and Administrative Office District: SP-7) of the NBMC, professional and administrative offices in the PA subarea of the SP-7 Zoning District are an allowed land use, subject to the approval of a minor use permit. The existing office building at the Property is permitted under Use Permit No. UP86-21P and Site Development Permit No. SP86-52P, which restricts the Zenith Driveway to emergency access only. Requested operational changes to the Property include the use of the Zenith Driveway for delivery and employee vehicles. Condition of Approval No. 18 of UP86-21P requires that construction details for the controlled emergency access driveway be approved by the Fire Chief, and shall include width, clear height, and means of emergency vehicle override. The plans originally submitted for the Project identify the driveway as emergency access and subsequent associated plans approved by the Fire Chief in accordance with UP86-21P and SP 86-52P include a heavy-duty chain blocking vehicle access with a lock accessible only by a Fire Department access key. Since the current request includes non-emergency use of this driveway, the proposed operational changes would therefore involve and conflict with a feature of the original project that was specifically addressed or was a condition of approval and would constitute a substantial change from the existing approval.

2. The Project conflicts with Section 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC. Section 20.90.190 acknowledges that Santa Ana Heights has been heavily impacted by nonresidential traffic attempting to avoid congested conditions on surrounding arterials. A primary consideration of the circulation plan was the reduction of traffic within residential areas. With the development of business park uses within areas adjacent to residential uses, another consideration was the separation of business park and residential traffic including street improvements to mitigate business park uses' traffic impacts to residential neighborhoods. Street Improvement Feature 3, which is approximately 500' from the Project, required construction of a cul-de-sac and improvement of Cypress Street south of South Bristol Street. Adding nonresidential traffic into the residential neighborhood is inconsistent with Section 20.90.190(B).

3. The requested operation of the emergency and controlled access driveway for employee and delivery use would impact the operational characteristics of the use. Code Enforcement has received several complaints involving employee vehicles using this emergency access driveway as well as complaints regarding employees parking on

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

adjacent residential streets. Permitting employee use of the emergency access driveway is negatively impactful to the adjacent residential neighborhood.

4. The Project was reviewed by the City's Public Works Department, which expressed concerns with allowing unrestricted use of the Zenith Driveway as proposed. The Zenith Driveway provides a depth of approximately 16 feet from the property line to the exiting gate. Public Works issued comments noting that, for unrestricted use of the Zenith Driveway, the gated entry would need to be set back so that vehicles using that driveway do not impact the public right-of-way, including the sidewalk. The existing condition does not support vehicles queuing while waiting to enter the Property. It should also be noted that, regardless of location, vehicle queueing is not permitted within the public right-of-way, pursuant to Section 20.40.030(B) (Requirements for Off-Street Parking - Permanent Availability Required) of the NBMC, which is in this case, the residential street of Zenith Avenue.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies the Applicant's request for the Staff Approval filed as PA2025-0112.

2. This action shall become final and effective 14 days following the date this Resolution is adopted, unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of Chapter 20.64 (Appeals) of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH, 2026.

AYES: Harris, Reed, Salene, Gazzano and Rosene

NOES: None

ABSTAIN: None

ABSENT: Ellmore and Langford

BY: Tristan Harris
Tristan Harris, Chair

BY: Jaime Murillo
Jaime Murillo, Ex-Officio Secretary

Attachment D

March 19, 2026, Planning Commission Minutes

Docusign Envelope ID: AA86559A-0384-8791-812F-AAE145E40E7D

NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MARCH 19, 2026
REGULAR MEETING – 6:00 P.M.

I. CALL TO ORDER - 6:00 p.m.

II. PLEDGE OF ALLEGIANCE – Vice Chair Salene

III. ROLL CALL

PRESENT: Chair Tristan Harris, Vice Chair David Salene, Commissioner Michael Gazzano, Commissioner Greg Reed, Commissioner Mark Rosene

ABSENT: Secretary Jonathan Langford, Commissioner Curtis Ellmore

Staff Present: Community Development Director Jaime Murillo, Acting Deputy Community Development Director Ben Zdeba, City Traffic Engineer Kevin Riley, Assistant City Attorney Yolanda Summerhill, Administrative Assistant Clarivel Rodriguez, Department Assistant Beatriz Avila, Assistant Planner Daniel Kopshever, Associate Planner Oscar Orozco, Newport Beach Police Department Civilian Investigator Wendy Joe

IV. PUBLIC COMMENTS

Charles Schaaf stated that the building at 2424 Southeast Bristol St. was built around the same time as the one in Item No. 2, with driveways onto both Bristol St. and Spruce Ave. , and sign stating that drivers must turn right onto Spruce Ave. He stated that the sign has since been removed, and these right-only turns no longer occur, impacting traffic in his neighborhood.

V. REQUEST FOR CONTINUANCES – None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF March 5, 2026

Recommended Action: Approve and file

Chair Harris opened public comment, and there was none.

In response to Chair Harris' inquiry, Community Development Director Jaime Murillo confirmed receiving written edits from Jim Mosher, adding that staff agrees with his recommendations.

Motion made by Chair Harris and seconded by Vice Chair Salene to approve the meeting minutes of March 5, 2026, with Jim Mosher's edits.

AYES:	Gazzano, Harris, Rosene, and Salene
NOES:	None
ABSTAIN:	Reed
ABSENT:	Ellmore, Langford

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 2350 BRISTOL STREET DRIVEWAY ACCESS (PA2025-0112)
Site Location: 2350 Bristol Street

Docusign Envelope ID: AA86559A-0384-8791-812F-AAE145E40E7D

Summary:

In accordance with Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the applicant requests a staff approval to allow employee and delivery vehicles to use the existing rear driveway on Zenith Avenue, finding the operation consistent with the original entitlements for the commercial office building, as issued by the Orange County Board of Supervisors on August 20, 1986 (Use Permit No. UP 86-21P and Site Development Permit No. SP 86-52P). Pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC, the Community Development Director is referring this decision to the Planning Commission to allow for additional notice and engagement of the affected surrounding property owners.

Recommended Actions:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Article 18, Section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2026-008 denying the Staff Approval filed as PA2025-0112.

Assistant Planner Daniel Kopshever reported that the site in question is between Bristol St. and Zenith Ave. and within the Santa Ana Heights area annexed by the City in 2003. He reported on the site's development in the 1980s when it was under Orange County's jurisdiction, including multiple iterations of the Zenith Ave. driveway, leading to the ultimate decision for a heavy-duty chain locked and keyed for fire department access. He added that Code Enforcement has had four cases stemming from employees using the driveway, causing six site visits by a code enforcement officer since 2024.

Assistant Planner Kopshever reported that the applicant is requesting a Staff Approval because they interpret the existing Use Permit to already allow for employee and delivery vehicle usage of the driveway on Zenith Ave., and that the applicant has cited traffic safety concerns, nearby properties with two driveways, and an inability for delivery vehicles to use the Bristol St. entry. He reported that the applicant stated that a sign at a neighboring property partially obstructs the view of drivers turning onto Bristol St., but a review by the City's Traffic Engineer found that the sign is not an obstruction if the driver inches forward towards the street. He stated that staff is willing to work with the adjacent property owner to relocate the sign. He added that the applicant expressed safety concerns about the landscaping but noted that it is both low and on the applicant's property, making the landscaping their responsibility.

Assistant Planner Kopshever confirmed that two neighboring commercial properties have secondary exits onto Spruce Ave., which is also a residential street but abuts a four-way stop sign intersection. He agreed that the subject property's eight-foot vertical clearance at its Bristol St. entrance is too short for some delivery vehicles, but not all delivery vehicles.

Assistant Planner Kopshever reported that during the application process, staff issued an incomplete letter requesting additional information such as how community concerns would be addressed, how the gate would operate, and daily employee traffic volume through the gate. He stated that the applicant wanted to move forward with an unchanged application, so this hearing was scheduled. He reported that the applicant has since issued a statement saying that the Zenith Ave. gate has been kept open for over 40 years, but he then displayed multiple Google Earth street-level images taken since 2015 where the gate is closed.

Assistant Planner Kopshever reported that staff found conflicts between this request and the

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zoning codes, in addition to the Circulation Plan of the Santa Ana Heights Specific Plan, which focuses on reducing residential traffic. He noted that the County's approved plans for the site called for this entrance to be used specifically for emergency access, adding that reserving the driveway for emergency use is Condition of Approval No. 19 in the Use Permit. He added that staff would also have to settle a conflict brought on by the expansion or changes in the operational characteristics of the use if employee access is granted, because the driveway was designated for emergency access only. He recommended adopting a Resolution to deny approval.

In response to Chair Harris' inquiry, all commissioners reported having no ex parte communications on this item.

Chair Harris opened the public hearing.

Chuck Krolikowski, speaking for the applicant, noted that the site has a multi-story and multi-tenant professional office building that has stood for almost 40 years, adding that the Zenith Ave. driveway access issue has existed for its entire time. He noted that the applicant submitted a letter to the City yesterday stating that they do not feel that they need to ask for approval to use the driveway, as it has operated in its present manner for years. He reported that the applicant initially resisted staff's insistence that they must apply to use the driveway for employees and deliveries but ultimately cooperated. He stated that the applicant is making a good-faith effort to make the property function in an optimal and safe manner.

Mr. Krolikowski stated that not allowing Zenith Ave. driveway access will endanger the community. He noted that the original approvals for the site by the County were vague and did not designate the Zenith Ave. driveway as being exclusively for emergency access. He added that the County, in its approval, found that the project would not create any unusual traffic, adding that the City is not allowed to second-guess the County's findings at the time of approval, which included a determination of being consistent with land use regulations. He clarified that Condition of Approval No. 19 required the applicant to submit details for controlled emergency access, but it does not state that the Zenith Ave. driveway is designated for emergency access only, adding that the County could have included this exclusivity in the Conditions of Approval.

Mr. Krolikowski stated that the City cannot apply its regulations to the uses of the property because it was approved by the County before being annexed. He added that the Certificate of Occupancy's approval assumes that all Conditions of Approval were properly satisfied.

Mr. Krolikowski cited the case of Goat Hill Tavern v. City of Costa Mesa as an analogous legal example providing a long-operating business with a vested right to continue its operations. He stated that non-conformity is another legal issue at play in this application, adding that the City's regulations do not apply because the development was approved by the County. He stated that documentation defines Bristol St. as being a high-speed and high-traffic roadway connecting to State Route 73, noting that it narrows from four lanes to two lanes near the property, and adding that there have been many speeding tickets issued and accidents occurring in the area.

Mr. Krolikowski reported that the property has an eight-foot vertical clearance just 13 feet from the Bristol St. sidewalk, forcing delivery trucks that are often 9-11 feet high and 20-25 feet long to extend out into the sidewalk and force other cars looking to enter the property to queue up on Bristol St. just as it is narrowing from four lanes to two. He added that these stopped delivery trucks also obstruct the vision of drivers exiting the property. He stated that this is unsafe and expressed his shock that it is not addressed in the staff report. He noted that these delivery trucks over 8 feet in height cannot go forward, so they must back up onto Bristol St. after making their deliveries, a safety hazard also not mentioned in the staff report.

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Mr. Krolikowski noted that the deliveries and high speeds on Bristol St. make the Zenith Ave. driveway a much safer option for employees. He stated that the difference between this property and the one at 2424 Bristol St. mentioned in Mr. Schaaf's previous public comments is that the latter property does not have an eight-foot overhang. He noted that the 2424 Bristol St. property has enough space for a delivery truck to turn around on site and exit back onto Bristol St., and it also has a second driveway onto Spruce Ave.

Mr. Krolikowski reported that the City conducted a traffic study within the past year that contemplates making Spruce Ave. into a cul-de-sac, along with adding speed bumps on Zenith Ave. He noted that many of the same residents speaking against the applicant's access to Zenith Ave. also spoke against the traffic-calming concepts identified in the Study, directly implying that they are less concerned about traffic safety than they claim to be.

Mr. Krolikowski noted that staff presented different iterations of the project during the original approval process, showing bollards in the driveway that were removed at the request of the then-named Orange County Fire Department (OCFD). He added that a chain and/or gate were also discussed with OCFD, but nowhere in the documentation does the County designate the driveway as being for emergency access only.

Mr. Krolikowski reported that in the last year, there have been dozens of automobile accidents along this stretch of Bristol St., with over 100 moving violations ticketed. He encouraged the Commission to make safety its biggest concern regarding the property's use.

Mr. Krolikowski stated that approving staff's recommendation to deny the application would be an unconstitutional taking of property because property owners have access rights to streets they abut, adding that the property was allowed to build two driveways and has been using both for a long time, creating vested rights according to the Goat Hill Tavern case's legal precedents. He reported that City staff would have approved the applicant's request were it only for deliveries, but the request for employee access triggered this hearing.

In response to Chair Harris' inquiries, Mr. Krolikowski reported that, at times, the current and previous property owners would close the Zenith Ave. driveway gate at night. He could not confirm if there is anything in the original documentation from the County stating that occupants, tenants, or users can use the Zenith Ave. driveway freely. He stated that there is no definitive language declaring either emergency access only or open access for all vehicles. He agreed that the documentation is vague and ambiguous. He agreed that the original phrasing included the phrase "controlled emergency access."

Neal Metler, an employee who works at the subject property, requested approval to continue allowing employees and delivery vehicles to use the Zenith Ave. driveway due to the vehicular hazards of Bristol St., noting the many accidents and high speeds of drivers. He added that, in addition to leaving the property, it is also dangerous to enter it from Bristol St. due to concerns of being struck from behind. He addressed the written public comments on the item, noting that many of the authors live significantly far away from the building. He stated that restricting the Zenith Ave. driveway will not end the traffic safety issue, adding that neighbors could also request speed bumps be installed on Zenith Ave.

Mr. Mosher stated that the applicant has raised valid safety concerns, but this Staff Approval is not the proper way to obtain the relief sought. He noted that the documentation about safety measures between the original developer and the County, such as the possibility of using bollards, shows that the driveway was not intended for free access. He stated that it is unlikely that there is proof that the County inspected a free driveway when issuing the Certificate of Occupancy 40 years ago, contrary to the applicant's claim. He reported that the Santa Ana Heights Specific Plan

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was created by the County, and the City had to promise not to change it as a condition of annexation, adding that the Specific Plan continues to require Board of Supervisors approval to be amended, making it relevant here. He reported attending the recent City Council meetings where traffic calming measures in Santa Ana Heights were discussed, adding that a reason cited against making Spruce Ave. a cul-de-sac was emergency access.

Chris Laullon, an employee who works at the subject property, stated that he uses both driveways for reasons of practicality and safety. He added that traffic often backs up to exit the property onto Bristol St., a problem that would be further exacerbated if exiting onto Zenith Ave. was not an option. He stated that only having the high-speed Bristol St. access point is impractical for the site's setup, particularly when larger delivery vehicles are also involved. He encouraged allowing access from Zenith Ave., adding that if an accident impacted the Bristol St. driveway, there would be no other access to or from the property.

Mr. Schaaf, who lives two houses away from the building, reported that State Route 73 was not completed when the building was approved, ending at the Irvine Ave./Campus Dr. exit, while Bristol St. was only two lanes then. He stated that neighborhood residents at the time of approval received letters from the County stating that the Zenith Ave. driveway would be only for emergencies, something implied by the draft of the project that included bollards. He stated that the gate has often been opened the past few years, but in the past was closed most of the time with no more than a pedestrian-sized gap. He noted that 2372 Bristol St. only has a single driveway onto Spruce St. and not two as stated by the applicant. He encouraged the City to investigate the right-turn-only exit at 2424 Bristol St. He stated that the subject building's poor design should not impact his neighborhood and encouraged the applicant to purchase a nearby vacant lot to use for additional parking.

Linda Giedt stated that the misuse of the emergency access point puts residents of her neighborhood at risk. She noted that the building has more employees than parking spaces, so the Zenith Ave. gate must be opened to create additional parking. She stated that exiting the building onto Bristol St. is functionally the same as merging onto Bristol St. from the end of Spruce St. She stated that the applicant is not mentioning the driveway's apron, adding that there are no traffic visibility issues from the apron. She noted that neighboring offices at 2372 Bristol St. and 2382 Bristol St. also only have one driveway. She noted that major delivery companies like United Parcel Service (UPS) and Amazon have alternative methods for delivering to buildings with similar low clearances. She stated that the intent of the annexation agreement's plans was to separate the residential neighborhood from adjacent commercial and professional uses. She encouraged the Commission to deny the application.

Mike Smith, neighborhood resident, agreed with Mr. Schaaf's synopsis of gate use history, including how it has been open more often than ever before over the past few years. He stated that Mr. Krolikowski's assessment of the neighborhood's views on speed bumps is wrong, noting that the neighborhood residents' actual reasoning is well known to groups like the City Council. He reported that employees routinely park on Zenith Ave. when there are events at the building, impacting the neighborhood.

Ann Margaret Tudisco, an employee who works in the subject building, stated that there are limited safe gaps to exit the building onto Bristol St. at a dangerous weaving point so close to State Route 73. She stated that the Bristol St. exit is unsafe, unlike the Zenith Ave. driveway.

Liz Coursey, an employee who works in the subject building, expressed concerns about the safety of the building's steady deliveries. She stated that the Zenith Ave. driveway is the safer option for employees like herself who must often go between her employer's two office locations. She added that clients and guests have reported using the Zenith Ave. driveway because they did not feel

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safe slowing down to enter off Bristol St., adding that she has encouraged visitors to enter off Zenith Ave. if they feel uncomfortable with Bristol St.

Subject property owner Maryam Parman reported purchasing the building in 2018, clarifying that her law firm has a second office, so not all the employees listed by Ms. Giedt work at the site. She stated that the safety of her staff and the public is important and that the Bristol St. entrance to the building is not safe. She stated that she is often concerned about being rear-ended while slowing down to turn into the Bristol St. driveway, whereas the speeds are far lower at the Zenith St. driveway. She stated that this hearing should put the City on notice that driving conditions on Bristol St. are dangerous.

An unidentified employee who works in the subject building stated that their safety is more important than an argument over an entrance point. She stated that the employees are careful drivers who have families of their own. She stated that slowing down to enter the property from Bristol St. is concerning for the risk it creates of being hit from behind. She stated that the City should be looking at the driving conditions on Bristol St., rather than employees and vendors using a safer entrance.

Kristal Minetzke noted that the Avrek Law Firm, which is housed in the subject building, specializes in personal injury cases, making them experts in traffic accidents. She stated that, if a personal injury law firm says that the Bristol St. driveway is a safety hazard, then it is. She stated that she works at Avrek's Birch St. location and, when visiting the subject building, feels much safer when exiting on Zenith Ave. due to the merging and speeding traffic on Bristol St.

Patricia Teixeira, an employee who works in the subject building, noted that most of the clients who visit their office are injured and can find it extra difficult to enter from the Bristol St. driveway, potentially leading to another accident.

Rhone Safey, an employee of Avrek's Birch St. office, reported that she visits the Bristol St. office daily and learned very quickly that she should only use the Zenith Ave. driveway out of safety concerns after having multiple near-collisions using the Bristol St. driveway. She added that using Zenith Ave. is not only safer for employees but also for other Bristol St. drivers. She reported that she manages the firm's social media accounts and has received direct messages from clients expressing safety concerns when going to the Bristol St. office. She noted how odd this is when they are a personal injury law firm whose clients were often in car accidents.

Sitlaly Livingstone, an employee working at the subject property, reported that trash collection happens by the Zenith Ave. driveway because it would cause logistical complications if it had to occur by the Bristol St. driveway. She pondered what the plan would be in case of an emergency for staff leaving the building with the Zenith Ave. gate closed. She echoed the concerns of her coworkers about the hazards of entering the property from Bristol St.

Monserrat Sandoval, an employee who works at the subject property, expressed safety concerns about the Bristol St. driveway, adding that she exits the property daily through the Zenith Ave. driveway. She requested keeping the Zenith Ave. driveway open.

Reagan Parker, an employee working at the subject property, stated that she uses the Zenith Ave. entrance due to safety concerns. She pondered how staff would exit during an earthquake if the Zenith Ave. entrance were locked and the building collapsed. She expressed concerns about Bristol St. pedestrians as drivers decelerate to enter the building off a high-speed street.

Elizabeth Yost noted that none of the Avrek employees have addressed the neighborhood's safety. She agreed that people regularly speed down Bristol St. She stated that the El Pollo Loco

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restaurant at 2232 Bristol St. gets longer vehicular lines than Avrek and assumed that they would have the same concerns about Bristol St. access. She added that the neighborhood likely has more pedestrians to consider than Bristol St. due to its relatively light foot traffic.

Mr. Krolikowski stated that the employees at the subject property agree that Bristol St. is unsafe due to frequent excessive speeding, with the turning movements particularly impacted when larger delivery vehicles are present. He encouraged the Commission to keep both driveways open for safety, adding that there is no indication of speeding in the neighborhood, due in part to having limited space to accelerate before reaching intersections. He stated that the County's documents are vague and do not specifically state that the Zenith Ave. driveway is only to be used for emergency access. He agreed that there are potential pedestrian safety issues with vehicles using the Bristol St. driveway.

Chair Harris closed the public hearing.

Community Development Director Murillo clarified that staff is attempting to uphold the original County approval, which clearly called for controlled access on Zenith Ave. He noted that Condition of Approval No. 3 calls for a change plan to be submitted if there is a change to the precise plan that was approved, adding that this is the equivalent of a City Staff Approval. He reported that staff was open to allowing delivery vehicle access to the Zenith Ave. driveway and requested a delivery vehicle management plan be submitted, but the applicant instead opted to move forward with a request for full access, which is why staff is recommending denial of the application.

Traffic Engineer Kevin Riley stated that the sign on a neighboring Bristol St. property does not impact the applicant's traffic visibility once the driver inches forward towards Bristol St. He stated that there are many gaps in the Bristol St. traffic allowing for a right-turn out of the driveway. He agreed that the low clearance could be problematic for delivery vehicles, creating a safety concern if they must back out of the driveway. He theorized that few delivery vehicles turning into the driveway are unaccustomed to working around it because companies like Federal Express (FedEx) and UPS use drivers on regular routes familiar with the building.

Assistant City Attorney Yolanda Summerhill stated that the Goat Hill Tavern case is in opposition to this hearing, clarifying that the City of Costa Mesa would first grant temporary permits to test how operations worked. She stated that this application does not interfere with Avrek's business operation. She added that the crux of the matter here is reinforcing a Condition of Approval that she does not feel is unconstitutionally vague. She added that the bollards were proposed to help ensure that the Zenith Ave. driveway would only be used for emergency access, even if the word "only" does not appear in the Conditions of Approval. She stated that the business would not be taken away and Avrek can still operate, so there is no economic interest as it relates to vested rights, adding that this matter is about whether ingress and egress are limited to Bristol St. She added that the City did not receive traffic-related information requests from the applicant to fully inform the staff report's findings.

In response to Vice Chair Salene's inquiries, Traffic Engineer Riley confirmed that no formal traffic study was conducted for this application. He confirmed that the applicant did not request a formal traffic study.

In response to Chair Harris' inquiry, Traffic Engineer Riley confirmed that a traffic study would typically be required for a property if there was a change in use or intensity.

Commissioner Rosene stated that he heard some valid safety issues, but the application was never sufficiently completed to allow staff to properly study them. He stated that a more complete application would be beneficial and pondered whether the item should be continued until the

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applicant presents a more complete application with better detail on what is being requested. He stated that the County's language relative to the use of the Zenith Ave. driveway is not vague in any way, shape, or form, and questioned why the gate does not have a better locking mechanism. He added that the valid safety concerns are not relevant to this application as it is presented.

In response to Commissioner Rosene's inquiry, Traffic Engineer Riley stated that he is not aware of any high-level capital improvement plans for this stretch of Bristol St.

Commissioner Gazzano agreed with Assistant City Attorney Summerhill that the County's documentation is not vague as it relates to emergency vehicle only restrictions on the Zenith Ave. driveway, citing several examples, including the contemplated inclusion of bollards. He agreed with Commissioner Rosene that the applicant's safety concerns are not relevant to the application as written. He stated that he is inclined to support the application's denial.

Commissioner Reed stated that it can be difficult to mix residential and commercial properties and agreed with Commissioner Rosene's assessment of the application being incomplete. He agreed that the Bristol St. driveway is not ideal, particularly considering the low clearance. He encouraged the applicant to present a plan for safe deliveries and agreed with his peers that the County's intention of the Zenith Ave. driveway being for emergency access only is clear and should be continued. He agreed that the current situation at the Bristol St. driveway is unsafe and that consideration should be given to a proposal to relocate deliveries, but he supports denying the application as it stands.

Chair Harris agreed with his peers and stated that the intent of the County's plans was clear, adding that the final drawing for the Zenith Ave. driveway includes a heavy chain with a fire lock. He agreed that the safety concerns raised by the applicant and public speakers who work for the law firm are valid, adding that he would welcome a different version of this application. He noted that Bristol St. has changed into more of a highway than when the project was approved in the 1980s but added that Zenith Ave. was intended to demarcate the line between commercial and residential with no traffic flow.

Motion made by Chair Harris and seconded by Commissioner Reed to deny the application.

AYES:	Gazzano, Harris, Reed, Rosene, and Salene
NOES:	None
ABSTAIN:	None
ABSENT:	Ellmore, Langford

Chair Harris called for a recess at 7:22 p.m. The meeting resumed at 7:26 p.m.

ITEM NO. 3 NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PA2025-0196)
Site Location: Generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street, and Bristol Street North

Summary:

An amendment to Newport Place Planned Community (PC-11) Development Plan to revise the minimum affordability percentage required within the Residential Overlay (Overlay) from 15% to 6% for for-sale residential projects.

Attachment E

Appeal Application and Justification

Appeal Application

City Clerk's Office
100 Civic Center Drive / P.O. Box 1768
Newport Beach, CA 92658-8915
949-644-3005

Clerk's Date & Time Stamp

APR 2 '26 PM1:19
REC'D CITY CLERKS OFFIC

Appeals are time sensitive and must be received by the City Clerk within the specified time period from a decision or final action by a decision-maker. It is advisable to consult with the Department managing the issue if there is question with regards to appealing an action. This is an appeal of the:

- ☐ (CDD222) Community Development Director Action to the Planning Commission - *$2116*
- ☐ (CDD222) Zoning Administrator Action to the Planning Commission - *$2116*
- ☐ (CDD222) Coastal Development Application CDP Appeal from Zoning Admin to the Planning Commission (only if appeal is solely based on the CDP portion of the application) – *No Fee*
- ☒ (CDD222) Planning Commission Action to the City Council - *$2116*
- ☐ (CDD222) Community Development Director Action to the Harbor Commission - *$623*
- ☐ (CDD222) Harbor Commission Action to the City Council (CDD – Planning) - *$498*
- ☐ (CDD222) Hearing Officer Action to the City Council - *$2116*
- ☐ (CDD223) Building Official/Fire Marshal Action to the Building/Fire Board of Appeals - *$1827*
- ☐ (CDD224) Chief of Police Action on an Operator License to the City Manager - *$1033*
- ☐ (RSS073) City Manager Action on a Special Events Permit to the City Council - *$1953*
- ☐ (HBR001) Harbormaster Action to the Harbor Commission - *$622*
- ☐ (HBR001) Harbor Commission Action to the City Council (Harbor Department) - *$498*
- ☐ (PBW018) Public Works Director Action to Harbor Commission - *$1446*
- ☐ (PBW018) Harbor Commission Action to City Council (Public Works Department) - *$691*
- ☐ Other - Specify decision-maker, appellate body, Municipal Code authority and fee: _____

Appellant Information:

Name(s): Maryam Parman, c/o Charles S. Krolikowski

Address: Newmeyer & Dillion LLP, 895 Dove St., Second Floor

City/State/Zip: Newport Beach, CA 92660

Phone: (949) 854-7000 Email: Charles.Krolikowski@ndlf.com

Appealing Application Regarding:

Name of Applicant(s): Maryam Parman / 2350 SE Bristol St. Date of Final Decision: March 19, 2026

Project No.: Application PA 2025-01112 Activity No.: _____

Application Site Address: 2350 SE Bristol Street, Newport Beach, California 92660 (APN: 439-021-25)

Description of application: Application for the continued use of the previously approved driveways at the Property for necessary and safe ingress and egress of delivery and employees' vehicles.

Reason(s) for Appeal (attach a separate sheet if necessary): Please see the attached Letter of Appeal to the Newport Beach City Council for further explanation.

Signature of Appellant: _____ **Date**: April 1, 2026

FOR OFFICE USE ONLY:
Date Appeal filed and Administrative Fee received: April 2, 2026

_____
City Clerk

cc: Department Director, Deputy Director, Staff, File

NEWMEYER DILLION

Newmeyer & Dillion LLP
895 Dove Street
Second Floor
Newport Beach, CA 92660
(949) 854-7000

April 1, 2026

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com

VIA E-MAIL AND U.S. MAIL

Newport Beach City Council
100 Civic Center Dr.
P.O. Box 1768
Newport Beach, CA 92658
citycouncil@newportbeachca.gov

Re: *Appeal of Planning Commission's Decision on Application PA 2025-01112 for Staff Approval of Driveway Uses - 2350 SE Bristol Street, Newport Beach, CA 92660*

Dear Honorable Members of the Newport Beach City Council:

Please be advised that this office represents 2350 SE Bristol, LLC ("Owner"), the owner and operator of the real property and improvements (a professional office building) located at 2350 SE Bristol Street, Newport Beach, California 92660 (APN: 439-021-25) ("Property"). This letter constitutes the Owner's formal appeal of the City of Newport Beach Planning Commission's March 19, 2026, action denying the staff approval application (Application PA 2025-01112) ("Application") for the continued use of the previously approved driveways at the Property for necessary and safe ingress and egress. The Owner respectfully requests that the City Council overturn the Planning Commission's denial and grant the Application.

Before proceeding to the full analysis below, there are three issues the City of Newport Beach ("City") cannot address:

(1) In 1986, the County of Orange ("County") approved and signed-off on the development of the Property (which is presumed to be consistent with the approvals and conditions due to the certificate of occupancy issued) before the property was ever annexed into the City in 2008. Thus, ***the existing uses are vested*** (as well as legal non-conforming to the extent the City modified the development/use regulations) and the City's post development regulations (Municipal Code and Specific Plan) have no application. (See *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530 ("*Goat Hill*").)

(2) The City cannot point to any document that states that the rear driveway on the Property ("Zenith Driveway") was limited to emergency vehicles ***only***. Preliminary site plan application documents do not supplant the final approval by the County to allow the Property to operate as it was developed and approved, which included the use and operation of the Zenith Driveway. If the County sought to limit the Zenith Driveway to emergency vehicles only, it could have conditioned the project accordingly, which it did not. The City has been advised of this issue multiple times. (See Exhibits A and B.)

(3) This Application is not necessary. City staff advised the Owner to apply for a modification to the County approval based on its claim that it was necessary for the continued use of the Zenith Driveway. In an abundance of caution, the Owner moved forward with the same. In addition to the prior County approvals, there is significant evidence that the continued use of the Zenith Driveway will promote safety and alleviate a potential dangerous condition related to the ***operation(s) of delivery vehicles*** that frequent the Property.

1. The Application Was Superfluous.

The Application being reviewed by the City Council on appeal by Owner arises from the City's issuance of a purported notice of violation issued to the Owner related to the use of the Zenith Driveway to safely access the Property. As set forth below, ***the Application is not necessary as the Property already possesses the necessary approvals from the County to use and operate the Zenith Driveway for ingress and egress***. Counsel for the Owner has advised the City of this issue multiple times. (Exhibits A and B.)

Nevertheless, in an abundance of caution, and at the request and direction of City Staff, the Owner approved the submittal of the Application as an additional "belt and suspenders" approach for the continued use of the Zenith Driveway. Even in the Application itself, the Owner again stated that City approval was not necessary to continue to utilize the Zenith Driveway due to the prior development approvals from the County approximately 40 years ago. (Exhibit C.) Simply reviewing the approval documents and conditions, there is no definitive language or statement that the Zenith Driveway was approved for emergency vehicles only. Instead, the CUP for the Zenith Driveway identified that the back gate should be opened for emergency & fire access, but did not require that the back gate could *only* be used for such uses.

Due to the approvals (including the issuance of a Certificate of Occupancy ("COO")) and continued use of the Zenith Driveways for nearly 40 years, the ***Owner has and continues to enjoy a vested right to continue its use***. (See *Goat Hill* [a City cannot eliminate a vested right to continue a use(s) previously approved and relied upon by the owner].) Further, because the City's land use regulations related to the Property, such as Newport Beach Municipal Code ("NBMC"), § 20.90.040(9) and the Santa Ana Heights Specific Plan (SP-7), did not apply (or even exist) to the 1986

approvals and development of the Property, any such enforcement of later-enacted regulations is improper as the property would be ***legal non-conforming***. (NBMC, § 20.38.030, subds. (A), (B); *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 540.)[1]

2. The City Has Waived Any Defenses That the Application Was Incomplete.

As noted in our letter to Jenny Tran dated September 26, 2025 (Exhibit A), under NBMC section 20.50.060(A)(1), an applicant or its authorized agent must be informed in writing within thirty (30) calendar days of its application filing "either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete."

While we submitted the Application for the Property to the City on June 2, 2025, the City did not send its Notice of Incomplete Filing relating to the Application until July 29, 2025, nearly two months later. The City's Notice of Incomplete Filing for the Application was thus invalid because it violated NBMC section 20.50.060(A)(1) by failing to deem the Application as being incomplete or complete within the mandatory 30-day deadline. (Exhibit A, p. 1.)

Accordingly, the City is precluded from claiming that the Application should be denied on grounds of incompleteness.

3. The Zenith Driveway Is Not Restricted to Emergency Vehicles Only and the County Already Determined (Via Resolution) There Are No Impacts to Other Uses in the Vicinity, Nor to Public Health, Safety or Welfare.

The County approved the development of the Property in 1986, more than 20 years before it was annexed to the City. In the August 1986 ***County Board of Supervisors' Resolution*** (Exhibit D) approving the development, the County made the following findings:

> I. That the project proposed, as conditioned herein below, ***is consistent with the objectives, policies, and general land uses and programs specified in the General Plan*** adopted pursuant to the State Planning and Zoning Law.
>
> * * *

[1] *City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, 747, fn. 1, citing from *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 397, 28 Cal.Rptr.2d 530.)

III. That the ***activity*** and improvements proposed, subject to the specified conditions, are ***consistent with the provisions of the Zoning Code***, or specific plan regulations applicable to the property.

IV. That the locations, size, design and operating characteristics of the proposed use will ***not create unusual noise, traffic or other conditions or situations that will be objectionable, detrimental or incompatible with other permitted uses in the vicinity***.

V. That the application will ***not result in conditions or circumstances contrary to the public health and safety and the general welfare***.

(Exhibit D, pp. 1-2, emphasis added.)

Based on the County's findings, the City cannot second guess or attempt to make new findings about the impacts of the development and uses of the Property, which the ***County already determined were consistent with the land use regulations at the time and would not have any detrimental impacts on the neighboring properties or the general welfare***.

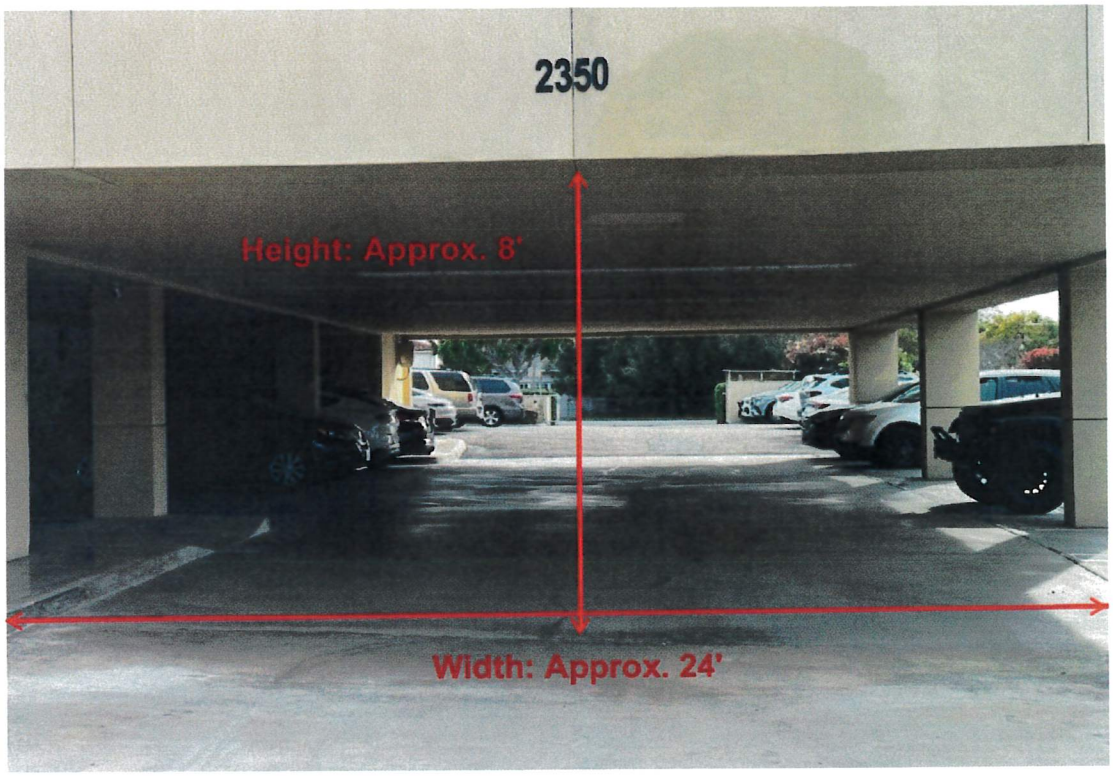
In the Conditions for the County's Resolution there is no reference or indication that the Zenith Driveway was in anyway limited to emergency vehicles only. Rather, the Conditions only require the then developer to provide construction details (to be approved by the Fire Chief) of how the Zenith Driveway could/would provide emergency access in the event of an emergency. (Exhibit D, p. 5, Condition 19.) Due to the fact that the County determined that Bristol would be a "high capacity" and "high-speed" corridor (Exhibit D, p. 4), it makes sense that the Property would have two usable driveways for its safe operations.

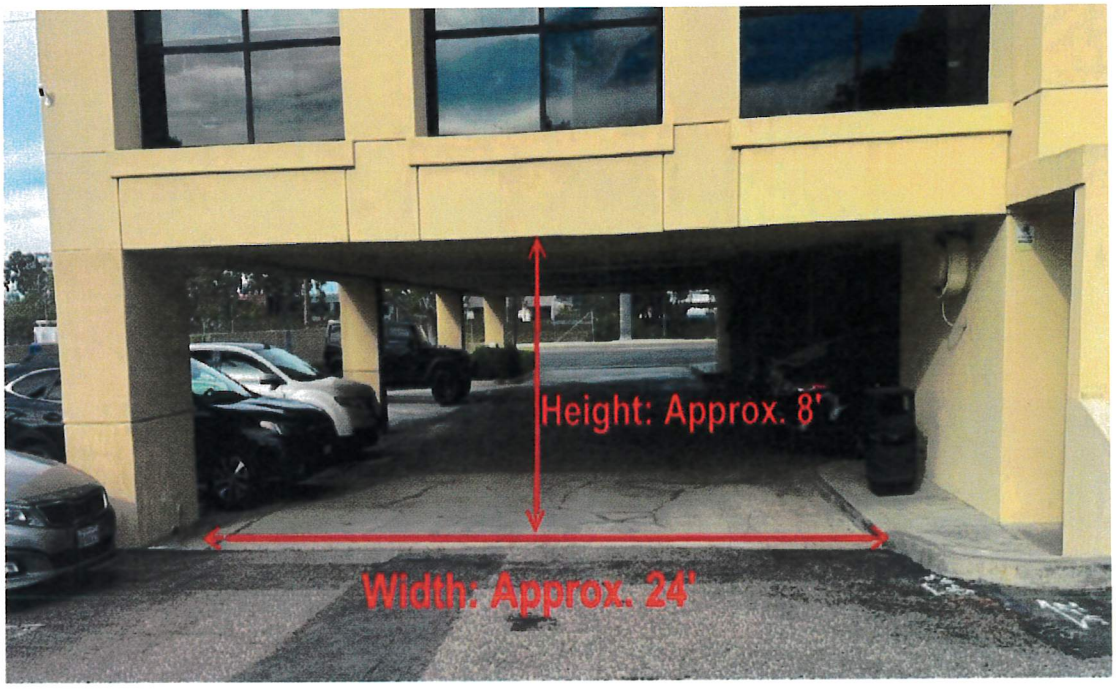
Of note, Condition 19 also states that: "***Prior to the issuance of any certificate of use and occupancy***, emergency access shall be operational in a manner meeting the approval of the Manager, Construction Division." After completion of the development in 1987, the Property received its COO. What this means is that the County, the Fire Department and the Manager, determined that the Zenith Driveway, as constructed (***without any ballards***), was approved and satisfied the above condition. Simply put, there is no condition that the Zenith Driveway was limited to emergency vehicles only.

4. Both Driveways Are Necessary for the Property's Safe Operations.

Based on the high speed of traffic along Bristol Street, sight distance issues exiting the Property and the height of the drive aisle located below the building (about eight (8) feet high), the continued use of both the Bristol Street driveway ("Bristol Driveway") and the Zenith Driveway are necessary for the safe operations of the Property.

Pictures of the driveways (and access aisles) along Bristol Street and Zenith Avenue are depicted below:






Height:
Approx. 8"
Width: Approx. 21'


Width: Approx. 21'



The above pictures demonstrate that due to the location of the Property along Bristol Street (a high capacity and high-speed regional corridor), which narrows and then merges directly into the SR-73 Toll Road, ***it creates significant hazards for those attempting to turn into and out of the Bristol Driveway***. Thus, the Zenith Driveway is necessary for anyone attempting to safely access the Property. Further, due to certain poles, signage, fencing and landscaping, the sight distance for vehicles attempting to exit the Property onto Bristol Street is limited, which is a further safety concern.

These traffic-related issues are corroborated by the Circulation Element for Newport Beach itself, which states that "[i]n Newport Beach, natural barriers… and the John Wayne Airport superblock limit roadway connection. As a result, traffic volumes are concentrated on the roadways making regional connections (i.e., … Bristol Street/SR-73, …) which increases conflict and congestion at intersections along these routes." (See Newport Beach General Plan, 7-5.) Indeed, this concentration of traffic directly increases the "conflict and congestion" on Bristol Steet at the front driveway to the Property.

The distance from the back of the sidewalk to the entry of the covered driveway (about eight (8) feet tall) is only about thirteen (13) feet, which makes it difficult (if not impossible) for delivery trucks to safely enter and/or maneuver in the limited space

available. As most delivery trucks are between 20 and 30 feet in length, the back of those vehicles will extend into the sidewalk and possibly into Bristol Street.

Further, due to the approximate eight (8) foot height of the drive aisle below the building, most delivery vehicles would not be able to enter and exit the Property via Bristol Street. Below is information (Google and AI) about the type(s) of delivery vehicle, such as UPS, FedEx, USPS and Amazon that frequent the Property.

UPS uses a variety of vehicle sizes, but most neighborhood deliveries are handled by "Package Cars" (the iconic brown walk-in vans). These vehicles are typically custom-built on chassis from manufacturers like Freightliner or Morgan Olson, and their dimensions vary by the "P-series" model number (which indicates cubic foot capacity).



Typical Exterior Dimensions for Common UPS Trucks

Model	Overall Length	Outside Width	Outside Height
P1200 (Large)	~29 ft 9 in (357.5")	~8 ft (95.5" at rails)	***~10 ft 4 in (124")***
P1000 (Standard)	~25–28 ft	~8 ft (96")	***~10–11 ft***
P500 / P600 (Smaller)	~20 ft	~8 ft (96")	***~10 ft***

A standard UPS P1200 package car (delivery truck) typically measures approximately 30 feet (357.5 inches) long, 8 feet (95.5 inches) wide, ***and over 10 feet (124 inches) high***. Inside cargo space is about 20 feet long (240 inches), 7.75 feet (93 inches) wide, and 7 feet (85 inches) high.

FedEx trucks vary by type, with common residential "step vans" typically ranging from 16 to 22 feet long and ***roughly 10–13.5 feet in height***. Larger P1000/P1200

delivery trucks have 20–22 foot bodies, while heavy-duty linehaul tractors can be up to 27.5 feet long and 13.5 feet high.



Common FedEx Delivery Truck Dimensions

For local residential and business deliveries, FedEx primarily utilizes step vans and cargo vans.

- **P1200 Step Van (Large Delivery Truck):**
  - **Overall Length:** 357.5 inches (~29.8 feet).
  - **Outside Width:** 95.5 inches (at rub rails).
  - **Outside Height:** ***124 inches (~10.3 feet)***.
- **P1000 Step Van (Standard Delivery Truck):**
  - **Body Dimensions:** 18 feet (L) x 93.5 inches (W) x 85 inches (H).
  - **Clearance Height:** ***Approximately 132 inches (11 feet) to the top of the vehicle***.
- **Ford Transit T350 (Extended Cargo Van):**
  - **Exterior Height:** 110.2 inches.
  - **Cargo Height (Internal):** 81.5 inches.

The USPS Next Generation Delivery Vehicle (NGDV) is approximately 19.6 feet (235.75 inches) long, 7 feet (84.5 inches) wide, and ***9.25 feet (111 inches) tall***. Designed by Oshkosh Defense, the vehicle features a 76-inch (6' 4") high cargo area, a 127-inch wheelbase, and offers significantly more cargo capacity (263 cubic feet) compared to the older LLV.



Key NGDV Dimensions & Specifications:

- **Length:** 235.75 inches (19 feet 64 inches)
- **Width:** 84.5 inches (7 feet .04 inches)
- **Height:** ***111 inches (9 feet 2 inches)***
- **Wheelbase:** 127 inches
- **Cargo Capacity:** 263 cubic feet
- **Internal Cargo Height:** 76 inches (6 feet 4 inches)
- **Gross Vehicle Weight Rating (GVWR):** 8,700 pounds

National Association of Postal Supervisors (NAPS) +1

Amazon delivery vehicles vary by type, with the common Rivian Electric Delivery Van (EDV)700 measuring roughly 278 inches (23 ft) long, 103.5 inches wide, and ***115 inches tall***. Smaller Prime vans, such as the Ram ProMaster, range from 195 to 213 inches long and 90-101 inches high. Larger third-party box trucks often use 26-foot lengths.



Key Amazon Vehicle Exterior Dimensions:

- **Rivian EDV-700 (Electric):** ~278" L x 103.5" W (with mirrors) x ***115" H.***
- **Rivian EDV-500 (Electric):** ~248" L (6.31m) x 96" W (2.45m) x ***114" H (2.9m).***
- **Ram ProMaster (High Roof):** ~213" L x 82" W x 102" H.
- **Standard 26ft Box Truck (Relay):** 26' L x ~8.5' W x ***~10-13' H***.

All of the above information and delivery truck dimensions show that these vehicles would not be able to access the Property from Bristol Street due to the eight (8) foot height of the entry below the building. To the extent a delivery vehicle over eight (8) feet tall would attempt to stop/park short of the entryway, ***they would extend into the City sidewalk and could cause other vehicles to queue behind it into Bristol Street***, a high-speed corridor. Further, as there is little room to turn around, delivery vehicles would have to back up onto Bristol Street, where vehicles are zooming by at well over 60 mph, if not faster.

Thus, the Zenith Driveway is absolutely necessary for delivery vehicles to safely enter and exit the Property. Likewise, due to the high number of employees that work at the Property, it would further promote the safe operations of the Property ***and the public right of way***, if they continue to utilize the Zenith Driveway for ingress and egress.

5. The Continued Use of the Zenith Driveway is Vested, May Constitute a Legal Non-Conforming Use and The City Is Estopped from Challenging the County Approvals 40 Years Later.

Any attempts to limit the approved, historic and continuous uses of the Zenith Driveway would violate the law.

First, when the uses authorized by a use permit are timely implemented (as they were here) they mature into a vested property right. (*Goat Hill, supra,* 6 Cal.App.4th at 1530, internal citations omitted, "[w]here a permit has been properly obtained and in

reliance thereon the permittee has incurred material expense, he acquires a vested property right to the protection of which he is entitled.) "Once a use permit has been properly issued the power of a municipality to revoke it is limited." (*Ibid.*, internal citations omitted.) This is true because once a permittee has acted in reliance of the acquired permit and incurred material expense, the permittee has ***obtained a vested property right***. (*Ibid.*)

In *Goat Hill*, the Court of Appeal affirmed the trial court's holding that the property owner had a vested property right in its use of the property. The *Goat Hill* court stated that "by simply denying renewal of its conditional use permit, the city destroyed a business which has operated legally for 35 years. The action implicates a fundamental vested right of the property owner and the trial court was correct in applying the independent judgment test." (*Id.,* at 1531.)

Second, the development of the Property was approved in 1986, before it was annexed to the City (2008), before the Santa Ana Heights Specific Plan was adopted (2010) and before the applicable Municipal Code sections referenced in the Staff Report. As such, any uses of the Property that are arguably inconsistent with the City's regulations, would be a legal non-conforming use, i.e., grandfathered-in.

"A legal nonconforming use is one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter." (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 540, fn. 1, internal citations omitted.) ""Grandfathered" uses are nonconforming uses that are not required to seek permits under local zoning ordinances enacted after they were established. (*City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, 747, fn. 1, citing from *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 397, 28 Cal.Rptr.2d 530; see also NBMC,§ 20.38.030, subds. (A), (B).)

Accordingly, any claims that the uses of the Zenith Driveway do not comport with any later-enacted or applied City regulations or polices would be void.

Third, any attempt to enforce any allegedly previously unmet conditions of approval for the Property would face a strong laches defense because the City did not challenge the County's final decision pertaining to the development/conditions within the 90-day statute of limitations to bring such a challenge. (See Gov. Code, § 66499.37.)

Government Code section 66499.37 provides a 90-day limitation period measured from "imposition" of the condition "to determine the reasonableness, legality, or validity of any condition attached" as pertaining to a decision about a subdivision. (*Uniwill v. City of Los Angeles* (2004) 124 Cal.App.4th 537, 543, see also *Honchariw v. County of Stanislaus* (2020) 51 Cal.App.5th 243, 255, citing from Gov. Code, § 66499.37.) Absent exceptional circumstances, the power to revoke such a permit thereafter is limited. (See Gov. Code § 66499.37, "[t]hereafter all persons are barred

from any action or proceeding or any defense of invalidity or unreasonableness of the decision or of the proceedings, acts, or determinations.")

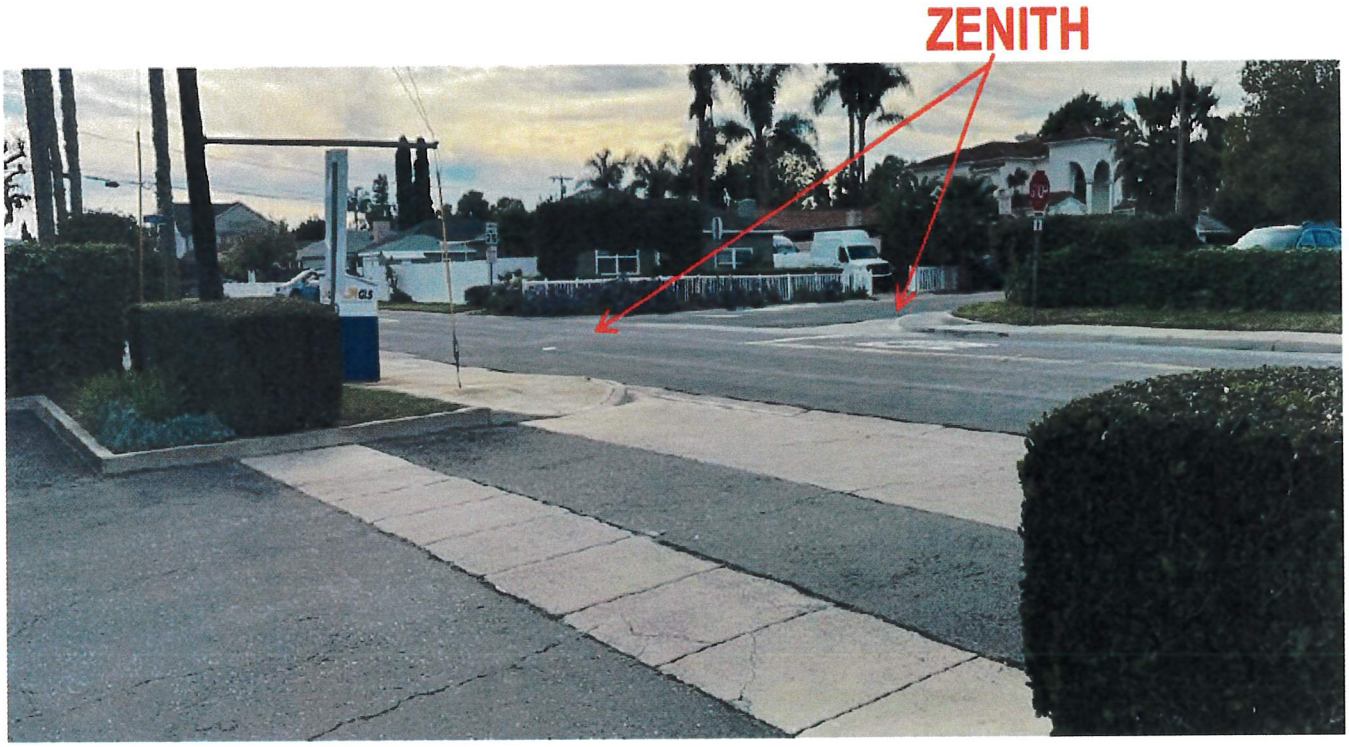
Thus, the City is not permitted to rescind the vested rights related to the approved/historic uses of the Zenith Driveway and/or impose new regulations that would impact the same.

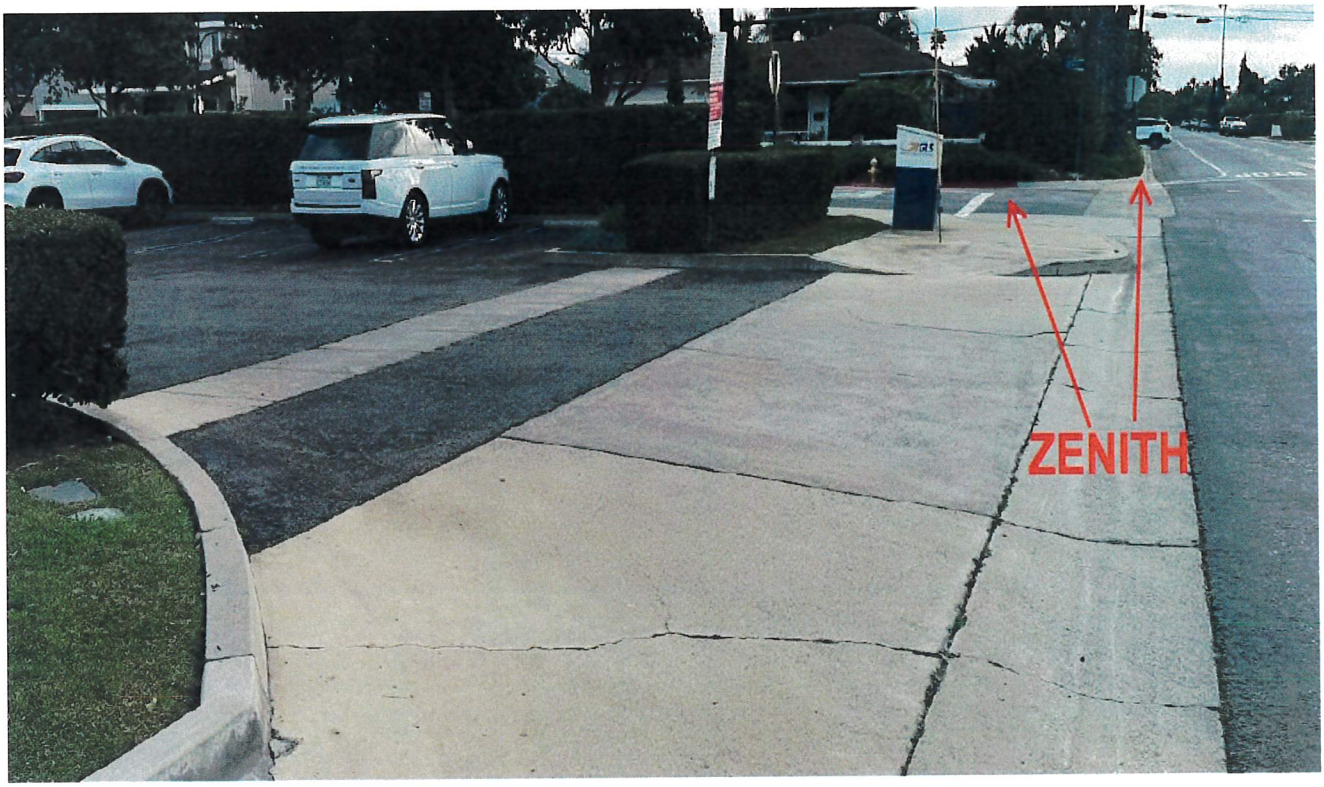
6. Other Nearby Properties Have Two Driveways – One Within Close Proximity to Zenith Avenue.

In addition to the Property, there is at least one other nearby property along Bristol Street with two driveways, one of which is in close proximity to Zenith Avenue. The property located at 2424 SE Bristol Street, Newport Beach, CA 92660 ("2424 Bristol") contains a professional office building with drive aisles located beneath the building, and is located just ***one block away*** from the Property. Photos of 2424 Bristol are set forth below:




SOUTH
73
C&W
CUMMINS & WHITE, LLP
LAWYERS
2424


ZENITH



As can be seen from the above photos, 2424 Bristol has one driveway along Bristol Street and a second driveway near the intersection of Zenith Avenue and Spruce Avenue. In fact, the second or rear driveway at 2424 Bristol is located less than 20 feet away from Zenith Avenue.

Of note is the fact that the driveway along Bristol Street does not directly lead into an eight (8) foot clearance in the drive aisle under the building like the Property. As such, delivery and taller vehicles can easily access 2424 Bristol from Bristol Street, will not create any potential queuing issues, and can turn around to leave the property without having back-up into traffic. Even with such a viable access point along Bristol Street, 2424 Bristol possesses a second driveway located just a few feet away from Zenith Avenue.

This evidence confirms that the City is attempting to treat the Property differently than other similarly situated properties in the immediate area, which could be a violation of the Equal Protection Clause.

7. Any Decision to Limit or Revoke the Uses of the Zenith Driveway Would Constitute a Compensable Taking, A Dangerous Condition and A Substantial Impairment of Access to the Property.

The taking, elimination and/or substantial impairment of access to private property constitutes a taking (inverse condemnation) to which just compensation must be paid. (See Cal. Const. art 1, § 19; U.S. Const., 5th Amend.; *Bacich v. Board of Control* (1943) 23 Cal.2d 343, 352; *Rose v. State* (1942) 19 Cal.2d 713, 727.)

California courts have recognized that property owners have a right to access the public rights of way that they abut. (*Brumer v. Los Angeles County Metropolitan Transportation Authority* (1995) 36 Cal.App.4th 1738, 1745; *People ex rel. Dep't of Public Works v. Symons* (1960) 54 Cal.2d 855, 860; *Bacich v. Board of Control* (1943) 23 Cal. 2d 343, 352; *Rose v. State* (1942) 19 Cal. 2d 713, 727.) "Compensable access impairment exists… if there is a substantial impairment of access to abutting street and from there to general system of public streets." (*San Diego Metropolitan Transit Development Bd. v. Price Co.* (1995) 37 Cal.App.4th 1541.)

Further, without the use of the Zenith Driveway, the use of the Bristol Driveway (especially by delivery vehicles) could result in the creation of a dangerous condition of public property to the extent there are any accidents or injuries/fatalities on the sidewalk or along Bristol Street. If not already on notice, the City is hereby put on notice of this potential dangerous condition pursuant to Government Code section 835, which is the statutory basis for a claim imposing liability on a public entity based on the condition of public property. (*Brown v. Poway Unified School Dist.* (1993) 4 Cal.4th 820,829.)

8. The Owner is Still Waiting for Public Records from the County, Orange County Department of Public Works, and the Orange County Board of Supervisors Related to the Orange County Board of Supervisors' Resolution & Bristol Street Operations, Accidents, Etc.

On or about March 26, 2026, the Owner requested that the County, Orange County Department of Public Works ("OCPW") and the Orange County Board of Supervisors ("Board of Supervisors") produce public records under the California Public Records Act (Government Code § 7920, *et seq.*) ("CPRA") related to various topics including the Board of Supervisors' Resolution No. 86-1076, the operations of Bristol Street, police reports, accident reports, traffic studies, etc. (See Exhibit E.) To date, the County, OCPW, and the Board of Supervisors have not produced responsive documents to these records requests.

Thus, the City Council hearing on this item should be continued to allow the Owner to obtain and review these documents to further support their Application and the items referenced in this letter.

9. Conclusion.

While the Owner maintains that the Application is not necessary and that City staff directed the submission of the same, for the reasons set forth herein, the Zenith Driveway was approved by the County about 40 years ago, and its continuous use and operation should be left alone. This includes the continued use of the driveway for delivery vehicles and employees.

If you have any questions or comments concerning the above, do not hesitate to contact me.

Very truly yours,

Charles S. Krolikowski

Encl.

cc: Client
Daniel Kopshever (dkopshever@newportbeachca.gov)
Aaron Harp., Esq. (aharp@newportbeachca.gov)

EXHIBIT A

NEWMEYER DILLION

Newmeyer & Dillion LLP
895 Dove Street
Second Floor
Newport Beach, CA 92660
(949) 854-7000

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com

September 26, 2025

VIA E-MAIL AND U.S. MAIL

Jenny Tran
Community Development Department -
Planning Division
City of Newport Beach
100 Civic Center Dr.
P.O. Box 1768
Newport Beach, CA 92658
jtran@newportbeachca.gov

Re: Application PA 2025-01112 for Staff Approval
Property: 2350 SE Bristol Street, Newport Beach, CA 92660

Dear Ms. Tran:

As you know, our office represents the owner of the real property and improvements located at 2350 SE Bristol Street, Newport Beach, CA 92660 ("Property"). While we have attempted to work together with the City of Newport Beach ("City") to resolve any issues regarding the continued use (ingress and egress) of the rear driveway along Zenith Avenue, we continue to maintain our position that such use(s) are already permitted pursuant to the prior land use approvals (CUP) for the Property.

In an abundance of caution, on or about June 2, 2025, the ownership submitted Application PA 2025-01112 ("Application") requesting Staff Approval for the continued use of the above driveway for delivery and employee vehicles. Not until July 29, 2025, almost two months after the Application was submitted, did the City respond to the Application, deeming it incomplete and requesting additional information. However, the City's response to the Application was untimely.

Pursuant to Newport Beach Municipal Code ("NBMC") section 20.50.060(A)(1), an applicant or its authorized agent must be informed in writing within thirty (30) calendar days of its application filing "either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete."

Accordingly, we hereby request that the City continue to process the Application as it was received on June 2, 2025.

We appreciate the City's anticipated prompt attention to this matter. If you have any questions or comments concerning this letter, please do not hesitate to contact me.

Very truly yours,

Charles S. Krolikowski

cc: Client

EXHIBIT B

Charles S. Krolikowski

From: Charles S. Krolikowski
Sent: Thursday, February 12, 2026 2:33 PM
To: 'Kopshever, Daniel'
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

Hi Daniel, as we have stated several times in our communications, and based on the original approval and development, the driveway was approved for all uses and was not limited to emergency access only. We only proposed seeking further approvals because the City claimed to the contrary in response to a complaint(s).

With that said, we intend to move forward with our application, as proposed, despite your statement that City staff would not recommend the use of the rear driveway for employees. We think this is safety issue, and to the extent the City denies the proposed application, we would certainly put the City on notice to the extent there are any accidents or injuries resulting from the inability to use the rear driveway for certain vehicles.

With respect to your e-mail below about a resubmittal, how do you propose we change or modify the application?

Regards,
Chuck

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com
p 949.854.7000 - d 949.271.7233

Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

From: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Sent: Tuesday, February 10, 2026 10:32 AM
To: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

External email >

Hi Charles,

I left you a voicemail a few weeks ago and haven't heard back for a status update. As I mentioned in my voicemail, we need to move forward with the application as it is an active code case and receiving pressure from the community. I have the project tentatively scheduled for March 19th, where we will be recommending denial of the request. Please contact me immediately if you plan to modify the request and resubmit, so that we can move the project to a later date and review.

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235

100 Civic Center Drive
Newport Beach, CA 92660



From: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Sent: January 14, 2026 12:05 PM
To: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Hi Daniel, when we last spoke (and after a discussion with Ms. Perez as well), it was communicated to me that it was going to be staff's position not to support the use of the rear driveway for tenants/employees regardless of the size of their vehicles. This concerns my client greatly and they are still evaluating how to proceed in light of this communication.

Regards,
Chuck

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com
p 949.854.7000 - d 949.271.7233

Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

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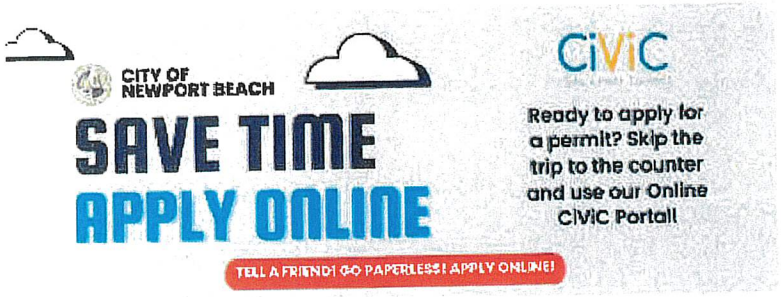
From: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Sent: Monday, January 12, 2026 9:27 AM
To: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Subject: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

Hi Charles,

Do you have any update on this project?

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235
100 Civic Center Drive
Newport Beach, CA 92660



From: Kopshever, Daniel
Sent: December 12, 2025 3:36 PM
To: Charles.Krolikowski@ndlf.com
Subject: PA2025-0112 2350 SE Bristol

Hi Charles,

My name is Danny, I took over this project from Jenny and we spoke briefly on the phone about next steps for the project. I am going to be out of the office until January 5th 2026. Please contact Joselyn Perez at jperez@newportbeachca.gov if you have any updates on how the applicant would like to proceed or if you need any information from us while I am out.

Thanks and happy holidays!

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235
100 Civic Center Drive
Newport Beach, CA 92660

EXHIBIT C

Community Development Department
Discretionary Application
Owner's Affidavit

CITY OF NEWPORT BEACH
100 Civic Center Drive
Newport Beach, California 92660
949 644-3200
newportbeachca.gov/communitydevelopment

1. **Check Permits Requested:**

- ☐ Approval-in-Concept - **AIC #**
- ☐ Coastal Development Permit
  - ☐ Waiver for De Minimis Development
- ☐ Coastal Residential Development
- ☐ Condominium Conversion
- ☐ Comprehensive Sign Program
- ☐ Development Agreement
- ☐ Development Plan
- ☐ Lot Line Adjustment
- ☐ Lot Merger
- ☐ Limited Term Permit -
  - ☐ Seasonal ☐ < 90 day ☐ >90 days
- ☐ Modification Permit
- ☐ Off-Site Parking Agreement
- ☐ Planned Community Development Plan
- ☐ Planned Development Permit
- ☐ Site Development Review –
  - ☐ Major ☐ Minor
- ☐ Parcel Map
- ☑ Staff Approval
- ☐ Tract Map
- ☐ Traffic Study
- ☐ Use Permit - ☐ Minor ☐ Conditional
  - ☐ Amendment to existing Use Permit
- ☐ Variance
- ☐ Amendment - ☐ Code ☐ PC ☐ GP ☐ LCP
- ☐ Zoning Clearance - ☐ ADU ☐ Use
- ☐ Residential Project Using Senate Bill 6
- ☐ Other:

2. **Project Address(es)/Assessor's Parcel No(s)**

2350 SE Bristol Street, Newport Beach, CA 92660

3. **Project Description and Justification (Attach additional sheets if necessary):**

2350 SE Bristol, LLC ("Property Owner") hereby applies for Staff Approval to clarify the 1986 Use Permit ("Permit") related to the development and uses for the property located at 2350 SE Bristol Street in Newport Beach ("Subject Property"). The Property Owner seeks to continue to use the back driveway/gate located along Zenith Avenue for necessary and safe ingress/egress to the Subject Property for larger/delivery vehicles and employees.

Staff Approval should be granted as the driveway/gate on Zenith Avenue was previously approved in 1986 and was not expressly limited in the Permit (Exhibit A). Further, the continued use of the driveway/gate will allow for "adequate and safe maneuvering" to enter/exit the Subject Property onto Bristol Street (a multi-lane, higher-speed arterial) in a forward direction as required by the later-adopted Newport Beach Municipal Code ("NBMC") § 20.40.070. (See Attachment 1.)

4. **Property Owner's Affidavit***: (I) (We) Maryam Parman depose and say that (I am) (we are) the owner(s) of the property (ies) involved in this application. (I) (We) further certify, under penalty of perjury, that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my) (our) knowledge and belief.

Signature(s): _____ Title: Owner Date: _____ MM/DD/YEAR

Signature(s): _____ Title: _____ Date: _____

*May be signed by the lessee or by an authorized agent if written authorization from the owner of the record is filed concurrently with the application. Please note, the owner(s)' signature for Parcel/Tract Map and Lot Line Adjustment Application must be notarized.

Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars ($250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record. Please review Senate Bill 1439 - Statues 2022 for further information.

Please be further advised, application representatives who are not exempt and are considered a "lobbyist" pursuant to the City's Ordinance No. 2020-3 must file a lobbyist registration form. Click here or contact the City Clerk's Office at 949-644-3005 for more information.

Attachment 1
2350 SE Bristol Street, Newport Beach, CA 92660

When the Subject Property development was approved in 1986 by the County of Orange ("County"), the Permit stated that the back gate was to be made available for access by emergency vehicles. (See Exhibit A.) There was no limitation on the use of the Zenith Avenue driveway/gate by other vehicles, such a delivery trucks, customers, employees, etc. In fact, for nearly 40 years, the driveway/gate was used for such purposes, without incident.

During that same 40 year period, Bristol Street (which was once a County road) has been widened into a ***Major Arterial*** (tens of thousands of vehicles per day) and the speed increased. Not to mention, the actual speed of traffic heading southbound along Bristol Street is much greater than the posted speed of 45 per hour. Thus, the safety of the Subject Property's owners, tenants, employees and vendors (including delivery vehicles) is of paramount importance. An aerial site picture with dimensions and other various photos of the Subject Property are attached hereto as Exhibit B.

As the City is aware, many vehicles traveling along southbound Bristol Street merged off of SR 73 -- a freeway/tollway with higher speeds. Further, as vehicles pass the Subject Property, many of them are merging back onto SR 73 and/or turning right or left onto Jamboree, another major arterial. It is easy to see that most vehicles traveling southbound on Bristol Street are passing the Subject Property at high speeds, some well over 65 miles per hour.

The Subject Property has one driveway along on Bristol Street, which immediately enters into an 8' garage style/covered entrance. (See Exhibit B pictures.) At the driveway entrance, there are also several bushes and other structure-type materials at the northern side of the driveway, which can make it difficult for vehicles exiting the Subject Property to see oncoming vehicles traveling on southbound Bristol Street. This can create certain safety concerns related to site distance issues. Of note, most if not all of the neighboring properties near the Subject Property, have at least two driveways (entrances/exits); one along Bristol Street and another either on the side or in the back of the property.

As a result, it is much safer for most vehicles to enter the Subject Property from Bristol Street and exit onto Zenith Avenue. For larger vehicles, and due to the limitations on turning radii within the parking area/aisles, ***it is safer for those vehicles to enter from Zenith Avenue and exit in a forward direction onto Bristol Street***. This of course is assuming such vehicles are lower than eight (8) feet; as vehicles over such height would have to enter/exit the Subject Property from Zenith Avenue. As the later-adopted NBMC requires (adopted after the 1986 Permit), vehicles should not be backing out of the Bristol Street driveway and onto a heavily traveled, high-speed, major arterial.

Finally, as the City does not permit street parking along Bristol Street (or Spruce Avenue), all vehicles (including larger vehicles) must enter/exit the Subject Property to

access the same. This further supports the continued use of the Zenith Avenue driveway/gate for safe access to and from the Subject Property.

For the reasons stated, the Property Owner respectfully requests Staff Approval to re-confirm that the Zenith Avenue driveway/gate can continue to be used for the necessary and safe ingress/egress for larger/delivery vehicles and employees.

By submitting this application and request, the Property Owner does not waive any rights to claim that the Permit already allows the existing uses of the Zenith Avenue driveway/gate to continue, and expressly reserves all rights thereto.

EXHIBIT D

EMA
FSP
FUD

RESOLUTION OF BOARD OF SUPERVISORS
OF ORANGE COUNTY, CALIFORNIA
August 20, 1986

On motion of Supervisor Riley, duly seconded and carried, following resolution was adopted:

WHEREAS, this Board has considered appeal of Planning Commission conditions of approval on Use Permit UP 86 21P/Site Plan SP 86-52P in compliance with provisions of Section 7-9-150.4 of Certified Ordinances of Orange County;

WHEREAS, this Board has considered the action of the Planning Commission on Use Permit UP 86-21P/Site Plan SP 86-52P;

WHEREAS, this Board has considered testimony of appellant on this project;

WHEREAS, the Planning Commission also considered a site plan which included adjacent Parcel 439-021-10 and provided for an 18,000± square foot office building (Site Plan Alternative B); and

WHEREAS, subject discretionary permit will allow the establishment of a 14,500± square foot office building on three parcels with an off-street parking modification and a height variance of three (3) feet for an architectural feature;

NOW, THEREFORE, BE IT RESOLVED that the appeal is denied, the action of the Planning Commission is amended to approve either the proposed office building of 14,500± square feet on three parcels as approved by the Planning Commission or the proposed office building of 18,000± square feet on four parcels in accordance with Site Plan Alternative B filed by the project proponent, based upon the following findings and subject to the following conditions:

FINDINGS:

I. That the project proposed, as conditioned herein below, is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

II. That Final EIR 508, previously certified by findings on February 26, 1985, was considered prior to approval of the project. It was determined adequate to serve as a Program EIR for this project and satisfy all the requirements of CEQA. It is hereby certified for this project and the findings readopted.

III. That the activity and improvements proposed, subject to the specified conditions, are consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

IV. That the locations, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that will be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

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FO192-210 (5/77)

Resolution No. 86-1076
Prop Reso/Appeal of UP 86-21P
SP 86-52P of Trav. Corp. of
Amer. (Travcoa), App. by
Salerno, Appellant

RECEIVED
- 15 1986
EMA

JRG:db

V. That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

VI. That the off-street parking requirements for a fifty (50) foot parking accessway is inappropriate due to the low stacking demand created by the one-way traffic along Bristol Street.

VII. That the proposed off-street parking facilities comply with the intent of Section 7-9-145.1 "Off-Street Parking Regulations" of the Orange County Zoning Code.

VIII. That subject project lies within the area of benefit of the San Joaquin Hills Transportation Corridor. In order to find this project consistent with the General Plan and to ensure that the traffic impacts have been adequately mitigated, it is necessary to adopt a condition requiring the developer to participate in the fee program for the corridor.

IX. That the property to which the permit applies is not located in a community facilities fee area as that term is defined in Section 7-9-702.

CONDITIONS:

1. Approval of this permit application constitutes approval of the proposed project to the extent of its compliance with the applicable zoning regulations, but does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

2. The approval of this application is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, the permit shall be terminated and shall thereafter be null and void.

3. This application is approved as a precise plan for the location of the uses and structures shown on the approved plot plan. Any relocation, alteration or addition of any structure or use not specifically approved will nullify the approving action for this permit. If any changes are proposed regarding the location or alteration of any use or structure, a changed plan shall be submitted to the Director of Planning, EMA for approval. If the Director of Planning, EMA determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

Three-Parcel Development

4. If the building permit application is for a three-parcel development, then a building permit will be issued for a 14,500± square foot office building. However, the issuance of certificates of use and occupancy for the structures approved in this permitting action shall be governed by the following: The Manager, Building Inspection Division in consultation with the Manager, Current Planning and Development Assistance Division will grant

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a certificate of use and occupancy for only 13,000± square feet gross floor space for personnel occupancy.

Four-Parcel Development

5. If the project proponent provides satisfactory evidence to the Director, EMA that the development includes Parcel 439-021-10, then a building permit will be issued for an 18,000± square foot office building in accordance with Site Plan Alternative B filed by the project proponent.

FAA Notification Requirement

6. At least thirty (30) days prior to the application for a building permit the project applicant shall submit a notice of proposed construction to the FAA. The FAA will then make a determination on the projects' potential to create an aeronautical hazard. The project shall comply with restrictions and conditions imposed by the FAA as a part of their determination.

Noise

7. All non-residential structures shall be sound attenuated against the combined impact of all present and projected noise from exterior noise sources to meet the interior noise criteria as specified in the Noise Element and Land Use/Noise Compatibility Manual.

Prior to the issuance of any building permits, evidence prepared under the supervision of an acoustical consultant that these standards will be satisfied in a manner consistent with applicable zoning regulations shall be submitted to the Manager, Development Services Division in the form of an acoustical analysis report describing in detail the exterior noise environment and the acoustical design features required to achieve the interior noise standard and which indicate that the sound attenuation measures specified have been incorporated into the design of the project.

8. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Development Services, that:

A. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.

B. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

C. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

9. Prior to issuance of any certificates of use and occupancy, the developer shall produce evidence acceptable to the Manager, Development Services Division, that information stating this property is subject to the overflight, sight, and sound of aircraft operating from John Wayne Airport

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has been provided to the Department of Real Estate of the State of California for inclusion into the Final Subdivision Public Report.

10. Prior to sale, lease, or rental of any structure or portion thereof, the applicant/owner shall provide to each prospective purchaser, lessee, or tenant a notice and statement of acknowledgement that the property is subject to overflight, sight, and sound of aircraft operating from John Wayne Airport. The form and method of distribution of said notice and statement of acknowledgement shall be as approved by the Manager, Development Services Division.

11. Prior to recordation of the first final tract/parcel map, the landowner shall prepare and record a notice that this property may be subject to impacts from the proposed San Joaquin Transportation Corridor in a manner meeting the approval of the Manager, Development Services Division.

12. Prior to the issuance of certificates of use and Occupancy, the owner shall produce evidence to the Manager, Development Services Division, that the Department of Real Estate has been notified that the project area is adjacent to a regional transportation corridor which is shown on the Orange County Master Plan of Arterial Highways and which will pass along the side of project. The corridor is expected to be a high capacity, high-speed, limited-access facility for motor vehicles, and will have provisions for bus lanes and other mass transit type facilities along it.

Landsca

13. A. Private Landscape Design Certification:

Prior to issuance of building permits, areas to be landscaped which will be maintained privately shall be designed in accordance with a plan certified by a licensed landscape architect taking into account an approved preliminary landscape plan (if any), EMA Standard Plans, adopted planned community, scenic corridor and specific plan requirements, Grading Code erosion control requirements, Subdivision Code, Zoning Code, and conditions of approval. Said certification shall be furnished to the Manager, Building Inspection Division.

B. Private Landscape Installation Certification:

Prior to issuance of certificates of use and occupancy, applicant shall have installed said landscaping and irrigation system and shall have installation certified by a licensed landscape architect that it was installed in accordance with a certified plan. Applicant shall furnish certification in writing to the Manager, Building Inspection Division.

Circulation/Traffic

14. Prior to the completion of an application for any building permits, the developer shall pay fees, as prescribed in the Major Thoroughfare and Bridge Fee Program for the San Joaquin Hills Transportation Corridor. If the

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building permit application is for a three-parcel development, the fee shall be based upon 13,000± square feet of office space. If the building permit application is for a four-parcel development, the fee shall be based upon 18,000± square feet of office space.

15. Prior to issuance of a building permit, applicant shall design and construct the following improvements in accordance with plans and specifications meeting the approval of the Manager of Subdivision Division.

A. Sidewalk on South Bristol Street across the property frontage.

B. Sidewalk on Zenith Avenue across the property frontage.

Grading

16. Prior to the issuance of any precise grading permits, the applicant shall design the following improvements and provide necessary dedications in a manner meeting the approval of the Manager, Subdivision Division.

A. All provisions for surface drainage; and

B. All necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and

C. Where determined necessary by the Manager, Subdivision Division, the associated easements shall be dedicated to the County of Orange.

Prior to issuance of certificates of use and occupancy, or whichever comes first, said improvements shall be constructed in a manner meeting the approval of the Manager, EMA/Construction Division.

17. Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Development Services, for his approval. This report will primarily involve assessment of potential soil related constraints and hazards such as slope instability, settlement, liquefaction, or related secondary seismic impacts where determined to be appropriate by the Manager, Development Services. The report shall also include evaluation of potentially expansive soils and recommended construction procedures and/or design criteria to minimize the effect of these soils on the proposed development. All reports shall recommend appropriate mitigation measures and be completed in the manner specified in the Orange County Grading Manual and State/County Subdivision Ordinance.

Fire

18. Prior to the issuance of any building permits, plans for an automatic fire extinguishing system shall be approved by the Fire Chief. Such systems shall be operational prior to the issuance of a certificate of use and occupancy.

19. Prior to the issuance of any building permits, construction details for the controlled emergency access shall be approved by the Fire Chief. These

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details shall include width, clear height, and means of emergency vehicle override. Prior to issuance of any certificate of use and occupancy, emergency access shall be operational in a manner meeting the approval of the Manager, Construction Division.

Light/Glare

20. Notwithstanding the submitted site plan, the site plan shall be revised to incorporate the use of nonreflective materials including recessed windows, non-reflective glass and other non-glare materials, to reduce light and glare on Zenith Avenue elevation. No building or grading permits or certificates of use and occupancy authorized by this permit shall be issued until revised plans are submitted to the Director, EMA, and found by the Director or his designee to be consistent with the action of the approving authority. If such revision is not submitted within sixty (60) days, or as otherwise specified by the approving authority, after the date of final determination, the permit shall thereafter be null and void. However, prior to the expiration of this period, the Director, EMA, may grant one extension of time of an additional sixty (60) days if it is requested and justified by the applicant.

Caveats

21. Applicant agrees as a condition of issuance and use of this permit to defend at her/his sole expense any action brought against the County because of issuance of this permit or, in the alternative, the relinquishment of such permit. Applicant will reimburse the County for any court costs and attorney's fees which the County may be required to pay as a result of such action. County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve applicant of his obligations under this condition (Government Code Section 65907 requires that any action to attach, review, set aside, void or annul the use permit must be brought within 180 days of approval).

22. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

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FD192-210 (5/77)

AYES: SUPERVISORS THOMAS F. RILEY, RALPH B. CLARK, ROGER R. STANTON, HARRIETT M. WIEDER, BRUCE NESTANDE

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, LINDA D. ROBERTS, Clerk of the Board of Supervisors of Orange County, California, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 20th day of August, 1986, and passed by a unanimous vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of August, 1986.

LINDA D. ROBERTS
Clerk of the Board of Supervisors
of Orange County, California

OFFICE OF
COUNTY COUNSEL
ORANGE COUNTY

F0192-2(8.1

EXHIBIT E

NEWMEYER DILLION

Newmeyer & Dillion LLP
895 Dove Street
Second Floor
Newport Beach, CA 92660
(949) 854-7000

February 27, 2026

Charles S. Krolikowski
charles.krolikowski@ndlf.com

VIA E-MAIL AND U.S. MAIL

City of Newport Beach - Office of City Clerk
Attn: Public Records
P.O. Box 1768
Newport Beach, CA 92658
cityclerk@newportbeachca.gov

Re: Request for Public Records Pursuant to California Public Records Act
2350 SE Bristol Street, Newport Beach, CA 92660

Dear City Clerk/Public Records Department:

Please be advised that this office represents Maryam Parman, the owner of real property and improvements at 2350 SE Bristol Street, Newport Beach, CA 92660 (the "Property"). On behalf of Ms. Parman, we hereby request the production of certain public records in the City of Newport Beach's ("City") possession, custody, and/or control in accordance with the California Public Records Act (Government Code § 7920, et seq.) ("CPRA").

Please produce the following public records within the statutory timeframe as set forth in the CPRA:

1. Any and all police reports/logs for any accidents, speeding tickets, and/or other traffic incidents occurring along the segment of South Bristol Street measuring from Campus Drive/Irvine Avenue to Jamboree Road within the last ten (10) years.

2. Any and all collision reports, accident summaries, calls for service logs and/or other police data logs collected for the segment of South Bristol Street measuring from Campus Drive/Irvine Avenue to Jamboree Road within the last ten (10) years.

3. Any and all speed survey data, radar enforcement reports, calls for service logs and/or police incident reports related to speeding or reckless driving occurring along the segment of South Bristol Street measuring from Campus Drive/Irvine Avenue to Jamboree Road within the last ten (10) years.

4. Any and all engineering reports, traffic studies, diagrams, or evaluations regarding speed, sight distance, visibility, and/or line of sight obstructions prepared for any portion of the segment of South Bristol Street measuring from Campus Drive/Irvine Avenue to Jamboree Road within the last ten (10) years.

5. Any and all documents, including memos, reports, communications, texts, and/or emails relating to complaints received by the Police Department for the City of Newport ("Police Department") from residents or city staff regarding traffic safety at the Property or any other properties within 0.25 miles of the Property within the last ten (10) years.

6. Any and all documents, including memos, reports, communications, texts, and/or emails relating to complaints from City residents regarding the Property received by the City, its Police Department, its code enforcement, or any other departments or divisions of the City within the last ten (10) years.

7. Any and all traffic and/or access studies related to or prepared for the Property or any other properties within 0.25 miles of the Property within the last ten (10) years.

8. Any and all sight distance studies for the Property or any other properties within 0.25 miles of the property within the last ten (10) years.

9. Any and all pictures, maps, plats, diagrams, plans, surveys, videos, etc. of the Property.

10. All internal communications at the City, either by e-mail, text, letter, memo, etc. related to the Property within the last ten (10) years.

11. All external communications between the City and any third party or entity, either by e-mail, text, letter, memo, etc. related to the Property within the last ten (10) years.

12. All documents related to all development approvals and permits (including all internal documents and reports) for the Property within the last (10) years.

If any part of the above-referenced documents are exempt from disclosure, please provide the non-exempt portions, as required by Government Code § 7920, et seq.

We request that the City provide the documents requested via electronic mail or electronic file share application to Charles.Krolikowski@ndlf.com, with a copy to Mira.Patel@ndlf.com. If the City is unable to comply with the request, we ask that the City notify of an alternative means for providing these documents in compliance with federal, state, and local guidelines.

We further request that the City provide the responsive information within ten (10) days of receipt of this letter, or earlier, if possible. Should the City deny any part of this request, please provide a written response describing the legal authority on which the City relied on for its determination to deny the request. If the records are located with another department or public agency within the City's control, please forward a copy of this request to that department and advise this office of your doing so.

We appreciate your anticipated cooperation and attention to this matter.

Very truly yours,

Charles S. Krolikowski

CSK

cc: Mira A. Patel

City of Newport Beach
Revenue
100 Civic Center Dr.
Newport Beach, CA 92660
949-644-3141
Welcome

04/02/2026 02:01PM Daniel B.
024796-0024 000123200
Payment Effective Date 03/31/2026

MISCELLANEOUS
PLANNING APPEALS
(CDD222)
2026 Item: CDD222
1 @ $2116.00
PLANNING APPEALS
(CDD222) $2,116.00

$2,116.00

Subtotal **$2,116.00**
Total **$2,116.00**

CHECK $2,116.00
Check Number 170980

Change due **$0.00**

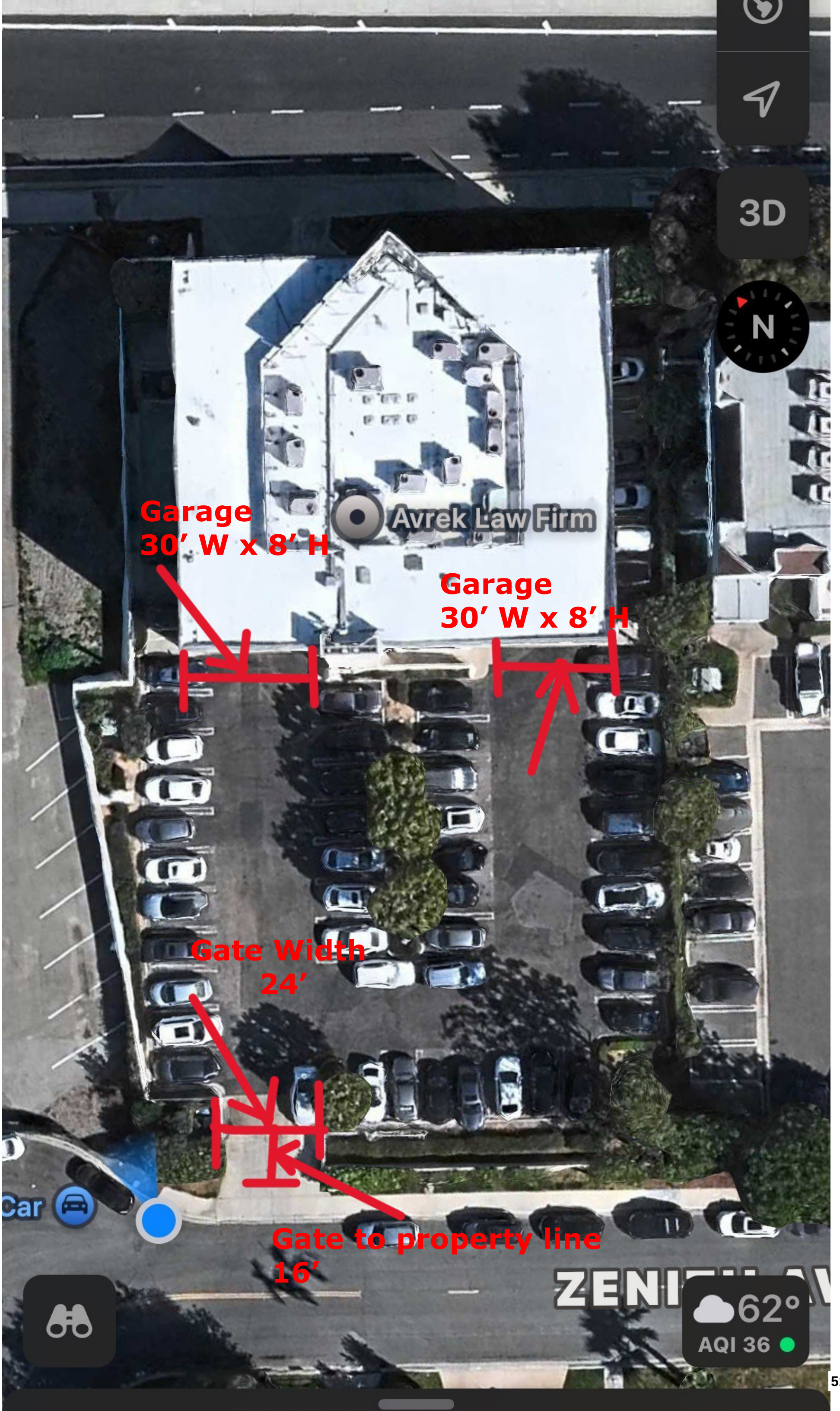
Paid by: NEWMEYER & DILLION LLP

Thank you for your payment

CUSTOMER COPY

Attachment F

Project Plans


3D
N
Garage
30’ W x 8’ H
Avrek Law Firm
Garage
30’ W x 8’ H
Gate Width
24’
Gate to property line
16’
Car
62°
AQI 36

CITY OF

NEWPORT BEACH

City Council Staff Report

July 14, 2026
Agenda Item No. 13

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Jaime Murillo, Community Development Director - 949-644-3209, jmurillo@newportbeachca.gov

PREPARED BY: David Lee, Principal Planner - 949-644-3225, Dlee@newportbeachca.gov

TITLE: Ordinance No. 2026-10: Approving Amendment to Newport Place Planned Community Development Plan (PC-11) Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay and Resolution No. 2026-53: Overriding Airport Land Use Commission's Determination of Inconsistency (PA2025-0196)

ABSTRACT:

For the City Council's consideration is the introduction of an ordinance approving an amendment to the Newport Place Planned Community Development Plan (PC-11) to change the minimum inclusionary for-sale housing percentage within the Residential Overlay from 15% to 6% for lower-income households and 8% for moderate-income households (Amendment). Staff also recommends that the City Council adopt a resolution overriding the April 16, 2026, Orange County Airport Land Use Commission's (ALUC) determination that the Amendment is inconsistent with the 2008 JWA Environs Land Use Plan (AELUP), pursuant to Public Utilities Code Section 21676(b). Approval of the Amendment and the adoption to override the ALUC requires a two-thirds majority vote of the City Council.

RECOMMENDATIONS:

a) Conduct a public hearing;

b) Find the Amendment is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly;

c) Introduce Ordinance No. 2026-10, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to the Newport Place Planned Community Development Plan (PC-11) to Revise the Minimum Inclusionary For-Sale Housing Percentage Required within the Residential Overlay (PA2025-0196); and*

d) Adopt Resolution No. 2026-53, *A Resolution of the City Council of the City of Newport Beach, California, Finding an Amendment to the Newport Place Planned Community*

Development Plan (PC-11) to Revise the Minimum Inclusionary For-Sale Housing Percentage Required within the Residential Overlay Consistent with the Purposes of the State Aeronautics Act and Overriding the Orange County Airport Land Use Commission's Determination of Inconsistency with the 2008 John Wayne Airport Environs Land Use Plan (PA2025-0196).

DISCUSSION:

Background

PC-11 is within Newport Beach's Airport Area and generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, as depicted in Figure 1 below. It was originally designed and planned in the early 1970s with clusters of office parks and industrial uses. Over time, the 145-acre area has evolved with light industrial uses being replaced by commercial offices and supporting retail and service uses. In 2006, the City added the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification as a part of the 2006 General Plan Land Use Element, which created an opportunity for residential uses.



Figure 1, Boundary of the Newport Place Planned Community

On July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending the PC-11 Development Plan to create the Residential Overlay, which is shown in Figure 2. At the time, the Residential Overlay was necessary to secure certification of the 4th Cycle Housing Element, as it had a greater potential to accommodate the City of Newport

Beach's Regional Housing Needs Assessment (RHNA) for lower-income households. The amendment implemented the 2006-adopted Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use category for parcels within PC-11. The Residential Overlay included use and development standards for multi-unit residential projects and required 30% of the units in a development to be affordable to lower-income households for a minimum of 30 years.

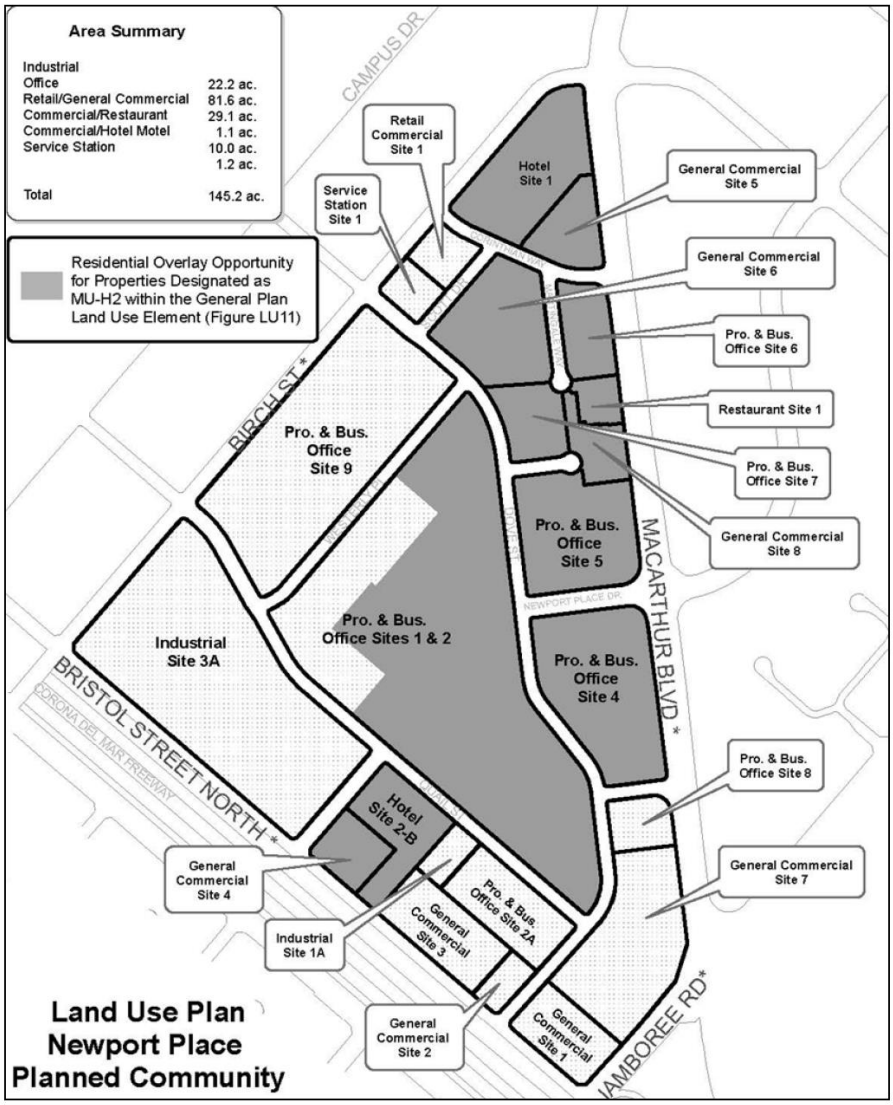


Figure 2, Residential Overlay boundaries, shown in grey

On September 13, 2022, the City Council adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 housing period (Housing Element), which was subsequently certified by the State Department of Housing and Community Development (HCD) on October 5, 2022. The Airport Area Environs (Airport Area) is located near John Wayne Airport and is bounded by Jamboree Road, Campus Drive and State Route 73, and is one of the five focus areas where new housing opportunity sites are identified to satisfy the City's RHNA allocation of 4,845 new housing units. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25%

of the City's planned housing capacity. In addition to the existing residential sites allowed by the 2006 General Plan Land Use Element and the Residential Overlay of PC-11, a total of 31 new housing opportunity sites have been identified in the PC-11 per the Housing Element.

On July 25, 2023, the City Council adopted Ordinance No. 2023-13, reducing the minimum inclusionary affordable housing requirement (Inclusionary Requirement) of the Overlay from 30% to 15%. The amendment was deemed necessary to facilitate implementation of the Housing Element by mitigating potential governmental constraints through the reduction. Notably, the 15% Inclusionary Requirement is applicable to both for-sale and rental housing developments to facilitate construction of market-rate housing and affordable for all income groups.

On April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project (Residences at 1401 Quail Street) by Intracorp Homes (Intracorp) (PA2023-0040). This project is located within the Residential Overlay and included the inclusionary requirement of 15%, as required. After the project approval, representatives of Intracorp submitted a written request that the City consider lowering the Inclusionary Requirement for for-sale housing, as the approved project is no longer financially viable to implement.

On November 4, 2025, the City Council adopted Resolution No. 2025-77, initiating a possible amendment to PC-11 that would lower the minimum Inclusionary Requirement for for-sale housing within the Overlay, directing staff to conduct an analysis and recommend an appropriate percentage.

As part of continued efforts to study inclusionary requirements, City staff had already been working with Keyser Marston Associates (KMA), a real estate advisory firm, which prepared an Inclusionary Housing: Financial Evaluation report, dated March 19, 2025. After the City Council's November 2025 initiation, KMA prepared an addendum to this report focusing on for-sale housing within the Airport Area.

Amendment Description

The proposed Amendment would reduce the Inclusionary Requirement from 15% to 6% for lower-income households (i.e. very-low and low income) and 8% for moderate-income households for for-sale housing developments within the Overlay. No other changes are proposed, and no development would be directly authorized by the Amendment. The existing Inclusionary Requirement of 15% affordable to lower-income households for a minimum of 30 years would remain in place for for-rent housing developments.

As stated in the Housing Element, the median home values in Newport Beach are approximately 2.7 times higher than the median home value in Orange County and are the highest home values exhibited by the surrounding cities. Additionally, with today's rising construction costs and land values, the 15% Inclusionary Requirement is not financially feasible when applied to for-sale housing developments within the Overlay.

The Amendment would be a further step in the implementation of the 6th Cycle Housing Element by mitigating potential governmental constraints through the reduction of the affordable housing percentage as proposed, to facilitate construction of for-sale housing developments within the Overlay. According to the January 22, 2026, Airport Area Ownership Housing Development Addendum to the March 19, 2025, Inclusionary Housing: Financial Evaluation, prepared by Keyser Marston Associates for the City, inclusionary housing percentages for for-sale housing greater than 6% for lower-income levels and 8% for the moderate-income level would likely render most for-sale residential projects financially infeasible to develop. Lowering the inclusionary percentage would reduce the potential impediment and would also affirmatively further fair housing, consistent with Housing Element Policy 4.1: *Mitigate potential governmental constraints to housing production and affordability by increasing the City's role in facilitating construction of market-rate housing and affordable housing for all income groups,* and Policy Action 4A: *Affirmatively Furthering Fair Housing provided in the 6th Cycle Housing Element*.

Should this amendment be approved and the applicant for the Residences at 1401 Quail Street project discussed in the *Background* section of this report choose to pursue a reduction in their affordability requirement, an amendment to the approved Affordable Housing Implementation Plan (AHIP) for the project will be required through separate review and approval.

Planning Commission Review and Recommendation

On March 19, 2026, the Planning Commission considered the proposed Amendment. After the public hearing, the Planning Commission, by a vote of 4 ayes with 1 recusal and 2 absent, recommended the City Council approve the proposed Amendment. The March 19, 2026, Planning Commission staff report, minutes excerpts and Planning Commission Resolution No. PC2026-009 are included as Attachments C, D and E respectively.

Airport Land Use Commission Review

Section 4.3 of the AELUP and Section 21676(b) of the Public Utilities Code require the City submit General Plan and zoning code amendments to ALUC for a consistency determination with the AELUP. ALUC conducted a hearing on the matter at its April 16, 2026, meeting and found the proposed Amendment is inconsistent with the AELUP. The inconsistency determination is due to several reasons: 1) the Overlay is currently allowing residential developments within the AELUP's 65 dBA CNEL noise contour and 2) the City is using the City's updated noise contours for airport-related noise analysis, which are based on the 2014 Settlement Agreement EIR 617 rather than the noise contours adopted in AELUP for JWA.

On May 12, 2026, the City Council held a public hearing and adopted Resolution No. 2026-27 for the intention to override ALUC's inconsistency determination. Subsequently, notice of the Council's action, as afforded to the City in PUC Section 21676(b), was sent

to ALUC and the State Department of Transportation, Aeronautics Program on May 13, 2026, which initiated a 45-day comment period on the intension to override.

The City received comments from ALUC on June 11, 2026, and State Department of Transportation, Aeronautics Program on May 20, 2026 (Attachment G).

As a final review authority on legislative acts, the City Council may choose to override ALUC's determination with a two-thirds vote if it makes specific findings that the Amendment is consistent with the purpose of Section 21670 of the CPUC to protect the public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. Draft findings supporting the override are included in Attachment B.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

Notice of this hearing was published in the Daily Pilot and mailed to all owners of property within 300 feet of the boundaries of the Newport Place Planned Community (excluding intervening rights-of-way and waterways), consistent with the provisions of the Municipal Code. Additionally, the item also appears on the agenda for this meeting, which was posted at City Hall and on the City website in accordance with the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A - City Council Ordinance No. 2026-10: Approving Newport Place PC Amendment
Attachment B - City Council Resolution No. 2026-53: Overriding ALUC Determination
Attachment C - March 19, 2026, Planning Commission Staff Report (without attachments)
Attachment D - March 19, 2026, Planning Commission Minutes
Attachment E - Planning Commission Resolution No. PC2026-009
Attachment F - City Council Resolution No. 2026-27
Attachment G - ALUC and State Department of Transportation, Aeronautics Program Letters

Attachment A

City Council Ordinance No. 2026-10
Approving Newport Place PC Amendment

ORDINANCE NO. 2026- __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM INCLUSIONARY FOR-SALE HOUSING PERCENTAGE REQUIRED WITHIN THE RESIDENTAL OVERLAY (PA2025-0196)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City") vests the City Council with the authority to make and enforce all laws, rules, and regulations with respects to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, Newport Place is a Planned Community ("PC-11") in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, and originally designed in the early 1970s with clusters of office parks and industrial uses;

WHEREAS, the introduction of the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification in the Airport Area as a part of the 2006 General Plan Land Use Element created an opportunity for residential uses;

WHEREAS, on July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending PC-11 to create the Residential Overlay ("Overlay") which was necessary to secure certification of the 4th Cycle Housing Element as it had a greater potential to accommodate the City's Regional Housing Needs Assessment ("RHNA");

WHEREAS, the amendment to PC-11 implemented use and development standards for multi-unit residential projects including a requirement that 30% of the units in a residential development be affordable to lower-income households for a minimum of 30 years;

WHEREAS, on September 13, 2022, the City adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 period, which was subsequently certified by the State Department of Housing and Community Development on October 5, 2022;

WHEREAS, the Airport Area Environs ("Airport Area") is one of the five focus areas where new housing opportunity sites are identified to satisfy the City's RHNA allocation of 4,845 new housing units;

WHEREAS, at least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City's planned housing capacity;

WHEREAS, on July 25, 2023, the City adopted Ordinance No. 2023-13, reducing the minimum inclusionary housing requirement of the Overlay from 30% to 15% for both for-sale and rental housing developments;

WHEREAS, on April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project, the Residences at 1401 Quail Street, by Intracorp Homes (PA2023-0040);

WHEREAS, the Intracorp Homes project is located within the Overlay and includes the 15% inclusionary requirement;

WHEREAS, Intracorp Homes has since requested that the City consider lowering the required inclusionary percentage for for-sale housing, as the approved project is no longer financially feasible;

WHEREAS, on September 24, 2024, the City adopted Resolution No. 2024-73, amending portions of Sections 3 and 4 of the 6th Cycle Housing Element;

WHEREAS, on November 4, 2025, the City adopted Resolution No. 2025-77, initiating an amendment to PC-11 to lower the minimum percentage of inclusionary for-sale housing within the Overlay ("Amendment"), in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, a public hearing was held by the Planning Commission on March 19, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC 2026-009 (4 ayes, 1 recusal, and 2 absent), recommending the City Council approve the Amendment to reduce the minimum inclusionary for-sale housing percentage within the Overlay from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Amendment to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on April 16, 2026, the ALUC conducted a public hearing and determined (5 ayes, 1 vacancy, 1 absent) that the Amendment is inconsistent with the AELUP;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule the ALUC with a two-thirds vote, if the City Council makes specific findings that the Amendment is consistent with the purpose of Section 21670 of the CPUC to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;

WHEREAS, the City Council held a duly noticed public hearing on May 12, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing;

WHEREAS, at the conclusion of this hearing, the City Council adopted Resolution No. 2026-27 by unanimous vote (5 ayes, 2 recusals) to notify the ALUC and State Department of Transportation Aeronautics Program ("Aeronautics Program") of the City's intent to override ALUC's inconsistency finding;

WHEREAS, notice of the City's intent to override the ALUC inconsistency determination, along with Resolution No. 2026-27, was sent via certified mail and emailed to ALUC and Aeronautics Program on May 13, 2026; and

WHEREAS, the City Council held a duly noticed public hearing on July 14, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby approves the Amendment, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, with all other provisions of the Newport Place Planned Community (PC-11) and supporting maps remaining unchanged and in full force and effect.

Section 2: An Amendment to the Newport Place Planned Community Development Plan is a legislative act. Neither PC-11, Chapter 20.56 (Planned Community District Procedures), Chapter 20.66 (Amendments) of Title 20 (Planning and Zoning) of the NBMC, nor Sections 65850 *et seq.* of the California Government Code set forth required findings for either approval or denial of the Amendment. Notwithstanding the foregoing, The Amendment is consistent with the following City of Newport Beach 6th Cycle Housing Element Housing Policy, Policy Action, and Housing Goal:

Housing Policy 4.1: Mitigate potential governmental constraints to housing production and affordability by increasing the City's role in facilitating construction of market-rate housing and affordable housing for all income groups.

Policy Action 4A: Affirmatively Furthering Fair Housing, provided in the 6th Cycle Housing Element.

Housing Goal #4: Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.

The Amendment furthers the implementation of the 6th Cycle Housing Element by mitigating potential governmental constraints through the reduction of affordable housing percentage from 15% to 6% to facilitate construction of for-sale housing developments within the Overlay. According to the January 22, 2026 Airport Area Ownership Housing Development Addendum to the March 19, 2025 Inclusionary Housing: Financial Evaluation, prepared by Keyser Marston Associates for the City, inclusionary housing percentages for for-sale housing greater than 6% would likely render most for-sale residential projects financially infeasible to develop. Lowering the inclusionary housing

percentage reduces the potential impediment and also affirmatively furthers fair housing, consistent with Housing Policy 4.1.

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the operative part of this ordinance.

Section 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: The City Council finds the Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 14th day of July 2026, and adopted on the 28th day of July 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

_____
Lauren Kleiman, Mayor

ATTEST:

_____
Lena Shumway, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

_____
Aaron C. Harp, City Attorney

Attachment(s): Exhibit "A" – Amendment to the Newport Place Planned Community Development Plan (PC-11)

Exhibit "A"

Amendment to the Newport Place Planned Community Development Plan (PC-11)

Part III. Residential Overlay, Section IV.A.3 shall be amended to read as follows:

"3. The following options are available for affordable housing projects:

a. A minimum of 15 percent of the for-rent units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant;

b. A minimum of 6 percent of the for-sale units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant; or

c. A minimum of 8 percent of the for-sale units within the residential development shall be affordable to moderate-income households and shall be subject to a 30-year affordability covenant."

Attachment B

City Council Resolution No. 2026-53
Overriding ALUC Determination

RESOLUTION NO. 2026- __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, FINDING AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM INCLUSIONARY FOR-SALE HOUSING PERCENTAGE REQUIRED WITHIN THE RESIDENTIAL OVERLAY CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND OVERRIDING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION OF INCONSISTENCY WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2025-0196)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City") vests the City Council with the authority to make and enforce all laws, rules, and regulations with respects to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, Newport Place is a Planned Community ("PC-11") in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street, and Bristol Street North, and originally designed in the early 1970s with clusters of office parks and industrial uses;

WHEREAS, the introduction of the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification in the Airport Area as a part of the 2006 General Plan Land Use Element created an opportunity for residential uses;

WHEREAS, on July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending PC-11 to create the Residential Overlay ("Overlay"), which was necessary to secure certification of the 4th Cycle Housing Element, as it had a greater potential to accommodate the City's Regional Housing Needs Assessment ("RHNA");

WHEREAS, the amendment to PC-11 implemented use and development standards for multi-unit residential projects including a requirement that 30% of the units in a residential development be affordable to lower-income households for a minimum of 30 years;

WHEREAS, on September 13, 2022, the City adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 period, which was subsequently certified by the State Department of Housing and Community Development on October 5, 2022;

WHEREAS, the Airport Area Environs ("Airport Area") is one of the five focus areas of the 6th Cycle Housing Element where new housing opportunity sites are identified to satisfy the City's RHNA allocation of 4,845 new housing units;

WHEREAS, at least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City's planned housing capacity;

WHEREAS, on July 25, 2023, the City adopted Ordinance No. 2023-13, reducing the minimum inclusionary housing requirement of the Overlay from 30% to 15% for both for-sale and rental housing developments;

WHEREAS, on April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project, the Residences at 1401 Quail Street, by Intracorp Homes (PA2023-0040);

WHEREAS, the Intracorp Homes project is located within the Overlay and includes the 15% inclusionary requirement;

WHEREAS, Intracorp Homes has since requested that the City consider lowering the required inclusionary percentage for for-sale housing, as the approved project is no longer financially feasible;

WHEREAS, on September 24, 2024, the City adopted Resolution No. 2024-73, amending portions of Sections 3 and 4 of the 6th Cycle Housing Element;

WHEREAS, on November 4, 2025, the City adopted Resolution No. 2025-77, initiating an amendment to PC-11 to lower the minimum percentage of inclusionary for-sale housing within the Overlay ("Amendment"), in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code ("NBMC");

WHEREAS, a public hearing was held by the Planning Commission on March 19, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2026-009 (4 ayes, 1 recusal, and 2 absent), recommending the City Council approve the Amendment to reduce the minimum inclusionary for-sale housing percentage within the Overlay from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Amendment to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on April 16, 2026, the ALUC conducted a public hearing and determined (5 ayes, 1 vacancy, 1 absent) that the Amendment is inconsistent with the AELUP as provided in ALUC's determination, which attached hereto as Exhibit "A," and incorporated herein by reference;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule the ALUC with a two-thirds vote, if the City Council makes specific findings that the Amendment is consistent with the purpose of Section 21670 of the CPUC to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses;

WHEREAS, the City Council held a duly noticed public hearing on May 12, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing;

WHEREAS, at the conclusion of this hearing, the City Council adopted Resolution No. 2026-27, by a unanimous vote (5 ayes, 2 recusals) to notify the ALUC and State Department of Transportation Aeronautics Program ("Aeronautics Program") of the City's intent to override the ALUC's inconsistency finding;

WHEREAS, notice of the City's intent to override the ALUC inconsistency determination, along with Resolution No. 2026-27 was sent via certified mail and emailed to ALUC and Aeronautics Program on May 13, 2026;

WHEREAS, the City received two comment letters in response to the notice of the City's intent to override the inconsistency determination, from ALUC and the Aeronautics Program in accordance with CPUC Section 21676, which are attached hereto as Exhibits "B" and "C" respectively, and incorporated herein by reference consistent with CPUC Section 21676(a); and

WHEREAS, the City Council held a duly noticed public hearing on July 14, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council has evaluated the comments provided in Exhibits "B" and "C" from the reviewing agencies and does hereby make findings necessary to override the ALUC's determination that the Amendment is consistent with the purposes of Section 21670 of the CPUC and the AELUP to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Finding Facts in Support of Findings:

A. The Amendment is consistent with the noise standards of the AELUP.

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport ("JWA") and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies) of the AELUP. Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

Section 2.1.1 of the AELUP sets forth the Community Noise Equivalent Level ("CNEL") standards, and Sections 3.2.3 and 3.2.4 of the AELUP define the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact." Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential uses as "normally consistent" for the 60 dBA CNEL noise contour.

The Overlay is located within the 60 dBA and 65 dBA CNEL noise contours as shown on the City's updated noise contour maps as part of the 6th Cycle Housing Element Implementation Noise - Related Amendments and the 60 dBA and 65 dBA noise contours as shown on the AELUP. As currently set forth in the Overlay, residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65dBA contour area are needed for the City to satisfy its 6th Cycle RHNA mandate and shall be required to comply with the development standards set forth in Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) of the NBMC.

B. The Amendment is consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, except outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence.

The Overlay is located within Safety Zone 6 and residential uses are allowed in this zone. The City's General Plan Safety Element Policy S 8.6 (John Wayne Airport Traffic Pattern Zone) demonstrates that the City acknowledges the importance of the JWA Safety Zones: "Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/ Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."

The Amendment complies with the policies and regulations within the JWA Airport Planning Area and follows the safety standards of the AELUP as it is located within Safety Zone 6 and is not within the JWA Clear Zone/ Runway Protection Zone.

C. The Amendment is consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.

The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems and are also included in PC-11. The Amendment seeks to revise the minimum affordability housing percentage for for-sale residential development within the Overlay, from 15% to 6% for lower-income households

(i.e., very-low and low) and 8% for moderate-income households. No other changes are proposed.

Section 2: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 14th day of July 2026.

Lauren Kleiman
Mayor

ATTEST:

Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – ALUC Inconsistency Determination dated April 17, 2026
Exhibit "B" – Comment Letter from ALUC dated June 11, 2026
Exhibit "C" – Comment Letter from Aeronautics Program dated May 20, 2026

Exhibit A

ALUC Inconsistency Determination dated April 17, 2026

AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

April 17, 2026

Rosalinh Ung, Principal Planner
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Determination for Newport Beach Newport Place Planned Community (PC-11) Development Plan Amendment related to Affordable Housing Percentage in Residential Overlay (PA2025-0196)

Dear Ms. Ung,

During the public meeting held on April 16, 2026, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed and with a 5-0 vote (Bresnahan, Beverburg, Hibard, Klema, and Murphy), the Commission found the Newport Beach Newport Place Planned Community (PC-11) Development Plan Amendment related to Affordable Housing Percentage in Residential Overlay (PA2025-0196) to be inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP)*. The inconsistent finding was based on Section 2.1.1 Aircraft Noise; Section 2.1.2 Safety Compatibility Zones; Section 2.1.4, and PUC Section 21674; and 3.2.1 General Policy.

Please contact me at amcnab@ocair.com or (949) 252-5170 if you have any questions regarding this proceeding. Thank you!

Sincerely,

Julie Fitch, AICP
Executive Officer

cc: ALUC Commissioners

Exhibit B

Comment Letter from ALUC dated June 11, 2026

AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

June 11, 2026

Rosalinh Ung, Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission Determination Regarding the Amendment to Newport Place Planned Community Development Plan (PC-11) (PA2025-0196)

Dear Ms. Ung,

We are in receipt of the City of Newport Beach (City) letter dated May 13, 2026, and City Council Resolution No. 2026-27 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Amendment to the Newport Place Planned Community Development Plan (PC-11) related to the minimum inclusionary for-sale housing percentage required within the Residential Overlay (PA2025-0196). In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On April 16, 2026, the ALUC for Orange County found the proposed Newport Place Planned Community Development Plan (PC-11) Amendment related to Affordable Housing Percentage in Residential Overlay (PA2025-0196) to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*. The inconsistency determination was based on *AELUP* Sections 2.1.1, 2.1.2, 2.1.4, PUC Section 21674, and Section 3.2.1.

Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the *AELUP* is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the *AELUP* seeks to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Additionally, Section 2.1.4 of the *AELUP for JWA* and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. The current PC-11 Development Standards no longer contain the same airport noise compatibility limitation that supported the ALUC's prior consistency determination in July 2023. The proposed Amendment also relies on the 2014 Settlement Agreement/EIR 617 noise contours rather than the noise contours adopted in the *AELUP for JWA*. Because those contours have not been adopted by ALUC or incorporated into the *AELUP for JWA*, the City's proposed actions are inconsistent with the *AELUP for JWA*.

ALUC has the following additional comments regarding the findings included in Resolution No. 2026-27 and the facts provided in support of those findings.

Response to Finding A - Regarding Noise Standards:

Finding A states that the Amendment is consistent with the noise standards of the *AELUP* because the Residential Overlay is located within the 60 dBA and 65 dBA CNEL noise contours and residential uses are identified as "normally consistent" within the 60 dBA CNEL noise contour. Finding A further provides that residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour unless and until the City determines, based on substantial evidence, that sites wholly within the 65 dBA contour area are needed to satisfy the City's 6th Cycle RHNA mandate.

The ALUC acknowledges that residential uses may be identified as normally consistent within the 60 dBA CNEL noise contour. However, unlike the amendment considered by ALUC in July 2023, the current PC-11 Development Standards no longer contain the airport noise compatibility limitation that supported the prior consistency determination.

For purposes of ALUC review, the applicable noise contours are those contained in the adopted *AELUP for JWA*. A consistency analysis cannot be based on different or updated noise contours unless those contours have been incorporated into the *AELUP*. Because the proposed Amendment relies on the 2014 Settlement Agreement/EIR 617 noise contours, and because the current PC-11 Development Standards no longer contain the prior airport noise compatibility limitation, the proposed Amendment remains inconsistent with the *AELUP for JWA*.

Response to Finding B - Regarding Safety:

Pursuant to *AELUP* Section 2.1.2, "[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility

and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."

Finding B states that the Residential Overlay is located within Safety Zone 6, that residential uses are allowed in this zone, and that the Amendment is not within the JWA Clear Zone/Runway Protection Zone. The ALUC acknowledges that the Residential Overlay is located within Safety Zone 6 and outside Safety Zone 3. However, the fact that residential uses may be allowed in Safety Zone 6 does not end the compatibility analysis, particularly where aircraft overflight, proximity to JWA, and noise compatibility remain relevant considerations.

Newport Place Planned Community is located within Safety Zone 6 – Traffic Pattern Zone, with a small portion also within Safety Zone 3 – Inner Turning Zone. Flight tracks included in the ALUC staff report show numerous general aviation flights over the Newport Place Planned Community, including one day of Reverse Flow operations. Considering the applicable Safety Zones, proximity to JWA, and aircraft overflight activity, safety and land use compatibility remain relevant considerations for this Amendment.

Response to Finding C - Regarding Purpose and Intent of the AELUP and Compatibility with Adjacent Land Uses:

Finding C states that the Amendment is consistent with the purpose and intent of the *AELUP* and will not result in incompatible land uses adjacent to JWA because it would revise only the minimum affordability housing percentage for for-sale residential development within the Overlay, from 15 percent to 6 percent for lower-income households and 8 percent for moderate-income households, and no other changes are proposed.

By virtue of *AELUP for JWA* Sections 1.2 "Purpose and Scope" and 2.0 "Planning Guidelines," the ALUC understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport's environs. To this end, and as also statutorily required, ALUC proceedings are benefited by several members having expertise in aviation.

Although the proposed Amendment is limited to the affordable housing percentage, it applies within a Residential Overlay that no longer contains the same airport noise compatibility limitation that supported the prior ALUC consistency determination. Therefore, while the Amendment does not directly modify the Residential Overlay boundaries or other development standards, it would further facilitate for-sale residential development under standards that ALUC found inconsistent with the *AELUP for JWA*. Based upon careful consideration of all information provided, the applicable *AELUP* policies, the ALUC-adopted noise contours for JWA, and input from ALUC members with expertise in aviation, the ALUC found the proposed PC-11 Amendment to be inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC's concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. Thank you for the opportunity to provide these comments.

Sincerely,

Stephen Beverburg
Vice Chairman

cc: Airport Land Use Commission for Orange County
Caltrans/Division of Aeronautics

Exhibit C

Comment Letter from Aeronautics Program dated May 20, 2026

From: Akhtar, Ahmed@DOT <Ahmed.Akhtar@dot.ca.gov>
Sent: May 20, 2026 11:28 AM
To: Ung, Rosalinh
Cc: Friedman, Matthew L@DOT; Tabshouri, Tarek I@DOT; jfitch@ocair.com
Subject: Caltrans Aeronautics Response – Newport Beach Overrule Intent (PA2025-0196)
Attachments: Aeronautics Response_ City of Newport Beach Overrule May 2026.pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Dear Ms. Ung,

Attached is the Caltrans Division of Aeronautics response regarding the City of Newport Beach's intent to overrule the Orange County ALUC's inconsistency determination for the Newport Place Planned Community Development Plan (PC11) (Project PA2025-0196).

After reviewing Resolution No. 2026-27 and the associated Findings, Caltrans concurs with the ALUC's April 16, 2026 determination that the Project is inconsistent with the John Wayne Airport AELUP and recommends revisions to ensure compliance with applicable statutory and policy requirements.

Please let me know if any additional information is needed.

Sincerely,
Ahmed Akhtar

Ahmed Akhtar
Planner
Office of Aviation Planning
Division of Aeronautics
(916) 917-3477
Chat With Me on Teams!

California Department of Transportation

DIVISION OF AERONAUTICS - M.S. #40
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 654-4959
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TTY 711
www.dot.ca.gov

May 20, 2026

Ms. Rosalinh Ung
Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Electronically Sent:rung@newportbeachca.gov

Dear Ms. Ung:

The California Department of Transportation, Division of Aeronautics (Caltrans), supports cities, counties, and Airport Land Use Commissions (ALUC) in developing land use policies that promote public health, safety, and welfare near airports. We appreciate the opportunity to provide input on the City's proposed overrule of the Orange County ALUC determination.

On May 13, 2026, Caltrans received an email that included Resolution No. 2026-27 declaring an intent to overrule the ALUC's April 16, 2026, inconsistency determination for the proposed Newport Place Planned Community Development Plan (PC11) Project (PA2025-0196) (Project) with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA).

Caltrans has reviewed the proposed Findings and Facts in Support (Findings) provided by the City of Newport Beach (City) and the Staff Report from ALUC dated March 19, 2026, and the Inconsistency Determination letter dated April 16, 2026.

Based on the proposed Findings of Resolution No. 2026-27, Caltrans has determined that the Findings are not sufficient to warrant the proposed overrule. Specifically, the Findings do not appear to be consistent with the purposes of the statutes set forth in the California Public Utilities Code (PUC) sections 21670–21676.5, nor with the noise and safety criteria disseminated in the AELUP for the JWA. Caltrans concurs with the ALUC's determination that the City's Newport Place Planned Community (PC-11) Development Plan is inconsistent with the AELUP and recommends that the City revise its proposal to ensure full compliance with applicable statutory and policy requirements.

PUC Section 21675.1(f) states: "If a city or county overrules the commission pursuant to subdivision(d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit."

Pursuant to PUC Section 21676(a), Caltrans and ALUC comments shall be included in the public record of any decision to overrule the ALUC. If you have questions or we may be of further assistance, please contact me at ahmed.akhtar@dot.ca.gov or I can be reached at (916) 917-3477.

Sincerely,

Ahmed Akhtar
Aviation Planner
Caltrans Division of Aeronautics

c: Julie Fitch, Executive Director, ALUC Orange County, jfitch@ocair.com

Attachment C

March 19, 2026, Planning Commission Staff Report (without attachments)

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

March 19, 2026
Agenda Item No. 3

SUBJECT:	Newport Place Planned Community Development Plan Amendment (PA2025-0196)
SITE LOCATION:	Newport Place Planned Community (Generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North)
APPLICANT:	City of Newport Beach
PLANNER:	Rosalinh Ung, Principal Planner 949-644-3208 or rung@newportbeachca.gov

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PROJECT SUMMARY

An amendment to Newport Place Planned Community (PC-11) Development Plan to revise the minimum affordability percentage required within the Residential Overlay (Overlay) from 15% to 6% for for-sale residential projects.

RECOMMENDATION

1) Conduct a public hearing;

2) Find the Amendment is not subject to the California Environmental Quality Act (CEQA) under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA; and

3) Adopt Resolution No. PC2026-008, recommending approval of a Planned Community Development Planned Amendment to revise the minimum percentage of inclusionary housing applicable to for-sale housing within the Residential Overlay of PC-11 to the City Council (PA2025-0196) (Attachment No. PC 1).

INTRODUCTION

The Newport Place Planned Community (PC-11) is within Newport Beach's Airport Area and generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street, and Bristol Street North, as depicted in Figure 1 below. It was originally designed and planned in the early 1970s with clusters of office parks and industrial uses. Over time, the 145-acre area has evolved with light industrial uses being replaced by commercial offices and supporting retail and service uses. In 2006, the City of Newport Beach (City) added the introduction of the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification as a part of the 2006 General Plan Land Use Element, which created an opportunity for residential uses.



Figure 1, Boundary of the Newport Place Planned Community

On July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending the PC-11 Development Plan to create the Overlay, which is shown in Figure 2 on the following page. At the time, the Overlay was necessary to secure certification of the 4th Cycle Housing Element, as it had a greater potential to accommodate the City's Regional Housing Needs Assessment (RHNA) for lower-income households. The amendment implemented the 2006-adopted Mixed Use – Horizontal 2 (MU-H2) General Plan Land

Use category for parcels within PC-11. The Overlay included use and development standards for multi-unit residential projects and required 30% of the units in a development to be affordable to lower-income households for a minimum of 30 years. PC-11 is the only planned community in the Airport Area that requires inclusionary housing and with the highest percentage.

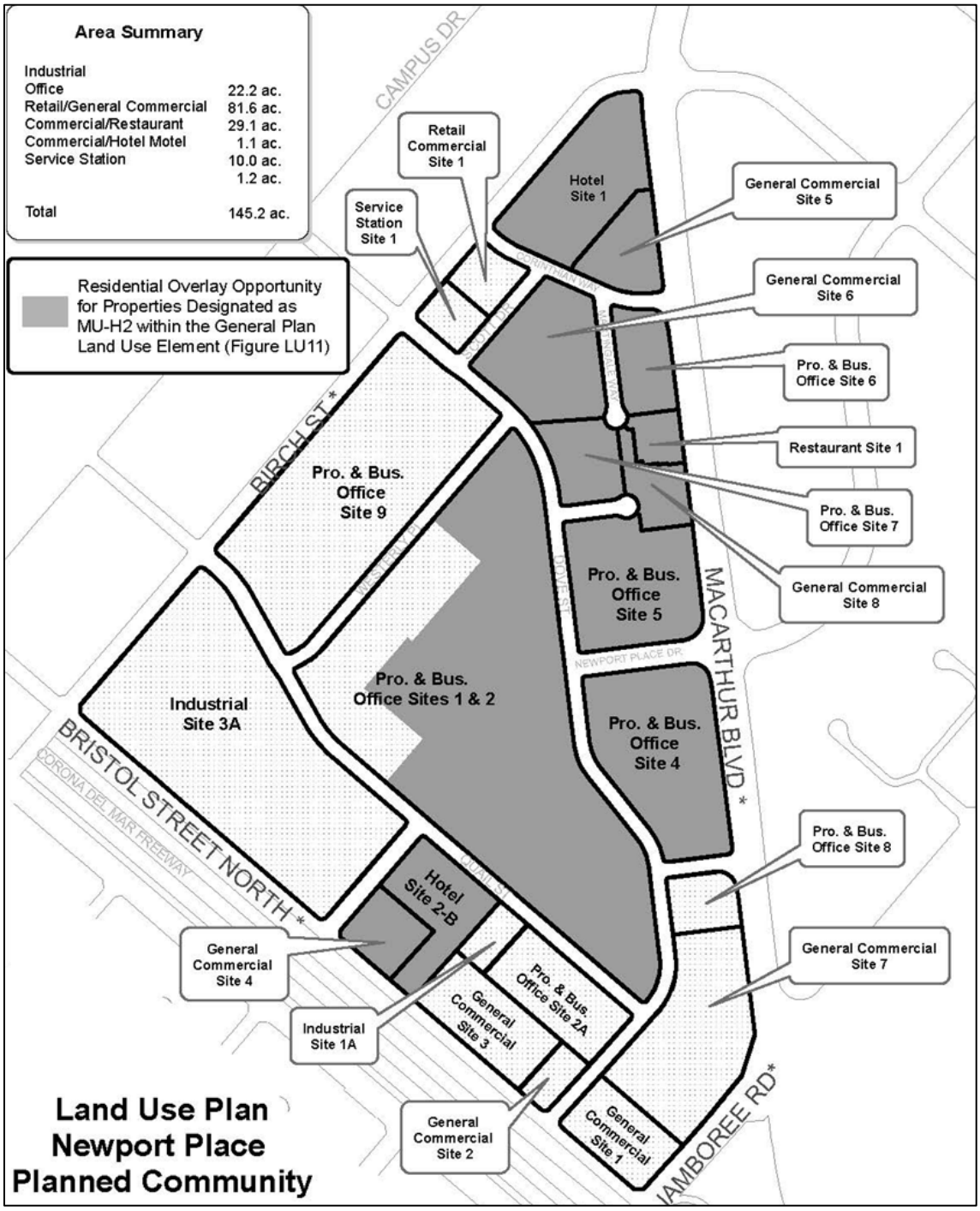


Figure 2, Residential Overlay boundaries, shown in grey

On September 13, 2022, the City Council adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 housing period (Housing Element), and it was certified by the State Department of Housing and Community Development (HCD) on October 5, 2022. The Airport Area Environs (Airport Area) is located near John Wayne Airport bounded by Jamboree Road, Campus Drive, and State Route 73 and one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City's planned housing capacity. In addition to the existing residential sites allowed by the 2006 General Plan Land Use Element and the Overlay of PC-11, a total of 31 new housing opportunity sites have been identified in the PC-11 per the Housing Element.

On July 25, 2023, the City Council adopted Ordinance No. 2023-13, reducing the minimum inclusionary affordable housing requirement (Inclusionary Requirement) of the Overlay from 30% to 15%. The amendment was deemed necessary to facilitate implementation of the Housing Element by mitigating potential governmental constraints through the reduction. Notably, the 15% Inclusionary Requirement is applicable to both for-sale and rental housing developments to facilitate construction of market-rate housing and affordable for all income groups.

On April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project (Residences at 1401 Quail Street) by Intracorp Homes (Intracorp) (PA2023-0040). This project is located within the Overlay and, as originally proposed, included the Inclusionary Requirement of 15%. Since project approval, representatives of Intracorp submitted a written request (Attachment No. PC 2) that the City consider lowering the Inclusionary Requirement for for-sale housing, as the approved project is no longer financially viable to implement.

On November 4, 2025, the City Council adopted Resolution No. 2025-77, initiating a possible amendment to PC-11 that would lower the minimum Inclusionary Requirement for for-sale housing within the Overlay, directing staff to conduct an analysis and recommend an appropriate percentage.

As part of continued efforts to study inclusionary requirements, City staff had already been working with Keyser Marston (KMA), a real estate advisory firm, which prepared an Inclusionary Housing: Financial Evaluation report, dated March 19, 2025. After the City Council's November 2025 initiation, KMA prepared an addendum to this report focusing on for-sale housing within the Airport Area.

Amendment Description

The proposed amendment would reduce the Inclusionary Requirement from 15% to 6% for for-sale housing developments within the Overlay (Amendment). No other changes are proposed, and no development would be directly authorized by the Amendment.

The existing Inclusionary Requirement of 15% affordable to lower-income households for a minimum of 30 years would remain in place for for-rent housing developments.

DISCUSSION

Analysis

The City has continuously evaluated a variety of policies and regulations to identify impediments and incentives to housing production to meet the Housing Element's substantial RHNA allocation. One of the tasks completed for the Overlay is the 2023 Amendment, which reduced the Inclusionary Requirement from 30% to 15% for any housing development.

As stated in the Housing Element, the median home values in Newport Beach are approximately 2.7 times higher than the median home value in Orange County, and the highest home values exhibited by the surrounding cities. Additionally, with today's rising construction costs and land values, the 15% Inclusionary Requirement is not financially feasible when applied to for-sale housing developments within the Overlay. This is documented by the Intracorp case, and validated by KMA's Airport Area Ownership Housing Development Addendum, dated January 22, 2026 (KMA Addendum). The KMA Addendum concluded that applying the Inclusionary Requirement of anything greater than 6% to for-sale housing developments in the Airport would likely be too high, rendering most for-sale residential projects financially infeasible.

Accordingly, City staff believes lowering the Inclusionary Requirement as applied to for-sale housing development would reduce this identified impediment and would also affirmatively further fair housing consistent with *Policy Action 4A: Affirmatively Furthering Fair Housing* provided in the Housing Element. The Amendment would be in furtherance of the Housing Element's implementation through alleviating a governmental constraint by reducing the 15% Inclusionary Requirement to 6% for for-sale housing developments. This reduction will help facilitate construction of for-sale housing within the Overlay, unless an alternative term is required to comply with State density bonus law.

Upon approval of the Amendment, Intracorp would submit an amendment to the Affordable Housing Implementation Plan (AHIP) for the Residences at 1401 Quail Street to reduce the affordable housing provided to 6% of the project.

Environmental Review

The Amendment is not subject to the California Environmental Quality Act (CEQA) under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of

Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in a physical change to the environment, directly or indirectly.

Public Notice

Notice of this hearing was published in the Daily Pilot and mailed to all owners of property within 300 feet of the boundaries of the Newport Place Planned Community (excluding intervening rights-of-way and waterways), consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Rosalinh Ung
Principal Planner

Submitted by:

Benjamin M. Zdeba, AICP
Acting Deputy Community Development Director

ATTACHMENTS

~~PC 1 Draft Planning Commission Resolution~~
~~PC 2 Intracorp Homes Letter of Request~~
~~PC 3 City Council Resolution No. 2025-77~~
~~PC 4 KMA Addendum, Dated January 22, 2026~~

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Attachment D

March 19, 2026, Planning Commission Minutes

Docusign Envelope ID: AA86559A-0384-8791-812F-AAE145E40E7D

applicant presents a more complete application with better detail on what is being requested. He stated that the County's language relative to the use of the Zenith Ave. driveway is not vague in any way, shape, or form, and questioned why the gate does not have a better locking mechanism. He added that the valid safety concerns are not relevant to this application as it is presented.

In response to Commissioner Rosene's inquiry, Traffic Engineer Riley stated that he is not aware of any high-level capital improvement plans for this stretch of Bristol St.

Commissioner Gazzano agreed with Assistant City Attorney Summerhill that the County's documentation is not vague as it relates to emergency vehicle only restrictions on the Zenith Ave. driveway, citing several examples, including the contemplated inclusion of bollards. He agreed with Commissioner Rosene that the applicant's safety concerns are not relevant to the application as written. He stated that he is inclined to support the application's denial.

Commissioner Reed stated that it can be difficult to mix residential and commercial properties and agreed with Commissioner Rosene's assessment of the application being incomplete. He agreed that the Bristol St. driveway is not ideal, particularly considering the low clearance. He encouraged the applicant to present a plan for safe deliveries and agreed with his peers that the County's intention of the Zenith Ave. driveway being for emergency access only is clear and should be continued. He agreed that the current situation at the Bristol St. driveway is unsafe and that consideration should be given to a proposal to relocate deliveries, but he supports denying the application as it stands.

Chair Harris agreed with his peers and stated that the intent of the County's plans was clear, adding that the final drawing for the Zenith Ave. driveway includes a heavy chain with a fire lock. He agreed that the safety concerns raised by the applicant and public speakers who work for the law firm are valid, adding that he would welcome a different version of this application. He noted that Bristol St. has changed into more of a highway than when the project was approved in the 1980s but added that Zenith Ave. was intended to demarcate the line between commercial and residential with no traffic flow.

Motion made by Chair Harris and seconded by Commissioner Reed to deny the application.

AYES:	Gazzano, Harris, Reed, Rosene, and Salene
NOES:	None
ABSTAIN:	None
ABSENT:	Ellmore, Langford

Chair Harris called for a recess at 7:22 p.m. The meeting resumed at 7:26 p.m.

ITEM NO. 3 NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PA2025-0196)
Site Location: Generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street, and Bristol Street North

Summary:

An amendment to Newport Place Planned Community (PC-11) Development Plan to revise the minimum affordability percentage required within the Residential Overlay (Overlay) from 15% to 6% for for-sale residential projects.

Docusign Envelope ID: AA86559A-0384-8791-812F-AAE145E40E7D

Recommended Actions:

1. Conduct a public hearing;
2. Find the Amendment is not subject to the California Environmental Quality Act (CEQA) under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA; and
3. Adopt Resolution No. PC2026-009 recommending approval of a Planned Community Development Planned Amendment to revise the minimum percentage of inclusionary housing applicable to for-sale housing within the Residential Overlay of PC-11 to the City Council PA2025-0196.

Chair Harris recused from the item due to a financial interest with a business partner in the area being studied. Vice Chair Salene ran the meeting in his absence.

Acting Deputy Community Development Director Ben Zdeba reported that the Newport Place Planned Community (PC-11) is in the John Wayne Airport (JWA) area and was established in the 1970s for businesses, office parks, and light industrial use, but those uses have since evolved. He added that housing has also been added to the area, starting with its inclusion in the 2006 Land Use Element update. He noted that a Residential Overlay was added to portions of PC-11 as part of the 4th Cycle of the City's Regional Housing Needs Allocation (RHNA). He added that the overlay required 30% of the housing units to be restricted to lower income for 30 years, but this was amended in 2023 to reduce the percentage to 15% to help the City meet its 6th Cycle RHNA figures, as 30% was viewed as an impediment to housing development. He noted that the 2023 change did not contemplate for-sale housing, only studying rental projects.

Acting Deputy Community Development Director Zdeba reported that the proposed amendment in this item was initiated by the City Council in November 2025 and would reduce inclusionary housing from 15% to 6% for for-sale housing in PC-11. He clarified that rental developments would remain at 15%. He added that the amendment is aligned with the Housing Element's Policy 4A, which affirmatively furthers fair housing by removing governmental constraints. He added that the amendment will also have to be presented to the Airport Land Use Commission (ALUC) prior to being brought to the City Council.

In response to Commissioner Gazzano's inquiry, Acting Deputy Community Development Director Zdeba confirmed that no in-lieu payments are included in this amendment.

In response to Commissioner Rosene's inquiry, Acting Deputy Community Development Director Zdeba clarified that "lower-income" encompasses low- and very-low-income but not moderate-income.

In response to Vice Chair Salene's inquiry, none of the Commissioners disclosed any ex parte communications on this item.

Vice Chair Salene opened the public hearing.

Mr. Mosher clarified that the full documentation defines "lower-income" as being low-income and very-low-income. He referenced a letter in the staff report from the developer of 1401 Quail St., whose project was approved at 15% affordable units, requesting that the percentage be lowered to 7.5%, but also does not expressly state that 15% is unfeasible. He questioned the logic behind lowering the percentage to 6%. He stated that it is unlikely any affordable housing would be developed without an inclusionary requirement, adding that PC-11 is close to JWA and one of Newport Beach's less desirable areas, making it a place where they might expect to generate affordable housing. He expressed concerns that the City will not meet its RHNA requirements.

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Vice Chair Salene closed the public hearing.

Commissioner Rosene stated that this is an area of the City where they are trying to focus on affordable housing generation. He stated that the negative impact of 15% to a developer is significant enough to lead to a reduction to 6%. He expressed his support for the amendment.

Commissioner Gazzano recommended including a clause about offering a developer 8% moderate-level income housing units as an option in addition to 6% at the lower income levels. He agreed that clarity could be added to the amendment about the specific affordability levels.

Commissioner Reed agreed with Commissioner Gazzano.

In response to Commissioner Reed's inquiry, Community Development Director Murillo clarified that PC-11's Residential Overlay was created to reduce barriers to the development of lower-income housing during the fourth RHNA cycle. He added that the study included in the staff report was conducted while looking into the feasibility of a potential Citywide inclusionary housing ordinance. He stated that City staff never anticipated the potential of for-sale housing in the JWA area, so it was not included in the original study, with the City's consultants later being asked to amend their original study to consider the feasibility of for-sale housing in PC-11.

Motion made by Commissioner Gazzano and seconded by Commissioner Rosene to approve the amendment with an addition of including the option of a minimum of 8% of for-sale units be designated for moderate-income, while clarifying that the 6% requirement is specifically for low-income and very-low-income.

AYES:	Gazzano, Reed, Rosene, and Salene
NOES:	None
ABSTAIN:	Harris
ABSENT:	Ellmore, Langford

Chair Harris returned to the meeting.

ITEM NO. 4 TOBACCO RETAILER BUSINESS AND CIGAR LOUNGE ORDINANCE (PA2025-0171)
Site Location: Citywide

Summary:

Consistent with the City Council's initiation on September 9, 2025, the proposed amendments to Title 5 (Business Licenses and Regulations), and Title 20 (Planning and Zoning) of the Newport Beach Municipal Code serve to establish comprehensive regulations related to permitting and operation for tobacco retail businesses and cigar lounges.

Recommended Actions:

1. Conduct a public hearing;
2. Find the Amendment is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment; and
3. Adopt Resolution No. PC2026-010 recommending the City Council approve the code amendments collectively filed as PA2025-0171 establishing comprehensive regulations for tobacco retailer businesses and cigar lounges.

Attachment E

Planning Commission Resolution No. PC2026-009

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

RESOLUTION NO. PC2026-009

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA RECOMMENDING THE CITY COUNCIL APPROVE AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM INCLUSIONARY FOR-SALE HOUSING PERCENTAGE REQUIRED WITHIN THE RESIDENTIAL OVERLAY (PA2025-0196)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Newport Place is a Planned Community (PC-11) in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, and originally designed in the early 1970s with clusters of office parks and industrial uses. The 145-acre area has evolved with light industrial uses being replaced over time with the commercial supported retail and office uses within the original design. The introduction of the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use classification as a part of the 2006 General Plan Land Use Element created an opportunity for residential uses.

2. On July 24, 2012, the City Council of City of Newport Beach ("City") adopted Ordinance No. 2012-14, amending the PC-11 to create the Residential Overlay (Overlay). The Overlay was necessary to secure certification of the 4th Cycle Housing Element as it had a greater potential to accommodate the City's Regional Housing Needs Assessment (RHNA). The amendment implemented the Mixed Use – Horizontal 2 (MU-H2) General Plan Land Use category adopted in 2006 for parcels within PC-11. The Overlay included use and development standards for multi-unit residential projects and required 30% of the units in a development to be affordable to lower-income households for a minimum of 30 years.

3. On September 13, 2022, the City adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 housing period, and it was certified by the State Department of Housing and Community Development ("HCD") on October 5, 2022. The Airport Area Environs ("Airport Area") is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units. At least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City's planned housing capacity. In addition to the existing residential sites allowed by the 2006 General Plan Land Use Element and the PC-11 Overlay, a total of 31 new housing opportunity sites have been identified in PC-11 per the 6th Cycle Housing Element.

4. On July 25, 2023, the City adopted Ordinance No. 2023-13, reducing the minimum inclusionary housing requirement of the Overlay from 30% to 15%. The amendment was necessary to implement the 6th Cycle Housing Element by mitigating potential governmental constraints. The 15% inclusionary housing requirement is applicable to both

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

for-sale and rental housing developments, facilitating construction of market-rate housing and affordability for all income groups.

5. On April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project, the Residences at 1401 Quail Street, by Intracorp Homes (PA2023-0040). This project is located within the Overlay and includes the required 15% of inclusionary housing. Intracorp Homes has since requested that the City consider lowering the required inclusionary percentage for for-sale housing, as the approved project is no longer financially viable to implement.

6. On September 24, 2024, the City adopted Resolution No. 2024-73, amending portions of Section 3 and 4 of the 6th Cycle Housing Element to remove the reference to Charter Section 423 as voter approval is precluded by state law.

7. On November 4, 2025, the City adopted Resolution No. 2025-77, initiating an amendment to PC-11 to lower the minimum percentage of inclusionary for-sale housing within the Overlay ("Amendment"), in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code ("NBMC").

8. A public hearing was held on March 19, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Sections 54950 *et seq.* of the California Government Code ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The Amendment is not subject to the California Environmental Quality Act ("CEQA") under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in a physical change to the environment, directly or indirectly.

SECTION 3. REQUIRED FINDINGS.

An amendment to PC-11 is a legislative act. Neither PC-11, Chapter 20.56 (Planning and Zoning, Planned Community District Procedures), nor Article 2 (Adoption of Regulations) of Chapter 4 (Zoning Regulations) of Division 1 (Planning and Zoning) of Title 7 (Planning and Land Use) of the California Government Code set forth any required findings for either approval or denial of the Amendment. Notwithstanding the foregoing, the Amendment is consistent with the following City of Newport Beach 6th Cycle Housing Element Policy and Policy Action:

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

Finding and Facts in Support of Findings:

Housing Policy 4.1

Housing Goal #4: Housing opportunities for as many renter- and owner-occupied households as possible in response to the market demand and RHNA obligations for housing in the City.

The Amendment would be a further step in the implementation of the 6th Cycle Housing Element by mitigating potential governmental constraints through the reduction of affordable housing percentage from 15% to 6% for very-low and low-income levels (collectively referenced as lower-income level) and 8% for moderate-income level, to facilitate construction of for-sale housing developments within the Overlay. According to the January 22, 2026 Airport Area Ownership Housing Development Addendum to the March 19, 2025, Inclusionary Housing: Financial Evaluation, prepared by Keyser Marston Associates for the City of Newport Beach, inclusionary housing percentages for for-sale housing greater than 6% for lower-income levels and 8% for the moderate-income level would likely render most for-sale residential projects financially infeasible to develop. Lowering the inclusionary percentage would reduce the potential impediment and would also affirmatively further fair housing, consistent with Policy 4.1: *Mitigate potential governmental constraints to housing production and affordability by increasing the City's role in facilitating construction of market-rate housing and affordable housing for all income groups,* and Policy Action 4A: *Affirmatively Furthering Fair Housing provided in the 6th Cycle Housing Element*.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this action is covered under Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, in accordance with the recitals under Section 2 of this Resolution.

2. The Planning Commission of the City of Newport Beach hereby recommends the City Council of Newport Beach adopt this amendment to the Newport Place Planned Community (PC-11) Development Plan to revise the minimum inclusionary for-sale housing percentage within the Overlay from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households, as attached hereto as Exhibit "A", and incorporated herein by reference.

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

PASSED, APPROVED, AND ADOPTED THIS 19TH DAY OF MARCH 2026.

AYES: Salene, Rosene, Gazzano and Reed

NOES: None

RECUSE: Harris

ABSENT: Ellmore and Langford

BY: Tristan Harris
Tristan Harris, Chair

BY: Jaime Murillo
Jaime Murillo, Ex-Officio Secretary

Attachments: Exhibit A - Amendment to Residential Overlay of Newport Place Planned Community (PC11)

Docusign Envelope ID: B8505851-8BE0-8EEB-8022-CE0999942584

EXHIBIT "A"

Newport Place Planned Community (PC11) Amendment

Amend Part III. Residential Overlay Zone, Section IV.A .3 to read as follows:

3. **The following options are available for affordable housing projects:**

    a. A minimum of 15 percent of the **for-rent** units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant;
    b. A minimum of 6 percent of the for-sale units within the residential development shall be affordable to lower-income households and subject to a 30-year affordability covenant; or
    c. A minimum of 8 percent of the for-sale units within the residential development shall be affordable to moderate-income households and shall be subject to a 30-year affordability covenant.

Attachment F

City Council Resolution No. 2026-27

RESOLUTION NO. 2026-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, NOTIFYING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION AND STATE DEPARTMENT OF TRANSPORTATION, AERONAUTICS PROGRAM OF THE CITY'S INTENTION TO FIND THAT AN AMENDMENT TO THE NEWPORT PLACE PLANNED COMMUNITY DEVELOPMENT PLAN (PC-11) TO REVISE THE MINIMUM INCLUSIONARY FOR-SALE HOUSING PERCENTAGE REQUIRED WITHIN THE RESIDENTAL OVERLAY IS CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE AMENDMENT IS INCONSISTENT WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2025-0196)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, Newport Place is a Planned Community ("PC-11") in the Airport Area, generally bounded by MacArthur Boulevard, Jamboree Road, Birch Street and Bristol Street North, and originally designed in the early 1970s with clusters of office parks and industrial uses;

WHEREAS, on July 24, 2012, the City Council adopted Ordinance No. 2012-14, amending the PC-11 to create the Residential Overlay ("Overlay") which was necessary to secure certification of the 4th Cycle Housing Element as it had a greater potential to accommodate the City's Regional Housing Needs Assessment ("RHNA");

WHEREAS, the amendment to PC-11 included use and development standards for multi-unit residential projects including a requirement that 30% of the units in a residential development be affordable to lower-income households for a minimum of 30 years;

City of Newport Beach

WHEREAS, on September 13, 2022, the City adopted Resolution No. 2022-60, approving the 6th Cycle Housing Element for the 2021-2029 period, which was subsequently certified by the State Department of Housing and Community Development ("HCD") on October 5, 2022;

WHEREAS, the Airport Area Environs ("Airport Area") is one of the five focus areas where new housing opportunity sites are identified to satisfy the RHNA allocation of 4,845 new housing units;

WHEREAS, at least 2,577 housing units are planned for the Airport Area, which comprises approximately 25% of the City's planned housing capacity;

WHEREAS, on July 25, 2023, the City adopted Ordinance No. 2023-13, reducing the minimum inclusionary housing requirement of the Overlay from 30% to 15% for both for-sale and rental housing developments;

WHEREAS, the reduction in inclusionary requirement was necessary to mitigate potential governmental constraints and facilitate construction of market-rate housing and affordability for all income groups;

WHEREAS, on April 9, 2024, the City Council approved the necessary land use entitlements for the development of a 67-unit condominium project, the Residences at 1401 Quail Street, by Intracorp Homes (PA2023-0040) which is within the Overlay;

WHEREAS, the Intracorp Homes project is located within the Overlay and includes the 15% inclusionary requirement;

WHEREAS, Intracorp Homes has since requested that the City consider lowering the required inclusionary percentage for for-sale housing, as the approved project is no longer financially feasible;

WHEREAS, on September 24, 2024, the City adopted Resolution No. 2024-73, amending portions of Section 3 and 4 of the 6th Cycle Housing Element;

WHEREAS, on November 4, 2025, the City adopted Resolution No. 2025-77, initiating an amendment to PC-11 to lower the minimum percentage of inclusionary for-sale housing within the Overlay ("Amendment"), in accordance with Section 20.56.050(E) (Development Plan Amendments) and Section 20.56.050(B) (Development Plan) of the Newport Beach Municipal Code ("NBMC");

City of Newport Beach

WHEREAS, a public hearing was held by the Planning Commission on March 19, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2026-009 (4 ayes, 1 recusal, 2 absent), recommending the City Council approve the Amendment to reduce the minimum inclusionary for-sale housing percentage within the Overlay from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households;

WHEREAS, California Public Utilities Code ("CPUC") Section 21676(b) requires the City to refer the Amendment to the Orange County Airport Land Use Commission ("ALUC") to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan ("AELUP");

WHEREAS, on April 16, 2026, the ALUC determined (5 ayes, 1 vacancy, 1 absent) the Amendment is inconsistent with the following provisions of the AELUP:

a. Section 2.1.1 (Aircraft Noise), which provides that the "aircraft noise emanating from airports may be incompatible with general welfare of the inhabitants within the vicinity of an airport";

b. Section 2.1.2 (Safety Compatibility Zones), which provides that the "purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA";

c. Section 2.1.4 (Air Transportation) and CPUC Section 21674, which state that the Commission is charged by CPUC Section 21674(a) "to assist local agencies in ensuring compatible land uses in the vicinity of ... existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses," and CPUC Section 21674(b) "to coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare"; and

City of Newport Beach

d. Section 3.2.1 (General Policy), which provides that “Within the boundaries of the AELUP, any land use may be found to be Inconsistent with the AELUP which places people so that they are affected adversely by aircraft noise”;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule the ALUC with a two-thirds vote, if the Council makes specific findings that the Amendment is consistent with the purpose of Section 21670 of the CPUC to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses; and

WHEREAS, the City Council held a public hearing on May 12, 2026, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b) and the Ralph M. Brown Act. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council finds that the Amendment is consistent with the purposes of Section 21670 of the CPUC and the AELUP to protect the public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

Finding Facts in Support of Findings

A. The Amendment is consistent with the noise standards of the AELUP.

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport ("JWA”) and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

City of Newport Beach

Section 2.1.1 of the AELUP sets forth the CNEL standards, and Sections 3.2.3 and 3.2.4 of the AELUP define the noise exposure in the 60 dBA to 65 dBA CNEL noise contour (Noise Impact Zone 2) as "Moderate Noise Impact." Section 3, Table 1 (Limitations on Land Use Due to Noise) of the AELUP identifies residential uses as "normally consistent" for the 60 dBA CNEL noise contour. The Overlay is located within the 60 dBA and 65 dBA CNEL noise contours as shown on the City's updated noise contour maps as part of the 6th Cycle Housing Element Implementation Noise - Related Amendments and the 60 dBA and 65 dBA noise contours as shown on the AELUP. As currently set forth in the Overlay, residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour, unless and until the City determines, based on substantial evidence, that the sites wholly within the 65 dBA contour area are needed for the City to satisfy its 6th Cycle RHNA mandate and shall be required to comply with the development standards set forth in Section 20.30.080(F) (Residential Use Proximate to John Wayne Airport) of the NBMC.

B. The Amendment is consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. Allowed uses in Safety Zone 6 include residential and most nonresidential uses, except outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence.

The Overlay is located within Safety Zone 6 and residential uses are allowed in this zone. The City's General Plan Safety Element Policy S 8.6 (John Wayne Airport Traffic Pattern Zone) demonstrates that the City acknowledges the importance of the JWA Safety Zones: *"Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/ Runway Protection Zone (Figure S5) should be evaluated to minimize the risk to life and property associated with aircraft operations."*

The Amendment complies with the policies and regulations within the JWA Airport Planning Area and follows the safety standards of the AELUP as it is located within Safety Zone 6 and is not within the JWA Clear Zone/ Runway Protection Zone.

C. The Amendment is consistent with the purpose and intent of the AELUP and will not result in incompatible land uses adjacent to JWA.

City of Newport Beach

The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems and are also included in PC-11. The Amendment seeks to revise the minimum affordability housing percentage for for-sale residential development within the Overlay, from 15% to 6% for lower-income households (i.e., very-low and low) and 8% for moderate-income households. No other changes are proposed.

Section 2: Based on the foregoing finds, the City Council proposes to overrule the ALUC's determination that the Amendment is inconsistent with the AELUP.

Section 3: The City Council hereby directs City staff to provide the ALUC and State Department of Transportation, Aeronautics Program, with notice of the City's proposal to overrule the ALUC's determination of inconsistency for the Amendment.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Specifically, the resolution does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment because it is limited to the City's proposal to overrule the ALUC's determination and does not commit the City to approve the Amendment. The Amendment will be independently reviewed and evaluated pursuant to CEQA.

City of Newport Beach

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 12th day of May, 2026.

Lauren Kleiman
Mayor

ATTEST:

Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

City of Newport Beach

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Lena Shumway, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing Resolution No. 2026-27 was duly adopted by the City Council of said City at a regular meeting held on the 12th day of May, 2026, by the following vote, to wit:

AYES: Mayor Pro Tem Noah Blom, Councilmember Michelle Barto, Councilmember Robyn Grant, Councilmember Sara J. Weber, Councilmember Erik Weigand
NAYS: None
RECUSED: Mayor Lauren Kleiman, Councilmember Joe Stapleton

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 13th day of May, 2026.

Lena Shumway
City Clerk
City of Newport Beach, California

City of Newport Beach

Attachment G

ALUC and State Department of Transportation, Aeronautics Program Letters

AIRPORT LAND USE COMMISSION
FOR ORANGE COUNTY
3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

June 11, 2026

Rosalinh Ung, Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission Determination Regarding the Amendment to Newport Place Planned Community Development Plan (PC-11) (PA2025-0196)

Dear Ms. Ung,

We are in receipt of the City of Newport Beach (City) letter dated May 13, 2026, and City Council Resolution No. 2026-27 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed Amendment to the Newport Place Planned Community Development Plan (PC-11) related to the minimum inclusionary for-sale housing percentage required within the Residential Overlay (PA2025-0196). In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On April 16, 2026, the ALUC for Orange County found the proposed Newport Place Planned Community Development Plan (PC-11) Amendment related to Affordable Housing Percentage in Residential Overlay (PA2025-0196) to be inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*. The inconsistency determination was based on *AELUP* Sections 2.1.1, 2.1.2, 2.1.4, PUC Section 21674, and Section 3.2.1.

Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the *AELUP* is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the *AELUP* seeks to protect the public from the adverse effects of aircraft noise, to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Additionally, Section 2.1.4 of the *AELUP for JWA* and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. The current PC-11 Development Standards no longer contain the same airport noise compatibility limitation that supported the ALUC's prior consistency determination in July 2023. The proposed Amendment also relies on the 2014 Settlement Agreement/EIR 617 noise contours rather than the noise contours adopted in the *AELUP for JWA*. Because those contours have not been adopted by ALUC or incorporated into the *AELUP for JWA*, the City's proposed actions are inconsistent with the *AELUP for JWA*.

ALUC has the following additional comments regarding the findings included in Resolution No. 2026-27 and the facts provided in support of those findings.

Response to Finding A - Regarding Noise Standards:

Finding A states that the Amendment is consistent with the noise standards of the *AELUP* because the Residential Overlay is located within the 60 dBA and 65 dBA CNEL noise contours and residential uses are identified as "normally consistent" within the 60 dBA CNEL noise contour. Finding A further provides that residential development shall be limited to parcels wholly or partially outside the 65 dBA CNEL noise contour unless and until the City determines, based on substantial evidence, that sites wholly within the 65 dBA contour area are needed to satisfy the City's 6th Cycle RHNA mandate.

The ALUC acknowledges that residential uses may be identified as normally consistent within the 60 dBA CNEL noise contour. However, unlike the amendment considered by ALUC in July 2023, the current PC-11 Development Standards no longer contain the airport noise compatibility limitation that supported the prior consistency determination.

For purposes of ALUC review, the applicable noise contours are those contained in the adopted *AELUP for JWA*. A consistency analysis cannot be based on different or updated noise contours unless those contours have been incorporated into the *AELUP*. Because the proposed Amendment relies on the 2014 Settlement Agreement/EIR 617 noise contours, and because the current PC-11 Development Standards no longer contain the prior airport noise compatibility limitation, the proposed Amendment remains inconsistent with the *AELUP for JWA*.

Response to Finding B - Regarding Safety:

Pursuant to *AELUP* Section 2.1.2, "[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility

and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA."

Finding B states that the Residential Overlay is located within Safety Zone 6, that residential uses are allowed in this zone, and that the Amendment is not within the JWA Clear Zone/Runway Protection Zone. The ALUC acknowledges that the Residential Overlay is located within Safety Zone 6 and outside Safety Zone 3. However, the fact that residential uses may be allowed in Safety Zone 6 does not end the compatibility analysis, particularly where aircraft overflight, proximity to JWA, and noise compatibility remain relevant considerations.

Newport Place Planned Community is located within Safety Zone 6 – Traffic Pattern Zone, with a small portion also within Safety Zone 3 – Inner Turning Zone. Flight tracks included in the ALUC staff report show numerous general aviation flights over the Newport Place Planned Community, including one day of Reverse Flow operations. Considering the applicable Safety Zones, proximity to JWA, and aircraft overflight activity, safety and land use compatibility remain relevant considerations for this Amendment.

Response to Finding C - Regarding Purpose and Intent of the AELUP and Compatibility with Adjacent Land Uses:

Finding C states that the Amendment is consistent with the purpose and intent of the *AELUP* and will not result in incompatible land uses adjacent to JWA because it would revise only the minimum affordability housing percentage for for-sale residential development within the Overlay, from 15 percent to 6 percent for lower-income households and 8 percent for moderate-income households, and no other changes are proposed.

By virtue of *AELUP for JWA* Sections 1.2 "Purpose and Scope" and 2.0 "Planning Guidelines," the ALUC understands the complex legal charge to protect public airports from encroachment by incompatible land use development, while simultaneously protecting the health, safety and welfare of citizens who work and live in the airport's environs. To this end, and as also statutorily required, ALUC proceedings are benefited by several members having expertise in aviation.

Although the proposed Amendment is limited to the affordable housing percentage, it applies within a Residential Overlay that no longer contains the same airport noise compatibility limitation that supported the prior ALUC consistency determination. Therefore, while the Amendment does not directly modify the Residential Overlay boundaries or other development standards, it would further facilitate for-sale residential development under standards that ALUC found inconsistent with the *AELUP for JWA*. Based upon careful consideration of all information provided, the applicable *AELUP* policies, the ALUC-adopted noise contours for JWA, and input from ALUC members with expertise in aviation, the ALUC found the proposed PC-11 Amendment to be inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC's concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. Thank you for the opportunity to provide these comments.

Sincerely,

Stephen Beverburg
Vice Chairman

cc: Airport Land Use Commission for Orange County
Caltrans/Division of Aeronautics

From: Akhtar, Ahmed@DOT <Ahmed.Akhtar@dot.ca.gov>
Sent: May 20, 2026 11:28 AM
To: Ung, Rosalinh
Cc: Friedman, Matthew L@DOT; Tabshouri, Tarek I@DOT; jfitch@ocair.com
Subject: Caltrans Aeronautics Response – Newport Beach Overrule Intent (PA2025-0196)
Attachments: Aeronautics Response_ City of Newport Beach Overrule May 2026.pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Dear Ms. Ung,

Attached is the Caltrans Division of Aeronautics response regarding the City of Newport Beach's intent to overrule the Orange County ALUC's inconsistency determination for the Newport Place Planned Community Development Plan (PC11) (Project PA2025-0196).

After reviewing Resolution No. 2026-27 and the associated Findings, Caltrans concurs with the ALUC's April 16, 2026 determination that the Project is inconsistent with the John Wayne Airport AELUP and recommends revisions to ensure compliance with applicable statutory and policy requirements.

Please let me know if any additional information is needed.

Sincerely,
Ahmed Akhtar

Ahmed Akhtar
Planner
Office of Aviation Planning
Division of Aeronautics
(916) 917-3477
Chat With Me on Teams!

California Department of Transportation

DIVISION OF AERONAUTICS - M.S. #40
1120 N STREET
P. O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 654-4959
FAX (916) 653-9531
TTY 711
www.dot.ca.gov

May 20, 2026

Ms. Rosalinh Ung
Principal Planner
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Electronically Sent:rung@newportbeachca.gov

Dear Ms. Ung:

The California Department of Transportation, Division of Aeronautics (Caltrans), supports cities, counties, and Airport Land Use Commissions (ALUC) in developing land use policies that promote public health, safety, and welfare near airports. We appreciate the opportunity to provide input on the City's proposed overrule of the Orange County ALUC determination.

On May 13, 2026, Caltrans received an email that included Resolution No. 2026-27 declaring an intent to overrule the ALUC's April 16, 2026, inconsistency determination for the proposed Newport Place Planned Community Development Plan (PC11) Project (PA2025-0196) (Project) with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA).

Caltrans has reviewed the proposed Findings and Facts in Support (Findings) provided by the City of Newport Beach (City) and the Staff Report from ALUC dated March 19, 2026, and the Inconsistency Determination letter dated April 16, 2026.

Based on the proposed Findings of Resolution No. 2026-27, Caltrans has determined that the Findings are not sufficient to warrant the proposed overrule. Specifically, the Findings do not appear to be consistent with the purposes of the statutes set forth in the California Public Utilities Code (PUC) sections 21670–21676.5, nor with the noise and safety criteria disseminated in the AELUP for the JWA. Caltrans concurs with the ALUC's determination that the City's Newport Place Planned Community (PC-11) Development Plan is inconsistent with the AELUP and recommends that the City revise its proposal to ensure full compliance with applicable statutory and policy requirements.

PUC Section 21675.1(f) states: "If a city or county overrules the commission pursuant to subdivision(d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit."

Pursuant to PUC Section 21676(a), Caltrans and ALUC comments shall be included in the public record of any decision to overrule the ALUC. If you have questions or we may be of further assistance, please contact me at ahmed.akhtar@dot.ca.gov or I can be reached at (916) 917-3477.

Sincerely,

Ahmed Akhtar
Aviation Planner
Caltrans Division of Aeronautics

c: Julie Fitch, Executive Director, ALUC Orange County, jfitch@ocair.com

July 14, 2026, City Council Agenda Comments

The following comments on items on the Newport Beach City Council agenda are submitted by:
Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item IV. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

The Council is apparently being asked to consider having staff prepare, for consideration at a future meeting, resolutions taking a position on four statewide propositions expected to appear on the November 3, 2026, ballot. I consider such things a waste of public resources. Not only is the world unlikely to note or long remember the positions taken by the Council, but the resolutions, if prepared, will represent only the preferences of a majority of the seven people on the Council, and not the views of the city's residents (which the Council has no way of knowing).

Item 1. Approval of Minutes

The passages shown in *italics* below are from the draft minutes of the June 23, 2026, Regular City Council Meeting, with suggested corrections shown in ***~~strikeout~~*** ***underline*** format. The draft minutes have been posted as a 9-page PDF without page numbers. The page numbers below refer to the position in the PDF.

> **Page 3**, Council Announcements, paragraph 2: "*Councilmember Barto reported attending the Lifeguard All-Hands meeting, the Newport Beach Junior Guards Summer Kickoff, and the* ***~~Oasis~~*** ***OASIS*** *Senior Center Wine and Cheese event.*"
>
> **Page 4**, Item IV. CONSENT CALENDAR:
>
> > **Comment**: Starting with this page, the minutes have been shortened by listing the Consent Calendar items, with the exception of Item 1, by title only, omitting the description of what action(s) were recommended and taken under those titles. This creates a problem in that for what is likely the first time in the City's history, the minutes will not provide a record of those actions. For example, Item 5 (Community Programs Grants, Community Event Assistance and Strategic Sponsorship Recommendations for Fiscal Year 2026 - 27) appears in a section titled "Resolutions for Adoption." One might reasonably assume one or more resolutions were approved under that title. But the minutes give no hint as to which one(s) might have been approved. Similarly, Item 15 (Irrigation Controllers Replacement Phase 4 Award of Contract No. 10128-1) gives no hint of who the contract was awarded to, or in one amount. And Item 20 (Appointments to Police Headquarters Advisory Committee) gives no hint of who was appointed. This new approach seems fundamentally inconsistent with responsibility placed on the City Clerk by City Charter Subsection 603(a) "*for the recording and maintaining of a* ***full*** *and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose*." A record that fails to reflect such essential details of the Council's core actions would not seem to be a "full" record.

Page 8, Item 22, paragraph 1, sentence 3: "~~*A*~~ ***The*** *General Plan Advisory Committee and Steering Committee collectively met over 100 times and voted 25–1 to support the draft*."

Page 9, Item 23, paragraph 3: "*Jim Mosher noted that for properties within the City's pre-November 1, 1996 boundaries receiving curbside refuse service, Municipal Code Section* ~~***604.14***~~ ***6.04.140*** *may require that the cost of collecting and disposing of recyclables be covered entirely by ad valorem tax revenue, suggesting a supplemental recycling charge for such properties could be legally questionable*."

Item 2. Ordinance No. 2026-07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

49 pages of new code (plus 33 pages of administrative standards and 47 pages of "master license agreement") is quite a lot to review. Like most first drafts the City produces, I feel this is a product that needs more discussion and revision before adoption.

While I appreciate the chance of influencing it is small, in the following I will try to separate the biggest problems I see with it from the many lesser ones.

Principal Comments

1. The staff report from when this was introduced on June 9 said the structure of the ordinance was modeled after that of Santa Monica. While Santa Monica segregated applications in the public right-of-way from those on other property, and this follows suit with PROW applications handled in proposed new Chapter 13.22 and other applications in a revised Chapter 20.49, the biggest concern I have is with the proposed novel introduction in proposed Subsection 20.49.030.B.6 of an exemption from regulation of applications for telecom sites on city-owned land and City-held trust property. For a city that values local control, this creates a gaping hole in regulation and is more than a bit strange to see. An application to construct a freestanding tower in the middle of a park or next to a playground or in the Central Library entryway, would fall under neither Chapter 13.22 (since it is not in the PROW) nor under Chapter 20.49 (since this new provision exempts it). If this were adopted as written, it would be subject only to a rental agreement negotiated by the City Manager pursuant to Council Policy L-23. And I can hear it now: "Our hands were tied. We don't like it, but Federal law required us to approve whatever was applied for" (because we have no local standards it would violate). Shouldn't we want to retain control over installations in City parks, on City buildings and in public plazas? Santa Monica did not do this. Why would we?
2. The second major concern I have is with the introduction in the revised Chapter 20.49 of a new non-appealable "Administrative Clearance" for approving certain applications. First, it would seem the ordinance fails to integrate it into the overall structure of Title 20, where one would expect to find it included in Table 5-1 of Chapter 20.50. More importantly, the definition in proposed Section 20.49.020 mischaracterize it as "a ministerial, non-discretionary approval" for Class 1 (stealth) and 6409(a) (minor changes) facilities. But the decision of what is, or is not, "stealth" is not an entirely objective one.

Proposed Section 20.49.070.B.1.c retains the existing requirement that the enclosure chosen be "architecturally compatible with the existing structure or building." Like some of the decisions required to approve a "Zoning Clearance," that is a judgement regarding which reasonable people can differ. Non-objective judgement is needed to decide compliance with many of the more general Design Standards of Section 20.49.070.A. Likewise, to be eligible for "6409(a)" processing, the proposed changes cannot disrupt the original concealment plan or most conditions of the original approval. That too is subjective. Zoning Clearances are appealable, why would "AC"'s not be?

3. A significant feature of the proposed new Chapter 13.22 seems to be the availability of "Master License Agreements." It is concerning to me that the code does not appear to establish any requirements for their content nor define how or by whom they become approved (proposed Section 13.22.050.C indicates a template will be approved by the City Council, but I cannot find the procedure by which the actual agreements get signed).
4. Similarly, proposed Section 20.49.030.C requires applications for 6409(a) facilities on private property to be approved by an "AC," but no process or criteria for doing that is defined (in contrast to the process proposed to be needed when the Public Works Director faces a similar decision in Section 13.22.090.
5. It is also concerning that per Section 13.22.230, decisions by the Public Works Director, which will apparently be posted on the City website, can be appealed by the telecom applicant, but by no one else.
6. Staff may consider this minor, but I do not: the opening clause proposed Subsection 20.49.030.B (Exempt Facilities) is missing the word "not" (in "shall not apply"), without which the subsection's intent is unintelligible.

Minor Comments

1. I continue to wonder why the City does not allow the installation of small wireless equipment on traffic standards, which would often seem the least intrusive location since they are already festooned with other equipment. Should the Council reconsider this restriction?
2. I also wonder why the Section 20.49.020 definition of "Class 1 (Stealth/Screened)" facilities seems to restrict them to nonresidential buildings, even though Section 20.49.040.B.2 would seem to allow wireless facilities on properties zoned for residential buildings of more than five units. Why would we allow facilities on them, but not encourage them to be stealth?
3. It is similarly unclear whether the determination of whether wireless facilities are allowed or prohibited on a property should be based on its zoning or on its actual land use at the time of the proposal.
4. The June 9 staff report referred to "Community Input" received at a meeting with "concerned residents" resulting in some modifications to what had been considered b the Planning Commission. I do not believe this was an open or advertised meeting, and am concerned staff wrote this without actively seeking any other community input.

5. The preamble to the ordinance includes what has become boilerplate in Newport Beach ordinances since about 2020, to the effect that "*WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California ("State")*." Although frequently repeated, this is incorrect. Charter Section 200 actually vests those powers in "the City," not the "City Council." It is Section 405 which vests in the Council "*All powers of the City … **except** as otherwise provided in this Charter*." And the exceptions are fairly large. For example, various powers are vested in the appointed officers, and the Council is prohibited from interfering with the City Manager's administration of the City staff.
6. The ordinance frequently refers to "Section 6409(a)," yet gives the lay reader no hint of what the term entails. Couldn't some explanation have been included in the definition?
7. The definitions in proposed Chapter 13.22 include references to requirements on "towers other than towers in the public rights-of-way." Isn't it confusing to include that in code meant to apply only to towers in the public rights-of-way?
8. In proposed Section 13.22.070, is there a limit on how much time staff can take to notify an applicant their submission is incomplete?
9. Proposed Section 13.22.160 seems to be saying that if the City needs to use a previously-permitted location, the occupant is automatically authorized to install a new pole of their own within 500 feet of the old location. Shouldn't there be a priority on using existing poles before a new one is authorized?
10. There are obvious typographical errors at the end of proposed Section 13.22.200.B and the start of 13.22.200.C.
11. After missing a "not" in the opening clause, the list following Section 20.49.030.B has inconsistent grammar (singular vs. plural).
12. The list should also be checked for consistency with Section 3.2.4 of the proposed Public Works standards, which exempt a "*Personal wireless service facility or 6409(a) facility used solely for wireless-based reading of water, gas, or electric meters*" (not just electric).
13. The opening sentence of proposed Section 20.49.050 says "Unless exempted pursuant to Section 20.49.030(B)" twice.
14. I have many more comments, but am up against the new 4:00 p.m. deadline for submitting them!

Item 4. Ordinance No. 2026-09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor

This ordinance was introduced as Item 3 on the June 23 consent calendar, and is now scheduled for adoption on the present consent calendar, which means the proposed code changes will be made with no public discussion by the Council, and possibly no review by its members.

This increasing practice of adopting ordinances without Council discussion of what they intend to accomplish and whether the proposed code language achieves the stated purpose is a problem. It frequently leads to the adoption of poorly-written provisions whose intent is unclear or whose language literally says something different from the intent suggested in the staff report. That, in turn, results in laws that will be selectively enforced, not enforced as written, or enforced differently than written, and that would likely not stand up if challenged in court. They do not result in just or predictable outcomes.

In the present case, I have seen written comments from Adam Leverenz questioning the way two of the proposed code sections are written. I agree they are problematic.

Adam's concerns relate to the proposed revisions to existing NBMC Sec. 17.25.020.H.3 (Vessel Condition—Public Nuisance) found on Page 9 of 11 of the proposed ordinance. The existing code declares the following to be a nuisance: "*m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay*." That is proposed to be revised, and two new subsections ("n." and "o.") are proposed to be added.

The present staff report does not disclose what the intent of the revision and additions is. Page 2 of the June 23 staff report provides this description of the proposed changes, but does not disclose what problem is being addressed or how the described changes will solve it: "*NBMC Section 17.25.020(H)(3) defines what constitutes a public nuisance as it relates to the condition of a vessel in Newport Harbor. The proposed revisions will make it a public nuisance for any vessel docked, moored or anchored in Newport Harbor to have a portable or permanently installed marine sanitation device that is not operable or connected to an internal holding tank. Additionally, improvised waste containment methods such as buckets or bags will be prohibited.*"

To discover what the changes are attempting to accomplish, one has to go back to Attachment A to a staff report provided to the Harbor Commission as Item 6.3 at their February 11, 2026, meeting. It says: "*This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that* ***any vessel on which a person stays aboard overnight*** *be equipped with either a legitimate portable marine sanitation device (MSD) — compliant with U.S. Coast Guard and California State Parks Division of Boating and Waterways standards —* ***or*** *a permanently installed and operable marine sanitation system. The use of non-compliant, improvised waste containment methods,* ***such as buckets****, will not be considered acceptable. … Ensuring that all* ***overnighting vessels*** *are equipped with appropriate sanitation systems reinforces the City's long-standing commitment to a clean, safe, and sustainable harbor environment for all users.*"

As Adam points out: (1) the applicability is intended to be limited to vessels on which people are actually staying overnight, (2) for those, a "portable marine sanitation device"[1] is intended to be an alternative to a permanently installed system, and (3) those proposing this had specific examples of "improvised waste containment methods" in mind.

None of this is evident from the proposed code.

Instead, the proposed revisions to subsection "m." add a new prohibition on use of self-contained portable waste disposal units unless it can be connected to a holding tank, which most cannot. How that is intended to help the harbor is unclear.

The proposed new subsection "n.", intended to address overnight stays, now imposes a new requirement to have such a compliant device not just on vessels being used for overnight stays, but on any vessel capable of accommodating an overnight stay, or even just anchoring in the harbor. That would appear to impose the requirement on a large fraction of the boats in the harbor, whether an overnight stay on them is contemplated or not.

The proposed new subsection "o." prohibits "The use of improvised waste containment methods for human or animal excreta," without providing any guidance as to what methods might be regarded as "improvised." I believe other sections of Title 17 allow washing bird and sea lion waste off boats, but to the best of my knowledge, something like a pet dog aboard for a while would be difficult to potty train. What methods of containing its waste would not need to be "improvised"?

Why would the Council wish to adopt such poorly-crafted laws?

Item 5. Approval of a Professional Services Agreement with Arts Orange County to Manage Phase XI of the Sculpture Exhibition in Civic Center Park

Section 1 of the contract indicates it will run through July 31, 2030.

Yet the Capital Improvement Program the Council adopted as part of Item 19 on June 9 anticipates in FY2028-2029 the award of a construction contract for a new Police Headquarters, quite possibly in the same Civic Center Park where the Sculpture Exhibition that is the subject of this contract is expected to take place. Shouldn't the possibility of that conflict be acknowledged in this contact and in Council discussion of it?

In this 11th iteration of the contract, there seems also to be scant attention to its continuing no-bid, sole-source nature. The predictable result is that staff and the contractor settle into a comfortable pattern lacking innovation, despite anemic public participation in the poll through

[1] The term "marine sanitation device" does not appear to be defined in Title 17. It seems to be used at times as a euphemism for what landlubbers would call a toilet, although technically the term refers not to the toilet, but to the device to which the toilet is connected to process and store the waste collected. A holding tank is one type of MSD (a "Type III"). The other two types treat the waste for discharge. Connecting an MSD to a holding tank would appear to be a misnomer, since the holding tank, not the toilet, *is* the MSD. A "portable MSD" would seem to be by definition a self-contained unit not intended to be permanently attached to a boat, and quite likely with no mechanism for connecting to a holding tank.

which the entries to be exhibited are selected (fewer than 250 residents voting out of a population of 83,000).

As to that selection process, the vendor continues to recommend, as they always do, that three outside jurors, along with the seven City Arts Commissioners, whittle the entries received (usually about 80) down to just 30 or so for the public to vote on, despite that process having been shown to do nothing other than prevent the public from seeing entries they might prefer to those presented to them. One might guess there are better ways, but there is no incentive to change.

Item 11. Planning Commission Agenda for the July 9, 2026, Meeting

As the report will show, the Commission continues to approve market rate housing projects in the area of the city that has historically been regarded as the one most suitable for affordable housing projects.

This approval is particularly troubling because staff appears to have determined, for reasons that were not explained, that the existing affordability requirement, which is the subject of Item 13 on this Council agenda, does not apply to this property, apparently because it was designated as a “Housing Opportunity” site.

In any event, the applicant applied for 139 of the 8,174-unit total of “housing opportunity overlays” the Council added to the General Plan without a Greenlight vote on the pretext that the state required the Council to approve them to make possible reaching its affordable housing target. Since no affordable units were offered or required, it seems reasonable for the public to believe they were the victims of a “bait and switch," for, as here, few (and in this case none) of the 8,174 units are being used to build affordable housing.

As this first tranche of units gets used up for purposes other than what was promised, it seems likely staff and Council will say the state is forcing them to raise (again without a Greenlight vote) the 8,174-unit General Plan limit to allow the previously-promised affordable units to materialize. And that could repeat indefinitely as the city fills with market rate units *not* required by the state, and regarding which residents are not allowed to vote on the repeated General Plan increases allowing them.

Item 12. Resolution No. 2026-52: 2350 Bristol Street Driveway Access Appeal (PA2025-0112)

It seems important to appreciate this is not an appeal from denial of an application to modify the existing use permit to allow unrestricted use of the rear driveway. Nor is it, as the “On the Agenda” portion of the City Manager’s July 10 weekly newsletter claims, an appeal of “the Planning Commission’s decision to ***allow*** an existing emergency access driveway to also be used for employee and delivery vehicle access”

It is, instead, the appeal of the denial of a request to determine that the existing use permit ***already allows*** (and has *always allowed*) unrestricted use of the rear driveway.

This question regarding the interpretation of the 1986 permit is the only matter presently applied for, and the only question to be resolved on appeal.

A request to issue a new or modified permit allowing unrestricted use would be processed through a different kind of application.

Item 13. Ordinance No. 2026-10: Approving Amendment to Newport Place Planned Community Development Plan (PC-11) Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay and Resolution No. 2026-53: Overriding Airport Land Use Commission's Determination of Inconsistency (PA2025-0196)

In light of City staff's recent interpretation of the "Housing Opportunity Overlay Districts," this immense effort on the part of City staff appears to be for the sole benefit of the property owner at 1401 Quail Street, a sophisticated developer, Intracorp, who previously, as explained on page 4 of the staff report, obtained approval of an application for a 67-unit development with 15% affordable housing.

Curiously, the agenda materials do not appear to include the September 3, 2025, letter from the developer precipitating this, which had been included as Attachment 2 in the March 19 staff report to the Planning Commission. Contrary to what the present staff report says, nothing I can see in that letter says "the approved project is no longer financially viable to implement." It *does*, for reasons it does not explain, request the City reduce the inclusionary requirement for for sale units from 15% to 7.5%.[2]

The staff report also curiously fails to mention that on September 24, 2024, the Council adopted Ordinance No. 2024-16 which established development standards for the 6th Cycle Housing Opportunity Overlay properties. Those standards include no affordability requirement at all, and staff apparently interprets this silence as an "inconsistency" with the requirement in the planned community text, which per NBMC Section 20.28.060 is to be resolved, in their minds, in favor of the lack of a requirement in the HO overlay. In other words, having an HO designation eliminates any affordability requirement regardless of the underlying zoning. Staff applied this interpretation to the 1301 Dove St. application being reported as part of Item 11 on the present agenda, and appears to have previously applied it to the 1300 Dove St application, heard by the Planning Commission on June 4, which is seeking designation as an HO site.[3]

Strangely, 1401 Quail was designated as HO Site No. 64 in the Housing Element, but the Intracorp application may have been filed before it was rezoned to reflect that, and hence is being processed under the pre-HO rules. By staff's reasoning, if Intracorp wanted to avoid the inclusionary requirement that is the subject of the present agenda item, they could simply re-flie the identical application (without any affordable units) to be approved as an HO project.

[2] Strangely, the subject line of the letter says it is a request to reduce the percentage "from 15 percent to **8** percent," but the body states "7.5%" three times.
[3] The 1300 Dove St. application proposes 5% very-low income housing, but this does not appear to be in response to any inclusionary requirement. Rather it seems to be offered to make the developer eligible for a development standard concession.

In other words, the affordability requirements the Council is being asked to modify are, at least in staff's view, a mirage nullified by the adoption of Housing Opportunity zoning overlays.

As a result, if staff's view of this prevails, its approval, or not, of the present agenda item, over the objections of the Airport Land Use Commission and Caltrans, does nothing to improve the City's ability to meet its affordable housing targets. It modifies in staff's view is an orphaned and currently dead code requirement.

It is, however, questionable that staff's view is correct. Under NBMC Section 20.28.060, the underlying affordable housing requirement would be voided *only* if it is inconsistent with some new and different standard imposed by the overlay (as might happen, for example, if the overlay allowed greater building heights or more units than the underlying zoning). But it is hard to see how the overlay's complete silence on whether affordable housing is required, or not, can be seen as creating a new and conflicting standard of "no affordable housing is required."

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July 13, 2026

Charles S. Krolikowski
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VIA E-MAIL AND U.S. MAIL

Newport Beach City Council
100 Civic Center Dr.
P.O. Box 1768
Newport Beach, CA 92658
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Re: *City Council Hearing on Appeal of Planning Commission's Decision on Application PA 2025-01112 for Staff Approval of Driveway Uses*
2350 SE Bristol Street, Newport Beach, CA 92660

Dear Honorable Members of the Newport Beach City Council:

Please be advised that this office represents 2350 SE Bristol, LLC ("Owner"), the owner and operator of the real property and improvements (a professional office building) located at 2350 SE Bristol Street, Newport Beach, California 92660 (APN: 439-021-25) ("Property").

The purpose of this letter is to submit further written comments on behalf of the Owner and appeal the City of Newport Beach Planning Commission's March 19, 2026, action denying the staff approval application (Application PA 2025-01112) ("Application") for the continued use of the previously approved driveways at the Property for ***necessary and safe ingress and egress***. The Owner respectfully requests that the City Council overturn the Planning Commission's denial and approve the Application at the upcoming hearing on July 14, 2026.

Although there have been some discussions with City staff regarding the possibility of installing an automatic gate or arm system at the Property's back or rear driveway (along Zenith Avenue), the Owner has elected to proceed with this appeal. Of course, this appeal is only being processed because City staff recommended that the Owner submit an administrative application with the City for the continued use of the above driveway, which was denied by the Planning Commission. By now appealing to the City Council, the Owner is exhausting its administrative remedies.

1. Introduction.

In 1986, the County of Orange ("County") approved and later ***signed-off*** on the development of the Property (which is presumed to be consistent with the approvals and conditions due to the certificate of occupancy issued) before the Property was ever annexed into the City. At the time of sign-off by the County and thereafter, there were no permanent barriers (such as concrete ballards) for the rear driveway on Zenith Avenue ("Zenith Driveway"). Rather, it appears there was a sliding gate system that could be opened and closed at any time by the then owner.

In fact, the County approval documents identify that its Construction Manager and/or Fire Chief would approve the Property's access points before the building could be occupied. In this regard, and consistent with the improvements that were actually constructed, ***the City acknowledges that two County permits (Permit No. BP52461 and BP55889) were processed with the County depicting the sliding gate system,*** which negates any argument that permanent ballards or similar system were to be used.

Further, in the County's approval documents and plans, there is no express condition, statement or indication that the Zenith Driveway was limited to emergency vehicles ***only***. Preliminary site plan application documents do not supplant the final approvals and sign-off by the County to allow the Property to operate as it was developed and approved, which included the use and operation of the Zenith Driveway. If the County sought to limit the Zenith Driveway to emergency vehicles only, it could have expressly conditioned the project accordingly, which it did not. The City has been advised of this issue multiple times. (See Exhibits A and B.)[1]

When the City asserted that the unrestricted use of the Zenith Driveway was not allowed, City staff advised the Owner to apply for a modification to the County approval based on its claim that it was necessary for the continued use of the Zenith Driveway. In an abundance of caution, the Owner moved forward with the same. In addition to the prior County approvals, there is significant evidence that the continued use of the Zenith Driveway will promote safety and alleviate a potential dangerous condition related to the ***operation(s) of delivery vehicles*** that frequent the Property.

Indeed, since the last hearing before the Planning Commission, the Owner has received City traffic studies and reports that demonstrate how dangerous Bristol Street has become. For example, in a 2020 study by the City, ***in a two (2) year period, the City recorded 52 traffic accidents***. (Exhibit C.) Similarly, in a more recent City report,

[1] As a result, ***the existing uses on the Property are vested*** (as well as legal non-conforming to the extent the City modified its regulations) and the City's post development regulations (Municipal Code and Specific Plan) have no application. (See *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, 1530 ("*Goat Hill*").

the City reported approximately 25 accidents over a one (1) year period. (Exhibit D.) This data supports the need for increased safety measures along Bristol Street.

2. The Application Was Superfluous.

The Application being reviewed by the City Council on appeal by Owner arises from the City's issuance of a purported notice of violation issued to the Owner related to the use of the Zenith Driveway to safely access the Property. As set forth below, ***the Application is not necessary as the Property already possesses the necessary approvals (and sign-off) from the County to use and operate the Zenith Driveway for ingress and egress***.

Nevertheless, in an abundance of caution, and at the request and direction of City Staff, the Owner approved the submittal of the Application as an additional "belt and suspenders" approach for the continued use of the Zenith Driveway. Even in the Application itself, the Owner again stated that City approval was not necessary to continue to utilize the Zenith Driveway due to the prior development approvals from the County approximately 40 years ago. (Exhibit E.) Simply reviewing the approval documents and conditions, there is no definitive language or statement that the Zenith Driveway was approved for emergency vehicles only. Instead, the CUP for the Zenith Driveway identified that the back gate should be opened for emergency & fire access, but did not require that the back gate could *only* be used for such uses.

Due to the approvals (including the issuance of a Certificate of Occupancy ("COO")) and continued use of the Zenith Driveways, the ***Owner has and continues to enjoy a vested right to continue its use***. (See *Goat Hill* [a City cannot eliminate a vested right to continue a use(s) previously approved and relied upon by the owner].) Further, because the City's land use regulations related to the Property, such as Newport Beach Municipal Code ("NBMC"), section 20.90.040(9) and the Santa Ana Heights Specific Plan (SP-7), did not apply (or even exist) to the 1986 approvals and development of the Property, any such enforcement of later-enacted regulations is improper as the property would be ***legal non-conforming***. (NBMC, § 20.38.030, subds. (A), (B); *Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 540.)[2]

3. The Application Was Deemed Complete by City's Initial Failure to Respond.

Under NBMC section 20.50.060(A), "[t]he Director shall review each application for completeness and accuracy ***before it is accepted as being complete***."

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[2] *City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, 747, fn. 1, citing from *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 397, 28 Cal.Rptr.2d 530.)

As noted in our letter to Jenny Tran dated September 26, 2025 (Exhibit A), under NBMC section 20.50.060(A)(1), an applicant or its authorized agent must be informed in writing within thirty (30) calendar days of its application filing "either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete."

While we submitted the Application for the Property to the City on June 2, 2025, the City did not send its Notice of Incomplete Filing relating to the Application until July 29, 2025, nearly two months later. The City's Notice of Incomplete Filing for the Application was thus invalid because it violated NBMC section 20.50.060(A)(1) by failing to deem the Application as being incomplete or complete within the mandatory 30-day deadline. (Exhibit A, p. 1.)

Accordingly, the Application was deemed complete on July 3, 2025, because the Owner received no written notice to the contrary within 30 days of its submission on June 2, 2025.

4. The Zenith Driveway Is Not Restricted to Emergency Vehicles Only and the County Already Determined (Via Resolution) There Are No Impacts to Other Uses in the Vicinity, Nor to Public Health, Safety or Welfare.

The County approved the development of the Property in 1986, more than 20 years before it was annexed to the City. In the August 1986 ***County Board of Supervisors' Resolution*** (Exhibit F) approving the development, the County made the following findings:

I. That the project proposed, as conditioned herein below, ***is consistent with the objectives, policies, and general land uses and programs specified in the General Plan*** adopted pursuant to the State Planning and Zoning Law.

* * *

III. That the ***activity*** and improvements proposed, subject to the specified conditions, are ***consistent with the provisions of the Zoning Code***, or specific plan regulations applicable to the property.

IV. That the locations, size, design and operating characteristics of the proposed use will ***not create unusual noise, traffic or other conditions or situations that will be objectionable, detrimental or incompatible with other permitted uses in the vicinity***.

V. That the application will ***not result in conditions or circumstances contrary to the public health and safety and the general welfare***.

(Exhibit F, pp. 1-2, emphasis added.)

Based on the County's findings, the City cannot second guess or attempt to make new findings about the impacts of the development and uses of the Property, which the County already determined were consistent with the land use regulations at the time and would not have any detrimental impacts on the neighboring properties or the general welfare.

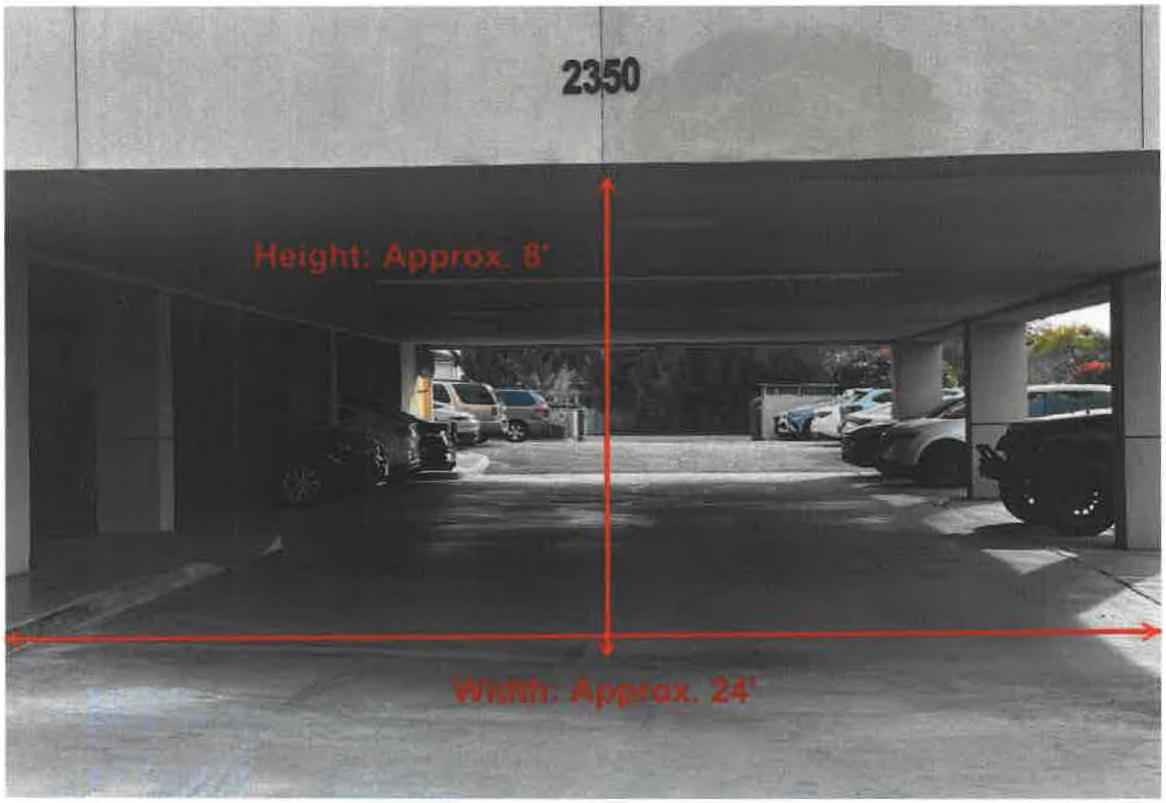
In the Conditions for the County's Resolution, there is no reference or indication that the Zenith Driveway was in anyway limited to emergency vehicles only. Rather, the Conditions only require the then developer to provide construction details (to be approved by the Fire Chief) of how the Zenith Driveway could/would provide emergency access in the event of an emergency. (Exhibit F, p. 5, Condition 19.) Due to the fact that ***the County determined that Bristol would be a "high capacity" and "high-speed" corridor*** (Exhibit F, p. 4), it makes sense that the Property would have two usable driveways for its safe operations.

Of note, Condition 19 also states that: "***Prior to the issuance of any certificate of use and occupancy***, emergency access shall be operational in a manner meeting the approval of the Manager, Construction Division." After completion of the development in 1987, the Property received its COO. What this means is that the County, the Fire Department and the Manager, determined that the Zenith Driveway, as constructed (***without any ballards***), was approved and satisfied the above condition. Simply put, there is no condition that the Zenith Driveway was limited to emergency vehicles only.

5. Both Driveways Are Necessary for the Property's Safe Operations.

Based on the high speed of traffic along Bristol Street, sight distance issues exiting the Property and the height of the drive aisle located below the building (about eight (8) feet high), the continued use of both the Bristol Street driveway ("Bristol Driveway") and the Zenith Driveway are necessary for the safe operations of the Property.

Pictures of the driveways (and access aisles) along Bristol Street and Zenith Avenue are depicted below:


2350
Height: Approx. 8'
Width: Approx. 24'


Height: Approx. 8'
Width: Approx. 24'


Height:
Approx. 8'
Width: Approx. 21'


Width: Approx. 21'



The above pictures demonstrate that the location of the Property along Bristol Street (a high capacity and high-speed regional corridor), which narrows and then merges directly into the SR-73 Toll Road, ***it creates significant hazards for those attempting to turn into and out of the Bristol Driveway***. Thus, the Zenith Driveway is necessary for anyone attempting to safely access the Property. Further, due to certain poles, signage, fencing and landscaping, the sight distance for vehicles attempting to exit the Property onto Bristol Street is limited, which is a further safety concern.

Further, when the Property was developed, southbound Bristol Street was configured differently (less lanes and merging). Based on historical maps, SR-73 in this location was not substantially completed until about 1990. Likewise, at the time of development about 40 years ago, there was more room for larger vehicles to navigate the front entrance to the Property. However, as a result of widening, street realignments, shoulder and sidewalk modifications and the on and off-ramps to SR-73, Bristol Street has undergone significant changes.

The above traffic-related issues are corroborated by the Circulation Element for Newport Beach itself, which states that "[i]n Newport Beach, natural barriers... and the John Wayne Airport superblock limit roadway connection. As a result, traffic volumes are concentrated on the roadways making regional connections (i.e., ... Bristol

Street/SR-73, ...) which increases conflict and congestion at intersections along these routes." (See Newport Beach General Plan, 7-5.) Indeed, this concentration of traffic directly increases the "conflict and congestion" on Bristol Steet at the front driveway to the Property.

The distance from the back of the sidewalk to the entry of the covered driveway (about eight (8) feet tall) is only about thirteen (13) feet, which makes it difficult (if not impossible) for delivery trucks to safely enter and/or maneuver in the limited space available. As most delivery trucks are between 20 and 30 feet in length, the back of those vehicles will extend into the sidewalk and possibly into Bristol Street.

In addition, due to the approximate eight (8) foot height of the drive aisle below the building, most delivery vehicles would not be able to enter and exit the Property via Bristol Street. Below is information (Google and AI) about the type(s) of delivery vehicle, such as UPS, FedEx, USPS and Amazon that frequent the Property.

UPS uses a variety of vehicle sizes, but most neighborhood deliveries are handled by "Package Cars" (the iconic brown walk-in vans). These vehicles are typically custom-built on chassis from manufacturers like Freightliner or Morgan Olson, and their dimensions vary by the "P-series" model number (which indicates cubic foot capacity).



Typical Exterior Dimensions for Common UPS Trucks

Model	Overall Length	Outside Width	Outside Height
P1200 (Large)	~29 ft 9 in (357.5")	~8 ft (95.5" at rails)	***~10 ft 4 in (124")***
P1000 (Standard)	~25–28 ft	~8 ft (96")	***~10–11 ft***
P500 / P600 (Smaller)	~20 ft	~8 ft (96")	***~10 ft***

A standard UPS P1200 package car (delivery truck) typically measures approximately 30 feet (357.5 inches) long, 8 feet (95.5 inches) wide, ***and over 10 feet (124 inches) high***. Inside cargo space is about 20 feet long (240 inches), 7.75 feet (93 inches) wide, and 7 feet (85 inches) high.

FedEx trucks vary by type, with common residential "step vans" typically ranging from 16 to 22 feet long and ***roughly 10–13.5 feet in height***. Larger P1000/P1200 delivery trucks have 20–22 foot bodies, while heavy-duty linehaul tractors can be up to 27.5 feet long and 13.5 feet high.



Common FedEx Delivery Truck Dimensions

For local residential and business deliveries, FedEx primarily utilizes step vans and cargo vans.

- **P1200 Step Van (Large Delivery Truck):**
  - **Overall Length:** 357.5 inches (~29.8 feet).
  - **Outside Width:** 95.5 inches (at rub rails).
  - **Outside Height:** ***124 inches (~10.3 feet)***.
- **P1000 Step Van (Standard Delivery Truck):**
  - **Body Dimensions:** 18 feet (L) x 93.5 inches (W) x 85 inches (H).
  - **Clearance Height:** ***Approximately 132 inches (11 feet) to the top of the vehicle***.
- **Ford Transit T350 (Extended Cargo Van):**
  - **Exterior Height:** 110.2 inches.

- **Cargo Height (Internal):** 81.5 inches.

The USPS Next Generation Delivery Vehicle (NGDV) is approximately 19.6 feet (235.75 inches) long, 7 feet (84.5 inches) wide, and ***9.25 feet (111 inches) tall***. Designed by Oshkosh Defense, the vehicle features a 76-inch (6' 4") high cargo area, a 127-inch wheelbase, and offers significantly more cargo capacity (263 cubic feet) compared to the older LLV.



Key NGDV Dimensions & Specifications:

- **Length:** 235.75 inches (19 feet 64 inches)
- **Width:** 84.5 inches (7 feet .04 inches)
- **Height:** ***111 inches (9 feet 2 inches)***
- **Wheelbase:** 127 inches
- **Cargo Capacity:** 263 cubic feet
- **Internal Cargo Height:** 76 inches (6 feet 4 inches)
- **Gross Vehicle Weight Rating (GVWR):** 8,700 pounds

National Association of Postal Supervisors (NAPS) +1

Amazon delivery vehicles vary by type, with the common Rivian Electric Delivery Van (EDV)700 measuring roughly 278 inches (23 ft) long, 103.5 inches wide, and ***115 inches tall***. Smaller Prime vans, such as the Ram ProMaster, range from 195 to 213 inches long and 90-101 inches high. Larger third-party box trucks often use 26-foot lengths.



Key Amazon Vehicle Exterior Dimensions:

- **Rivian EDV-700 (Electric):** ~278" L x 103.5" W (with mirrors) x ***115" H.***
- **Rivian EDV-500 (Electric):** ~248" L (6.31m) x 96" W (2.45m) x ***114" H (2.9m).***
- **Ram ProMaster (High Roof):** ~213" L x 82" W x 102" H.
- **Standard 26ft Box Truck (Relay):** 26' L x ~8.5' W x ***~10-13' H***.

All of the above information and delivery truck dimensions show that these vehicles would not be able to access the Property from Bristol Street due to the eight (8) foot height of the entry below the building. To the extent a delivery vehicle over eight (8) feet tall would attempt to stop/park short of the entryway, ***they would extend into the City sidewalk and could cause other vehicles to queue behind it into Bristol Street***, a high-speed corridor. Further, as there is little room to turn around, delivery vehicles would have to back up onto Bristol Street, where vehicles are zooming by at well over 60 mph, if not faster.

Thus, the Zenith Driveway is absolutely necessary for delivery vehicles to safely enter and exit the Property. Likewise, due to the high number of employees that work at the Property, it would further promote the safe operations of the Property ***and the public right of way***, if they continue to utilize the Zenith Driveway for ingress and egress.

6. The Continued Use of the Zenith Driveway is Vested, May Constitute a Legal Non-Conforming Use and The City Is Estopped from Challenging the County Approvals 40 Years Later.

Any attempts to limit the approved, historic and continuous uses of the Zenith Driveway would violate the law.

First, when the uses authorized by a use permit are timely implemented (as they were here) they mature into a vested property right. (*Goat Hill, supra,* 6 Cal.App.4th at 1530, internal citations omitted, "[w]here a permit has been properly obtained and in

reliance thereon the permittee has incurred material expense, he acquires a vested property right to the protection of which he is entitled.) "Once a use permit has been properly issued the power of a municipality to revoke it is limited." (*Ibid.*, internal citations omitted.) This is true because once a permittee has acted in reliance of the acquired permit and incurred material expense, the permittee has ***obtained a vested property right***. (*Ibid.*)

In *Goat Hill*, the Court of Appeal affirmed the trial court's holding that the property owner had a vested property right in its use of the property. The *Goat Hill* court stated that "by simply denying renewal of its conditional use permit, the city destroyed a business which has operated legally for 35 years. The action implicates a fundamental vested right of the property owner and the trial court was correct in applying the independent judgment test." (*Id.,* at 1531.)

Second, the development of the Property was approved in 1986, before it was annexed to the City (2008), before the Santa Ana Heights Specific Plan was adopted (2010) and before the adoption of the applicable Municipal Code sections referenced in the Staff Report. As such, any uses of the Property that are arguably inconsistent with the City's regulations, would be a legal non-conforming use, i.e., grandfathered-in.

"A legal nonconforming use is one that existed lawfully before a zoning restriction became effective and that is not in conformity with the ordinance when it continues thereafter." (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 540, fn. 1, internal citations omitted.) ""Grandfathered" uses are nonconforming uses that are not required to seek permits under local zoning ordinances enacted after they were established. (*City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740, 747, fn. 1, citing from *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 397, 28 Cal.Rptr.2d 530; see also NBMC,§ 20.38.030, subds. (A), (B).)

Third, any attempt to enforce any allegedly previously unmet conditions of approval for the Property would face a strong laches defense because the City did not challenge the County's final decision pertaining to the development/conditions within the 90-day statute of limitations to bring such a challenge. (See Gov. Code, § 66499.37.)

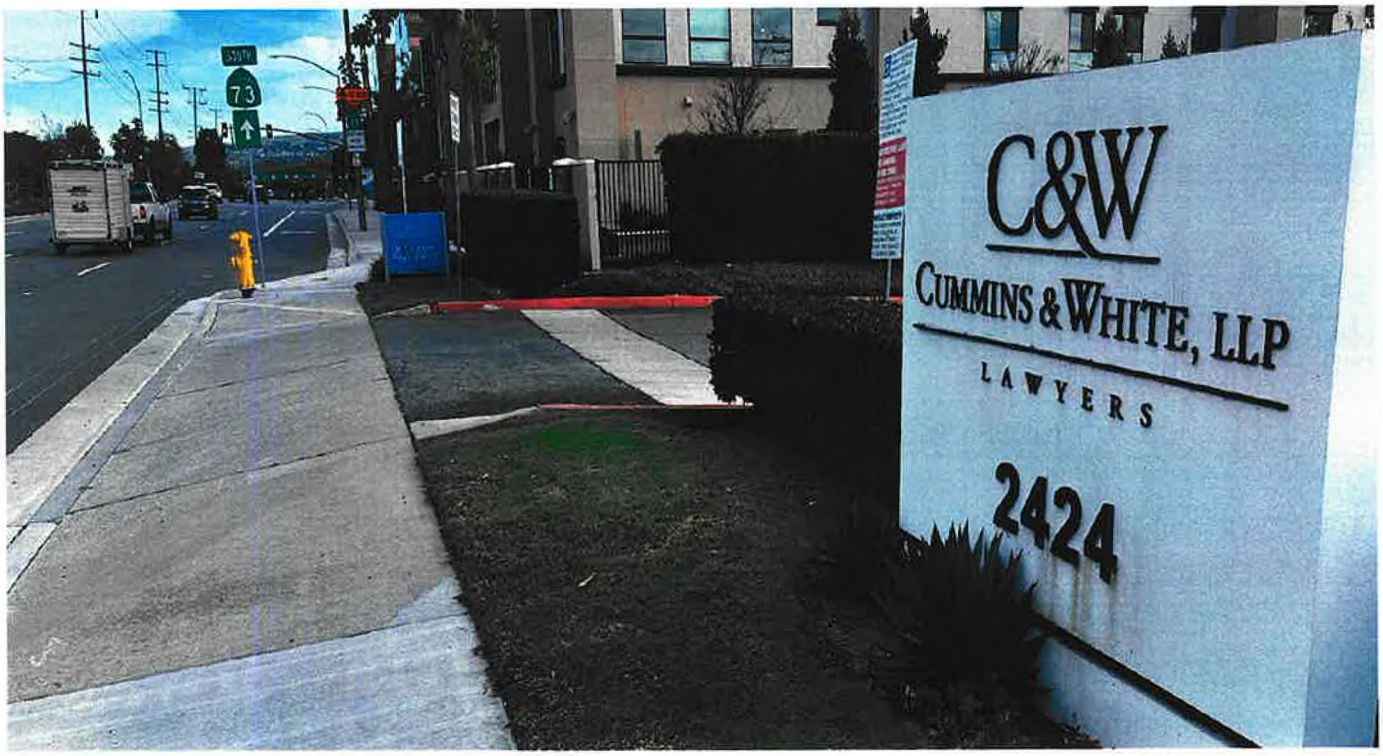
Government Code section 66499.37 provides a 90-day limitation period measured from "imposition" of the condition "to determine the reasonableness, legality, or validity of any condition attached" as pertaining to a decision about a subdivision. (*Uniwill v. City of Los Angeles* (2004) 124 Cal.App.4th 537, 543, see also *Honchariw v. County of Stanislaus* (2020) 51 Cal.App.5th 243, 255, citing from Gov. Code, § 66499.37.) Absent exceptional circumstances, the power to revoke such a permit thereafter is limited. (See Gov. Code § 66499.37, "[t]hereafter all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the decision or of the proceedings, acts, or determinations.")

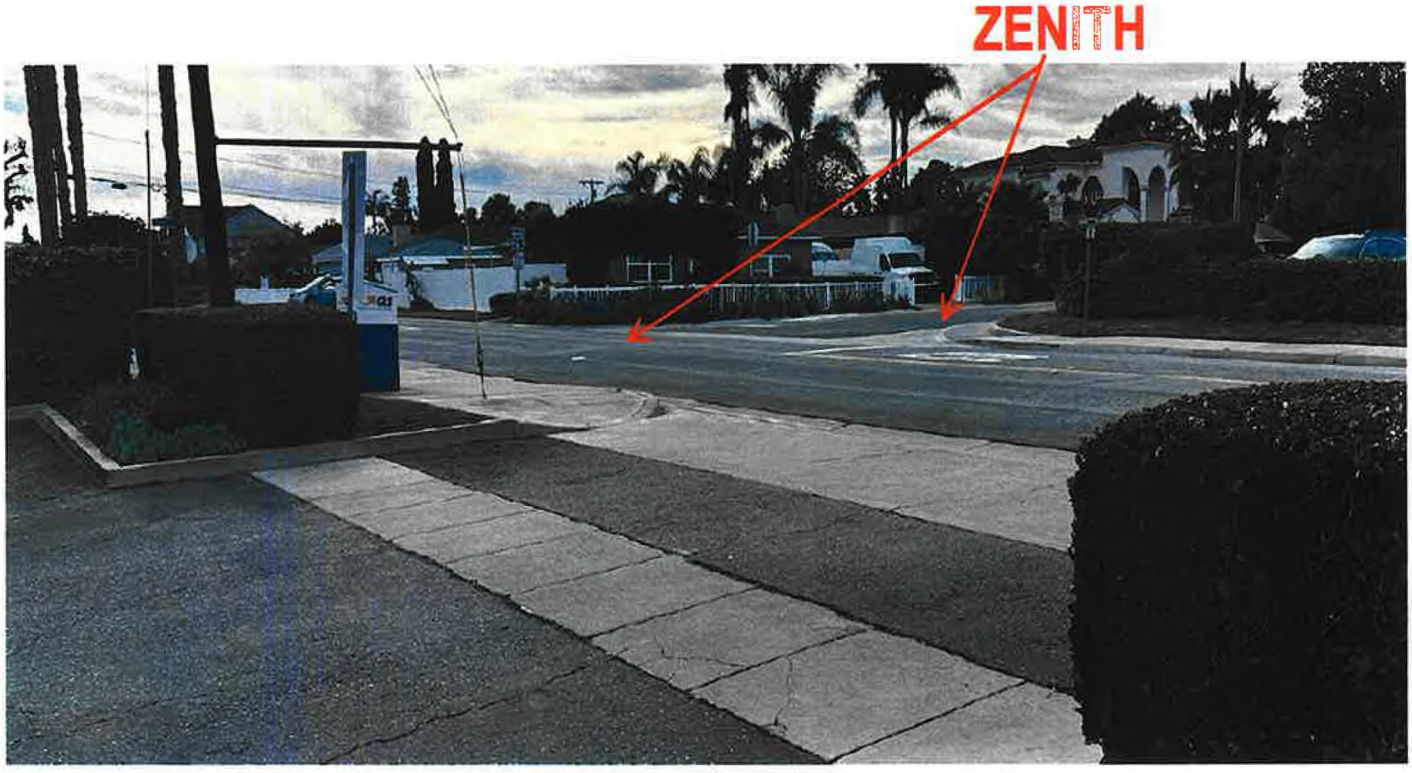
Thus, the City is not permitted to rescind the vested rights related to the approved/historic uses of the Zenith Driveway and/or impose new regulations that would impact the same.

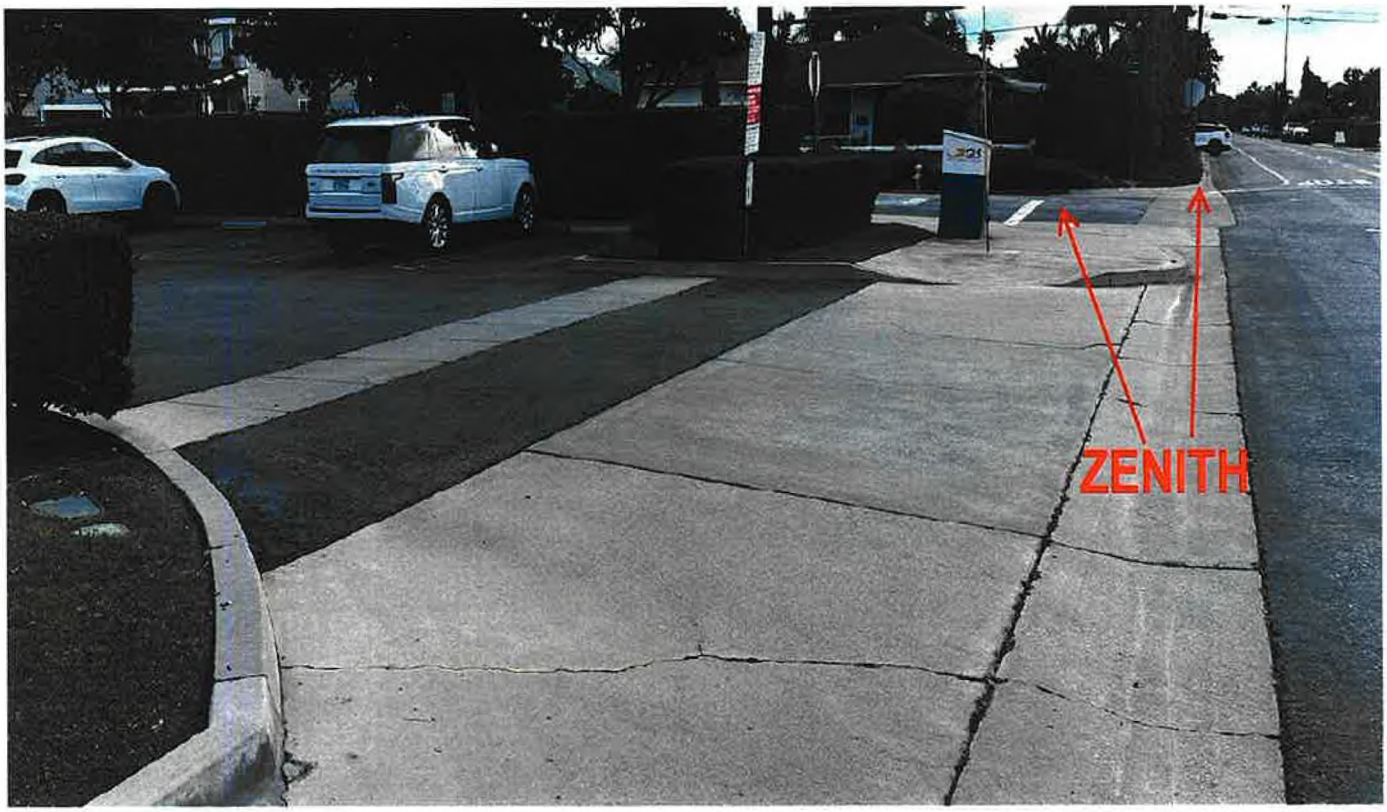
7. Other Nearby Properties Have Two Driveways – One Within Close Proximity to Zenith Avenue.

In addition to the Property, there is at least one other nearby property along Bristol Street with two driveways, one of which is in close proximity to Zenith Avenue. The property located at 2424 SE Bristol Street, Newport Beach, CA 92660 ("2424 Bristol") contains a professional office building with drive aisles located beneath the building, and is located just ***one block away*** from the Property. Photos of 2424 Bristol are set forth below:




C&W
CUMMINS & WHITE, LLP
LAWYERS
2424


ZENITH



As can be seen from the above photos, 2424 Bristol has one driveway along Bristol Street and a second driveway near the intersection of Zenith Avenue and Spruce Avenue. In fact, the second or rear driveway at 2424 Bristol is located less than 20 feet away from Zenith Avenue.

Of note is the fact that the driveway along Bristol Street does not directly lead into an eight (8) foot clearance in the drive aisle under the building like the Property. As such, delivery and taller vehicles can easily access 2424 Bristol from Bristol Street, will not create any potential queuing issues, and can turn around to leave the property without having to back-up into traffic. Even with such a viable access point along Bristol Street, 2424 Bristol possesses a second driveway located just a few feet away from Zenith Avenue.

This evidence confirms that the City is attempting to treat the Property differently than other similarly situated properties in the immediate area, which could be a violation of the Equal Protection Clause.

8. Any Decision to Limit or Revoke the Uses of the Zenith Driveway Would Constitute a Compensable Taking, A Dangerous Condition and A Substantial Impairment of Access to the Property.

The taking, elimination and/or substantial impairment of access to private property constitutes a taking (inverse condemnation) to which just compensation must be paid. (See Cal. Const. art 1, § 19; U.S. Const., 5th Amend.; *Bacich v. Board of Control* (1943) 23 Cal.2d 343, 352; *Rose v. State* (1942) 19 Cal.2d 713, 727.)

California courts have recognized that property owners have a right to access the public rights of way that they abut. (*Brumer v. Los Angeles County Metropolitan Transportation Authority* (1995) 36 Cal.App.4th 1738, 1745; *People ex rel. Dep't of Public Works v. Symons* (1960) 54 Cal.2d 855, 860; *Bacich v. Board of Control* (1943) 23 Cal. 2d 343, 352; *Rose v. State* (1942) 19 Cal. 2d 713, 727.) "Compensable access impairment exists… if there is a substantial impairment of access to abutting street and from there to general system of public streets." (*San Diego Metropolitan Transit Development Bd. v. Price Co.* (1995) 37 Cal.App.4th 1541.)

Further, without the use of the Zenith Driveway, the use of the Bristol Driveway (especially by delivery vehicles) could result in the creation of a dangerous condition of public property to the extent there are any accidents or injuries/fatalities on the sidewalk or along Bristol Street. If not already on notice, the City is hereby put on notice of this potential dangerous condition pursuant to Government Code section 835, which is the statutory basis for a claim imposing liability on a public entity based on the condition of public property. (*Brown v. Poway Unified School Dist.* (1993) 4 Cal.4th 820, 829.)

9. Conclusion.

While the Owner maintains that the Application is not necessary and that City staff directed the submission of the same, for the reasons set forth herein, the Zenith Driveway was approved by the County about 40 years ago, and its continuous use and operation should be left alone. This includes the continued use of the driveway for delivery vehicles and employees.

If you have any questions or comments concerning the above, do not hesitate to contact me.

Very truly yours,

Charles S. Krolikowski

Encl.

cc: Client
Daniel Kopshever (dkopshever@newportbeachca.gov)
Aaron Harp., Esq. (aharp@newportbeachca.gov)

EXHIBIT A

NEWMEYER DILLION

Newmeyer & Dillion LLP
895 Dove Street
Second Floor
Newport Beach, CA 92660
(949) 854-7000

September 26, 2025

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com

VIA E-MAIL AND U.S. MAIL

Jenny Tran
Community Development Department -
Planning Division
City of Newport Beach
100 Civic Center Dr.
P.O. Box 1768
Newport Beach, CA 92658
jtran@newportbeachca.gov

Re: Application PA 2025-01112 for Staff Approval
Property: 2350 SE Bristol Street, Newport Beach, CA 92660

Dear Ms. Tran:

As you know, our office represents the owner of the real property and improvements located at 2350 SE Bristol Street, Newport Beach, CA 92660 ("Property"). While we have attempted to work together with the City of Newport Beach ("City") to resolve any issues regarding the continued use (ingress and egress) of the rear driveway along Zenith Avenue, we continue to maintain our position that such use(s) are already permitted pursuant to the prior land use approvals (CUP) for the Property.

In an abundance of caution, on or about June 2, 2025, the ownership submitted Application PA 2025-01112 ("Application") requesting Staff Approval for the continued use of the above driveway for delivery and employee vehicles. Not until July 29, 2025, almost two months after the Application was submitted, did the City respond to the Application, deeming it incomplete and requesting additional information. However, the City's response to the Application was untimely.

Pursuant to Newport Beach Municipal Code ("NBMC") section 20.50.060(A)(1), an applicant or its authorized agent must be informed in writing within thirty (30) calendar days of its application filing "either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete."

Accordingly, we hereby request that the City continue to process the Application as it was received on June 2, 2025.

We appreciate the City's anticipated prompt attention to this matter. If you have any questions or comments concerning this letter, please do not hesitate to contact me.

Very truly yours,

Charles S. Krolikowski

cc: Client

EXHIBIT B

Charles S. Krolikowski

From: Charles S. Krolikowski
Sent: Thursday, February 12, 2026 2:33 PM
To: 'Kopshever, Daniel'
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

Hi Daniel, as we have stated several times in our communications, and based on the original approval and development, the driveway was approved for all uses and was not limited to emergency access only. We only proposed seeking further approvals because the City claimed to the contrary in response to a complaint(s).

With that said, we intend to move forward with our application, as proposed, despite your statement that City staff would not recommend the use of the rear driveway for employees. We think this is safety issue, and to the extent the City denies the proposed application, we would certainly put the City on notice to the extent there are any accidents or injuries resulting from the inability to use the rear driveway for certain vehicles.

With respect to your e-mail below about a resubmittal, how do you propose we change or modify the application?

Regards,
Chuck

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com
p 949.854.7000 - d 949.271.7233

Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

From: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Sent: Tuesday, February 10, 2026 10:32 AM
To: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

External email >

Hi Charles,

I left you a voicemail a few weeks ago and haven't heard back for a status update. As I mentioned in my voicemail, we need to move forward with the application as it is an active code case and receiving pressure from the community. I have the project tentatively scheduled for March 19th, where we will be recommending denial of the request. Please contact me immediately if you plan to modify the request and resubmit, so that we can move the project to a later date and review.

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235
100 Civic Center Drive
Newport Beach, CA 92660



From: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Sent: January 14, 2026 12:05 PM
To: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Subject: RE: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Hi Daniel, when we last spoke (and after a discussion with Ms. Perez as well), it was communicated to me that it was going to be staff's position not to support the use of the rear driveway for tenants/employees regardless of the size of their vehicles. This concerns my client greatly and they are still evaluating how to proceed in light of this communication.

Regards,
Chuck

Charles S. Krolikowski
Charles.Krolikowski@ndlf.com
p 949.854.7000 - d 949.271.7233

Newmeyer & Dillion LLP
895 Dove Street, 5th Floor
Newport Beach, CA 92660

Newport Beach • Walnut Creek • Las Vegas

From: Kopshever, Daniel <DKopshever@newportbeachca.gov>
Sent: Monday, January 12, 2026 9:27 AM
To: Charles S. Krolikowski <Charles.Krolikowski@ndlf.com>
Subject: [EXTERNAL]:RE: PA2025-0112 2350 SE Bristol

Hi Charles,

Do you have any update on this project?

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235
100 Civic Center Drive
Newport Beach, CA 92660



From: Kopshever, Daniel
Sent: December 12, 2025 3:36 PM
To: Charles.Krolikowski@ndlf.com
Subject: PA2025-0112 2350 SE Bristol

Hi Charles,

My name is Danny, I took over this project from Jenny and we spoke briefly on the phone about next steps for the project. I am going to be out of the office until January 5th 2026. Please contact Joselyn Perez at jperez@newportbeachca.gov if you have any updates on how the applicant would like to proceed or if you need any information from us while I am out.

Thanks and happy holidays!

Kind regards,

Daniel Kopshever
Assistant Planner
Community Development Department
Office: 949-644-3235
100 Civic Center Drive
Newport Beach, CA 92660

EXHIBIT C

CITY OF NEWPORT BEACH

PUBLIC WORKS DEPARTMENT
Dave Webb, Director

ENGINEERING AND TRAFFIC SURVEY FOR SPEED LIMITS

February 27, 2020

This document has been prepared by the Traffic Engineering Division, Department of Public Works, and supersedes the May 2, 2011 Engineering and Traffic Survey for Speed Limits and all addendums.

I, Antony Brine, do hereby certify that I am the Traffic Engineer for the City of Newport Beach. This report has been prepared under my supervision and its contents are true and accurate to the best of my knowledge.

Antony Brine, P.E.
Traffic Engineer

2/27/2020
Date

REGISTERED PROFESSIONAL ENGINEER
ANTONY E. BRINE
No. 1922
Exp. 6-30-20
TRAFFIC
STATE OF CALIFORNIA

CERTIFIED AS A TRUE AND CORRECT COPY

CITY CLERK OF THE CITY OF NEWPORT BEACH

DATE: 3.11.2020

CITY OF NEWPORT BEACH CALIFORNIA

100 Civic Center Dr • Newport Beach, California 92660
Telephone: (949) 644-3330 • Fax: (949) 644-3308 • www.newportbeachca.gov

Roadway ID Number	Location	Direction	Speed Limit	85th Percentile Speed
7	**Bison Avenue**			
	Jamboree Rd to MacArthur Blvd	EB	45	47
		WB	45	45
	MacArthur Blvd to Route 73	EB	50	49
		WB	50	47
8	**Bonita Canyon Drive**			
	MacArthur Blvd to East City Limit	EB	50	50
		WB	50	49
9	**Bristol Street North**			
	Jamboree Rd to Campus Dr	EB	NA	NA
		WB	45	48
10	**Bristol Street South**			
	Campus Dr to Jamboree Rd	EB	45	48
		WB	NA	NA
11	**Camelback Street**			
	Bison Ave to Jamboree Rd	NB	40	44
		SB	40	39
12	**Campus Drive**			
	Bristol St South to MacArthur Blvd	NB	45	48
		SB	COUNTY OF ORANGE	
	MacArthur Blvd to Jamboree Rd	EB	45	48
		WB	CITY OF IRVINE	
13	**Cliff Drive**			
	Riverside Ave to Dover Dr	EB	30	34
		WB	30	32
14	**Coast Highway**			
	West City Limit to Superior Ave	NB	50	See Appendix B
		SB	50	See Appendix B
	Superior Ave to Hoag Dr/Balboa Coves	NB	45	See Appendix B
		SB	50	See Appendix B
	Hoag Dr/Balboa Coves to Riverside Ave	NB	40	See Appendix B
		SB	45	See Appendix B
	Riverside Ave to Tustin Ave	NB	40	See Appendix B
		SB	40	See Appendix B
	Tustin Ave to Dover Dr	NB	45	See Appendix B
		SB	40	See Appendix B
	Dover Dr to Bayside Dr	NB	50	See Appendix B
		SB	45	See Appendix B
	Bayside Dr to Jamboree Rd	NB	50	See Appendix B
		SB	50	See Appendix B
	Jamboree Rd to Avocado Ave	EB	50	54
		WB	50	56

10. Bristol Street South Summary

City of Newport Beach Speed Survey Summary			
Street:	Bristol Street South		
Segment Location:	Campus Drive to Jamboree Road		
Direction:	One Way EB		
Roadway Condition			
Number of Lanes (eastbound)	2-4 lanes/Bike Lane		
Grade	Level		
Median	One Way		
On-Street Parking	No		
Traffic Condition			
Traffic Control	Traffic Signal		
Accident History			
Total Accidents (2 Year)	52		
Accident by Speeding	3		
% Accident by Speeding	5.8		
Speed Survey			
Study Segment	Direction	Speed Limit	85th Percentile Speed
Campus Dr to Jamboree Rd	EB	45	48
	WB	NA	NA

Discussion and Justifications:

The speed limit for this roadway is set in accordance to the California MUTCD Section 2B.13, CVC Sections 627, 21400(b) and 22358.5.

CITY OF NEWPORT BEACH VEHICLE SPEED SURVEY

85% of 102 | Recorded Vehicles = 87 | 85th Percentile Speed = 48 MPH

Number of Vehicles

MPH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	MPH	# of Veh.	Cum. Veh.
60	X	X																													60	2	102
59																															59		
58																															58		
57	X																														57	1	100
56	X																														56	1	99
55	X																														55	1	98
54																															54		
53	X	X																													53	2	97
52																															52		
51	X																														51	1	95
50	X																														50	1	94
49	X	X	X																												49	3	93
48	X	X	X	X																											48	4	90
47	X	X	X	X	X																										47	5	86
46	X	X	X	X																											46	4	81
45	X	X	X	X	X	X	X																								45	7	77
44	X	X	X	X	X	X	X																								44	7	70
43	X	X	X	X	X	X																									43	6	63
42	X	X	X	X	X																										42	5	57
41	X	X	X	X	X	X	X	X	X																						41	9	52
40	X	X	X	X	X	X	X	X	X	X	X																				40	11	43
39	X	X	X	X	X	X																									39	6	32
38	X	X	X	X	X	X	X																								38	7	26
37	X	X	X	X	X																										37	5	19
36	X																														36	1	14
35	X	X	X	X																											35	4	13
34	X	X	X																												34	3	9
33	X	X	X	X																											33	4	6
32																															32		
31	X																														31	1	2
30	X																														30	1	1
29																															29		
28																															28		
27																															27		
26																															26		
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24																															24		
23																															23		
22																															22		
21																															21		
20																															20		
MPH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	MPH		

TOTAL NUMBER OF VEHICLES

Location: Bristol St S **Direction:** EB **No. of lanes in each direction:** 2

Between: Campus Dr **and** Jamboree

Begin Time: 1:33 PM **End Time:** 1:58 PM **Type of Surface:** AC **Weather:** Sunny

Posted Speed Limit: 45 **85th Perc. Speed:** 48 **Observer:** JR **Date:** 9/24/19

EXHIBIT D

NBPD Communications

Call Time	Event ID	Street	Nature	CloseCo
03/02/2026 11:11:57	2603020067	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	CITE
02/27/2026 00:59:24	2602270016	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
02/25/2026 16:35:06	2602250095	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	CITE
02/24/2026 02:45:48	2602240008	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	RPT
02/23/2026 01:13:10	2602230009	2112 BRISTOL ST	DRUNK DRIVER	1015
02/19/2026 10:37:54	2602190064	BRISTOL ST/BIRCH ST	VEHICLE STOP	CITE
02/10/2026 13:51:35	2602100101	BAYVIEW PL/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	1022
02/09/2026 21:01:49	2602090175	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
01/23/2026 23:19:56	2601230251	BRISTOL ST/IRVINE AVE	VEHICLE STOP	ADV
01/22/2026 17:41:21	2601220125	JAMBOREE RD/BRISTOL ONRAM	TRAFFIC COLLISION WITH INJU	RPT
01/20/2026 17:45:54	2601200119	BRISTOL ST/BAYVIEW PL	TRAFFIC COLLISION WITH INJU	RPT
01/17/2026 21:45:33	2601170185	2121 BRISTOL ST	VEHICLE STOP	ADV
01/16/2026 00:22:52	2601160004	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV
01/09/2026 06:13:57	2601090052	2121 BRISTOL ST	MISD HIT AND RUN JUST OCC	ASST
01/07/2026 23:14:47	2601070195	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
01/07/2026 18:08:48	2601070157	BRISTOL ST/BIRCH ST	NON INJURY TRAFFIC COLLISIO	REFX
01/07/2026 17:57:38	2601070154	BRISTOL ST/BIRCH ST	NON INJURY TRAFFIC COLLISIO	1022
01/04/2026 00:24:25	2601040004	BRISTOL ST/CYPRESS ST	VEHICLE STOP	ADV
01/02/2026 18:58:41	2601020189	BRISTOL ST/IRVINE AVE	RECKLESS DRIVER	UTL
01/02/2026 10:03:16	2601020065	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	ADV
01/02/2026 02:54:18	2601020027	BRISTOL ST/IRVINE AVE	VEHICLE STOP	1015
01/01/2026 22:58:31	2601010208	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
12/23/2025 17:17:05	2512230171	BRISTOL ST/BIRCH ST	TRAFFIC COLLISION WITH INJU	RPT
12/22/2025 23:05:56	2512220244	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV
12/20/2025 21:34:36	2512200267	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	CITE
12/18/2025 01:11:18	2512180011	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
12/17/2025 23:00:02	2512170224	2121 BRISTOL ST	VEHICLE STOP	ADV
12/17/2025 22:16:36	2512170217	CYPRESS ST/BRISTOL ST	VEHICLE STOP	ADV
12/15/2025 23:10:01	2512150241	2121 BRISTOL ST	VEHICLE STOP	CITE
12/13/2025 02:42:29	2512130024	BRISTOL ST/SPRUCE AVE	NON INJ ACCIDENT CITY PROP	RPT
12/11/2025 17:52:20	2512110202	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV

Call Time	Event ID	Street	Nature	CloseCo
12/11/2025 08:19:59	2512110028	BRISTOL ST/SPRUCE AVE	NON INJURY TRAFFIC COLLISIO	REFX
12/09/2025 07:47:07	2512090020	IRVINE AVE/BRISTOL ST	TRAFFIC COLLISION UNK INJUR	RPT
12/02/2025 15:38:23	2512020135	BRISTOL ST/CYPRESS ST	VEHICLE STOP	ADV
11/23/2025 09:36:41	2511230055	JAMBOREE RD/BRISTOL ST	TRAFFIC COLLISION WITH INJU	RPT
11/18/2025 21:33:19	2511180168	IRVINE AVE/BRISTOL ST	VEHICLE STOP	CITE
11/15/2025 23:35:21	2511150196	BRISTOL ST/BIRCH ST	VEHICLE STOP	1015
11/03/2025 17:56:53	2511030142	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	ADV
11/01/2025 19:27:06	2511010167	JAMBOREE RD/BRISTOL ST	NON INJ TRAFFIC COLLISION R	ASST
10/30/2025 08:25:51	2510300034	SPRUCE AVE/BRISTOL ST	VEHICLE STOP	CITE
10/27/2025 15:43:35	2510270135	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
10/22/2025 10:07:40	2510220060	BRISTOL ST/BIRCH ST	NON INJURY TRAFFIC COLLISIO	1022
10/22/2025 05:59:48	2510220023	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	CITE
10/20/2025 12:09:47	2510200097	BRISTOL ST/IRVINE AVE	DRUNK DRIVER	PC
10/20/2025 07:59:44	2510200042	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	CITE
10/19/2025 12:36:12	2510190095	2121 BRISTOL ST	VEHICLE STOP	ADV
10/18/2025 23:23:26	2510180268	BRISTOL ST/BIRCH ST	VEHICLE STOP	1015
10/18/2025 17:26:21	2510180161	BRISTOL ST/CYPRESS ST	VEHICLE STOP	ADV
10/16/2025 19:50:54	2510160218	JAMBOREE RD/BRISTOL ST	MISD HIT AND RUN JUST OCC	1022
10/12/2025 18:00:25	2510120176	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
10/08/2025 21:57:26	2510080192	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	ADV
10/08/2025 19:34:44	2510080175	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
09/27/2025 23:11:39	2509270212	BRISTOL ST/CYPRESS ST	VEHICLE STOP	ADV
09/24/2025 11:01:51	2509240081	BRISTOL ST/BAYVIEW PL	NON INJURY TRAFFIC COLLISIO	1022
09/23/2025 23:24:46	2509230208	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	ADV
09/23/2025 22:15:37	2509230196	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
09/21/2025 20:00:50	2509210185	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
09/20/2025 12:33:44	2509200092	JAMBOREE RD/BRISTOL ST	TRAFFIC COLLISION UNK INJUR	RPT
09/16/2025 17:44:12	2509160141	BRISTOL ST/JAMBOREE RD	MISD HIT AND RUN REPORT	ASST
09/14/2025 17:36:33	2509140166	JAMBOREE RD/BRISTOL ST	INJURY ACCIDENT CITY PROP I	RPT
09/11/2025 23:06:15	2509110226	BRISTOL ST/IRVINE AVE	VEHICLE STOP	ADV
09/11/2025 09:28:37	2509110061	IRVINE AVE/BRISTOL ST	TRAFFIC COLLISION WITH INJU	REFX
09/09/2025 21:22:50	2509090183	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	C4
09/06/2025 12:33:15	2509060102	BRISTOL ST/CYPRESS ST	VEHICLE STOP	CITE
08/26/2025 17:14:30	2508260182	BRISTOL ST/JAMBOREE RD	MISD HIT AND RUN REPORT	REFX
08/20/2025 00:08:18	2508200001	IRVINE AVE/BRISTOL ST	VEHICLE STOP	FI

Call Time	Event ID	Street	Nature	CloseCo
08/15/2025 03:10:49	2508150022	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	ADV
08/10/2025 19:10:24	2508100209	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
07/27/2025 16:25:51	2507270173	BRISTOL ST/JAMBOREE RD	RECKLESS DRIVER	GOA
07/27/2025 15:02:29	2507270148	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
07/26/2025 22:18:49	2507260274	2121 BRISTOL ST	VEHICLE STOP	FI
07/25/2025 15:56:54	2507250170	BRISTOL ST/CYPRESS ST	VEHICLE STOP	CITE
07/23/2025 21:58:25	2507230221	IRVINE AVE/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	1022
07/23/2025 20:49:43	2507230201	IRVINE AVE/BRISTOL ST	VEHICLE STOP	CITE
07/22/2025 00:45:02	2507220010	SPRUCE AVE/BRISTOL ST	VEHICLE STOP	CITE
07/16/2025 23:59:57	2507160275	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV
07/12/2025 13:50:32	2507120147	BRISTOL ST/IRVINE AVE	VEHICLE STOP	CITE
07/08/2025 23:03:49	2507080260	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	ADV
07/06/2025 20:45:37	2507060273	BRISTOL ST/JAMBOREE RD	MISD HIT AND RUN JUST OCC	ASST
07/03/2025 07:45:35	2507030037	IRVINE AVE/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	CBD
07/02/2025 06:07:49	2507020042	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	CITE
06/25/2025 23:59:23	2506250246	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	C4
06/22/2025 05:47:44	2506220050	BRISTOL ST/JAMBOREE RD	TRAFFIC COLLISION UNK INJUR	REFX
06/15/2025 17:39:56	2506150203	IRVINE AVE/BRISTOL ST	DRUNK DRIVER	UTL
06/14/2025 16:59:38	2506140149	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
06/10/2025 21:33:09	2506100229	BRISTOL ST/JAMBOREE RD	NON INJURY TRAFFIC COLLISIO	REFX
06/09/2025 20:53:10	2506090203	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
06/05/2025 19:06:00	2506050238	BRISTOL ST/BIRCH ST	DRUNK DRIVER	GOA
06/03/2025 22:57:33	2506030253	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
06/02/2025 13:29:53	2506020098	JAMBOREE RD/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	REFX
05/29/2025 21:17:11	2505290233	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
05/23/2025 15:19:46	2505230172	BRISTOL ST/IRVINE AVE	NON INJURY TRAFFIC COLLISIO	REFX
05/20/2025 23:41:07	2505200254	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV
05/18/2025 15:10:16	2505180163	BRISTOL ST/BIRCH ST	VEHICLE STOP	CITE
05/16/2025 14:37:36	2505160161	JAMBOREE RD/BRISTOL ST	RECKLESS DRIVER	GB
05/13/2025 03:18:20	2505130024	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
05/09/2025 16:26:07	2505090215	BAYVIEW PL/BRISTOL ST	DRUNK DRIVER RP FOLLOWING	C4
05/09/2025 02:49:23	2505090030	2121 BRISTOL ST	VEHICLE STOP	1015
04/29/2025 13:07:18	2504290125	BRISTOL ST/BIRCH ST	NON INJURY TRAFFIC COLLISIO	REFX
04/16/2025 17:06:51	2504160180	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	CITE
04/14/2025 23:10:30	2504140238	2111 BRISTOL ST	VEHICLE STOP	ADV

Call Time	Event ID	Street	Nature	CloseCo
04/09/2025 20:08:52	2504090246	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
04/08/2025 11:58:08	2504080080	BRISTOL ST/JAMBOREE RD	NON INJURY TRAFFIC COLLISIO	1022
04/08/2025 10:41:41	2504080060	IRVINE AVE/BRISTOL ST	VEHICLE STOP	CITE
04/06/2025 01:06:48	2504060014	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	CITE
04/02/2025 22:54:20	2504020258	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	RPT
04/02/2025 18:10:52	2504020205	IRVINE AVE/BRISTOL ST	DRUNK DRIVER	GOA
04/01/2025 23:21:00	2504010257	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	ADV
03/29/2025 12:09:44	2503290108	2111 BRISTOL ST	VEHICLE STOP	CITE
03/29/2025 00:25:02	2503290004	JAMBOREE RD/BRISTOL ST	DRUNK DRIVER	UTL
03/28/2025 08:40:52	2503280043	BRISTOL ST/BAYVIEW PL	RECKLESS DRIVER	GOA
03/26/2025 22:38:08	2503260272	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
03/23/2025 12:11:16	2503230115	JAMBOREE RD/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	RPT
03/22/2025 21:18:35	2503220271	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
03/18/2025 10:20:05	2503180074	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	ADV
03/17/2025 05:54:09	2503170023	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	ADV
03/12/2025 21:52:33	2503120252	2121 BRISTOL ST	VEHICLE STOP	ADV
03/04/2025 20:21:21	2503040218	2121 BRISTOL ST	VEHICLE STOP	ADV
03/03/2025 23:05:31	2503030223	2121 BRISTOL ST	VEHICLE STOP	ADV
03/03/2025 12:15:59	2503030076	2580 BRISTOL ST	DRUNK DRIVER	1022
03/02/2025 00:03:05	2503020001	JAMBOREE RD/BRISTOL ST	DRUNK DRIVER	PC
02/26/2025 16:09:02	2502260130	IRVINE AVE/BRISTOL ST	RECKLESS DRIVER	GB
02/24/2025 17:55:24	2502240170	IRVINE AVE/BRISTOL ST	VEHICLE STOP	CITE
02/22/2025 19:33:40	2502220179	IRVINE AVE/BRISTOL ST	NON INJURY TRAFFIC COLLISIO	RPT
02/22/2025 08:31:16	2502220050	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	CITE
02/11/2025 22:20:51	2502110197	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
02/10/2025 11:17:36	2502100086	JAMBOREE RD/BRISTOL ST	TRAFFIC COLLISION UNK INJUR	DRX
02/04/2025 21:35:52	2502040217	BAYVIEW PL/BRISTOL ST	VEHICLE STOP	ADV
02/02/2025 15:09:14	2502020144	BRISTOL ST/BIRCH ST	RECKLESS DRIVER	GOA
01/31/2025 02:59:56	2501310017	3574 JAMBOREE RD	VEHICLE STOP	C4
01/29/2025 03:19:14	2501290015	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	1015
01/28/2025 23:23:18	2501280227	2121 BRISTOL ST	VEHICLE STOP	ADV
01/28/2025 11:49:11	2501280103	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	ADV
01/27/2025 22:18:30	2501270181	IRVINE AVE/BRISTOL ST	TRAFFIC COLLISION WITH INJU	RPT
01/27/2025 20:04:05	2501270151	BRISTOL ST/JAMBOREE RD	VEHICLE STOP	ADV
01/22/2025 15:35:41	2501220152	JAMBOREE RD/BRISTOL ST	VEHICLE STOP	CITE

Call Time	Event ID	Street	Nature	CloseCo
01/15/2025 01:08:16	2501150009	BRISTOL ST/BIRCH ST	VEHICLE STOP	ADV
01/09/2025 23:13:34	2501090211	BRISTOL ST/BAYVIEW PL	VEHICLE STOP	ADV
01/09/2025 17:30:23	2501090140	BRISTOL ST/JAMBOREE RD	NON INJURY TRAFFIC COLLISIO	ASST
01/06/2025 17:43:16	2501060138	IRVINE AVE/BRISTOL ST	RECKLESS DRIVER	GB
01/05/2025 21:58:49	2501050231	BRISTOL ST/JAMBOREE RD	RECKLESS DRIVER	UTL
01/04/2025 21:04:11	2501040186	IRVINE AVE/BRISTOL ST	VEHICLE STOP	ADV
01/03/2025 11:50:23	2501030091	BRISTOL ST/SPRUCE AVE	VEHICLE STOP	CITE

EXHIBIT E

Community Development Department
Discretionary Application
Owner's Affidavit

CITY OF NEWPORT BEACH
100 Civic Center Drive
Newport Beach, California 92660
949 644-3200
newportbeachca.gov/communitydevelopment

1. **Check Permits Requested:**

- ☐ Approval-in-Concept - **AIC #**
- ☐ Coastal Development Permit
  - ☐ Waiver for De Minimis Development
- ☐ Coastal Residential Development
- ☐ Condominium Conversion
- ☐ Comprehensive Sign Program
- ☐ Development Agreement
- ☐ Development Plan
- ☐ Lot Line Adjustment
- ☐ Lot Merger
- ☐ Limited Term Permit -
  - ☐ Seasonal ☐ < 90 day ☐ >90 days
- ☐ Modification Permit
- ☐ Off-Site Parking Agreement
- ☐ Planned Community Development Plan
- ☐ Planned Development Permit
- ☐ Site Development Review –
  - ☐ Major ☐ Minor
- ☐ Parcel Map
- ☑ Staff Approval
- ☐ Tract Map
- ☐ Traffic Study
- ☐ Use Permit - ☐ Minor ☐ Conditional
  - ☐ Amendment to existing Use Permit
- ☐ Variance
- ☐ Amendment - ☐ Code ☐ PC ☐ GP ☐ LCP
- ☐ Zoning Clearance - ☐ ADU ☐ Use
- ☐ Residential Project Using Senate Bill 6
- ☐ Other:

2. **Project Address(es)/Assessor's Parcel No(s)**

2350 SE Bristol Street, Newport Beach, CA 92660

3. **Project Description and Justification (Attach additional sheets if necessary):**

2350 SE Bristol, LLC ("Property Owner") hereby applies for Staff Approval to clarify the 1986 Use Permit ("Permit") related to the development and uses for the property located at 2350 SE Bristol Street in Newport Beach ("Subject Property"). The Property Owner seeks to continue to use the back driveway/gate located along Zenith Avenue for necessary and safe ingress/egress to the Subject Property for larger/delivery vehicles and employees.

Staff Approval should be granted as the driveway/gate on Zenith Avenue was previously approved in 1986 and was not expressly limited in the Permit (Exhibit A). Further, the continued use of the driveway/gate will allow for "adequate and safe maneuvering" to enter/exit the Subject Property onto Bristol Street (a multi-lane, higher-speed arterial) in a forward direction as required by the later-adopted Newport Beach Municipal Code ("NBMC") § 20.40.070. (See Attachment 1.)

4. **Property Owner's Affidavit***: (I) (We) Maryam Parman depose and say that (I am) (we are) the owner(s) of the property (ies) involved in this application. (I) (We) further certify, under penalty of perjury, that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of (my) (our) knowledge and belief.

Signature(s): _____ Title: Owner Date: _____ MM/DD/YEAR

Signature(s): _____ Title: _____ Date: _____

*May be signed by the lessee or by an authorized agent if written authorization from the owner of the record is filed concurrently with the application. Please note, the owner(s)' signature for Parcel/Tract Map and Lot Line Adjustment Application must be notarized.

Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars ($250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City. If you have made a qualifying contribution, please ensure to make this disclosure on the record. Please review Senate Bill 1439 - Statues 2022 for further information.

Please be further advised, application representatives who are not exempt and are considered a "lobbyist" pursuant to the City's Ordinance No. 2020-3 must file a lobbyist registration form. Click here or contact the City Clerk's Office at 949-644-3005 for more information.

Attachment 1
2350 SE Bristol Street, Newport Beach, CA 92660

When the Subject Property development was approved in 1986 by the County of Orange ("County"), the Permit stated that the back gate was to be made available for access by emergency vehicles. (See Exhibit A.) There was no limitation on the use of the Zenith Avenue driveway/gate by other vehicles, such a delivery trucks, customers, employees, etc. In fact, for nearly 40 years, the driveway/gate was used for such purposes, without incident.

During that same 40 year period, Bristol Street (which was once a County road) has been widened into a ***Major Arterial*** (tens of thousands of vehicles per day) and the speed increased. Not to mention, the actual speed of traffic heading southbound along Bristol Street is much greater than the posted speed of 45 per hour. Thus, the safety of the Subject Property's owners, tenants, employees and vendors (including delivery vehicles) is of paramount importance. An aerial site picture with dimensions and other various photos of the Subject Property are attached hereto as Exhibit B.

As the City is aware, many vehicles traveling along southbound Bristol Street merged off of SR 73 -- a freeway/tollway with higher speeds. Further, as vehicles pass the Subject Property, many of them are merging back onto SR 73 and/or turning right or left onto Jamboree, another major arterial. It is easy to see that most vehicles traveling southbound on Bristol Street are passing the Subject Property at high speeds, some well over 65 miles per hour.

The Subject Property has one driveway along on Bristol Street, which immediately enters into an 8' garage style/covered entrance. (See Exhibit B pictures.) At the driveway entrance, there are also several bushes and other structure-type materials at the northern side of the driveway, which can make it difficult for vehicles exiting the Subject Property to see oncoming vehicles traveling on southbound Bristol Street. This can create certain safety concerns related to site distance issues. Of note, most if not all of the neighboring properties near the Subject Property, have at least two driveways (entrances/exits); one along Bristol Street and another either on the side or in the back of the property.

As a result, it is much safer for most vehicles to enter the Subject Property from Bristol Street and exit onto Zenith Avenue. For larger vehicles, and due to the limitations on turning radii within the parking area/aisles, ***it is safer for those vehicles to enter from Zenith Avenue and exit in a forward direction onto Bristol Street***. This of course is assuming such vehicles are lower than eight (8) feet; as vehicles over such height would have to enter/exit the Subject Property from Zenith Avenue. As the later-adopted NBMC requires (adopted after the 1986 Permit), vehicles should not be backing out of the Bristol Street driveway and onto a heavily traveled, high-speed, major arterial.

Finally, as the City does not permit street parking along Bristol Street (or Spruce Avenue), all vehicles (including larger vehicles) must enter/exit the Subject Property to

access the same. This further supports the continued use of the Zenith Avenue driveway/gate for safe access to and from the Subject Property.

For the reasons stated, the Property Owner respectfully requests Staff Approval to re-confirm that the Zenith Avenue driveway/gate can continue to be used for the necessary and safe ingress/egress for larger/delivery vehicles and employees.

By submitting this application and request, the Property Owner does not waive any rights to claim that the Permit already allows the existing uses of the Zenith Avenue driveway/gate to continue, and expressly reserves all rights thereto.

EXHIBIT F

EMA FSP Fund

RESOLUTION OF BOARD OF SUPERVISORS
OF ORANGE COUNTY, CALIFORNIA
August 20, 1986

On motion of Supervisor Riley, duly seconded and carried, following resolution was adopted:

WHEREAS, this Board has considered appeal of Planning Commission conditions of approval on Use Permit UP 86 21P/Site Plan SP 86-52P in compliance with provisions of Section 7-9-150.4 of Certified Ordinances of Orange County;

WHEREAS, this Board has considered the action of the Planning Commission on Use Permit UP 86-21P/Site Plan SP 86-52P;

WHEREAS, this Board has considered testimony of appellant on this project;

WHEREAS, the Planning Commission also considered a site plan which included adjacent Parcel 439-021-10 and provided for an 18,000± square foot office building (Site Plan Alternative B); and

WHEREAS, subject discretionary permit will allow the establishment of a 14,500± square foot office building on three parcels with an off-street parking modification and a height variance of three (3) feet for an architectural feature;

NOW, THEREFORE, BE IT RESOLVED that the appeal is denied, the action of the Planning Commission is amended to approve either the proposed office building of 14,500± square feet on three parcels as approved by the Planning Commission or the proposed office building of 18,000± square feet on four parcels in accordance with Site Plan Alternative B filed by the project proponent, based upon the following findings and subject to the following conditions:

FINDINGS:

I. That the project proposed, as conditioned herein below, is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

II. That Final EIR 508, previously certified by findings on February 26, 1985, was considered prior to approval of the project. It was determined adequate to serve as a Program EIR for this project and satisfy all the requirements of CEQA. It is hereby certified for this project and the findings readopted.

III. That the activity and improvements proposed, subject to the specified conditions, are consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.

IV. That the locations, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that will be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

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V. That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

VI. That the off-street parking requirements for a fifty (50) foot parking accessway is inappropriate due to the low stacking demand created by the one-way traffic along Bristol Street.

VII. That the proposed off-street parking facilities comply with the intent of Section 7-9-145.1 "Off-Street Parking Regulations" of the Orange County Zoning Code.

VIII. That subject project lies within the area of benefit of the San Joaquin Hills Transportation Corridor. In order to find this project consistent with the General Plan and to ensure that the traffic impacts have been adequately mitigated, it is necessary to adopt a condition requiring the developer to participate in the fee program for the corridor.

IX. That the property to which the permit applies is not located in a community facilities fee area as that term is defined in Section 7-9-702.

CONDITIONS:

1. Approval of this permit application constitutes approval of the proposed project to the extent of its compliance with the applicable zoning regulations, but does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

2. The approval of this application is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, the permit shall be terminated and shall thereafter be null and void.

3. This application is approved as a precise plan for the location of the uses and structures shown on the approved plot plan. Any relocation, alteration or addition of any structure or use not specifically approved will nullify the approving action for this permit. If any changes are proposed regarding the location or alteration of any use or structure, a changed plan shall be submitted to the Director of Planning, EMA for approval. If the Director of Planning, EMA determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

Three-Parcel Development

4. If the building permit application is for a three-parcel development, then a building permit will be issued for a 14,500± square foot office building. However, the issuance of certificates of use and occupancy for the structures approved in this permitting action shall be governed by the following: The Manager, Building Inspection Division in consultation with the Manager, Current Planning and Development Assistance Division will grant

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a certificate of use and occupancy for only 13,000± square feet gross floor space for personnel occupancy.

Four-Parcel Development

5. If the project proponent provides satisfactory evidence to the Director, EMA that the development includes Parcel 439-021-10, then a building permit will be issued for an 18,000± square foot office building in accordance with Site Plan Alternative B filed by the project proponent.

FAA Notification Requirement

6. At least thirty (30) days prior to the application for a building permit the project applicant shall submit a notice of proposed construction to the FAA. The FAA will then make a determination on the projects' potential to create an aeronautical hazard. The project shall comply with restrictions and conditions imposed by the FAA as a part of their determination.

Noise

7. All non-residential structures shall be sound attenuated against the combined impact of all present and projected noise from exterior noise sources to meet the interior noise criteria as specified in the Noise Element and Land Use/Noise Compatibility Manual.

Prior to the issuance of any building permits, evidence prepared under the supervision of an acoustical consultant that these standards will be satisfied in a manner consistent with applicable zoning regulations shall be submitted to the Manager, Development Services Division in the form of an acoustical analysis report describing in detail the exterior noise environment and the acoustical design features required to achieve the interior noise standard and which indicate that the sound attenuation measures specified have been incorporated into the design of the project.

8. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Development Services, that:

A. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with properly operating and maintained mufflers.

B. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

C. Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

9. Prior to issuance of any certificates of use and occupancy, the developer shall produce evidence acceptable to the Manager, Development Services Division, that information stating this property is subject to the overflight, sight, and sound of aircraft operating from John Wayne Airport

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has been provided to the Department of Real Estate of the State of California for inclusion into the Final Subdivision Public Report.

10. Prior to sale, lease, or rental of any structure or portion thereof, the applicant/owner shall provide to each prospective purchaser, lessee, or tenant a notice and statement of acknowledgement that the property is subject to overflight, sight, and sound of aircraft operating from John Wayne Airport. The form and method of distribution of said notice and statement of acknowledgement shall be as approved by the Manager, Development Services Division.

11. Prior to recordation of the first final tract/parcel map, the landowner shall prepare and record a notice that this property may be subject to impacts from the proposed San Joaquin Transportation Corridor in a manner meeting the approval of the Manager, Development Services Division.

12. Prior to the issuance of certificates of use and Occupancy, the owner shall produce evidence to the Manager, Development Services Division, that the Department of Real Estate has been notified that the project area is adjacent to a regional transportation corridor which is shown on the Orange County Master Plan of Arterial Highways and which will pass along the side of project. The corridor is expected to be a high capacity, high-speed, limited-access facility for motor vehicles, and will have provisions for bus lanes and other mass transit type facilities along it.

Landsca

13. A. Private Landscape Design Certification:

Prior to issuance of building permits, areas to be landscaped which will be maintained privately shall be designed in accordance with a plan certified by a licensed landscape architect taking into account an approved preliminary landscape plan (if any), ZMA Standard Plans, adopted planned community, scenic corridor and specific plan requirements, Grading Code erosion control requirements, Subdivision Code, Zoning Code, and conditions of approval. Said certification shall be furnished to the Manager, Building Inspection Division.

B. Private Landscape Installation Certification:

Prior to issuance of certificates of use and occupancy, applicant shall have installed said landscaping and irrigation system and shall have installation certified by a licensed landscape architect that it was installed in accordance with a certified plan. Applicant shall furnish certification in writing to the Manager, Building Inspection Division.

Circulation/Traffic

14. Prior to the completion of an application for any building permits, the developer shall pay fees, as prescribed in the Major Thoroughfare and Bridge Fee Program for the San Joaquin Hills Transportation Corridor. If the

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building permit application is for a three-parcel development, the fee shall be based upon 13,000± square feet of office space. If the building permit application is for a four-parcel development, the fee shall be based upon 18,000± square feet of office space.

15. Prior to issuance of a building permit, applicant shall design and construct the following improvements in accordance with plans and specifications meeting the approval of the Manager of Subdivision Division.

A. Sidewalk on South Bristol Street across the property frontage.

B. Sidewalk on Zenith Avenue across the property frontage.

Grading

16. Prior to the issuance of any precise grading permits, the applicant shall design the following improvements and provide necessary dedications in a manner meeting the approval of the Manager, Subdivision Division.

A. All provisions for surface drainage; and

B. All necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and

C. Where determined necessary by the Manager, Subdivision Division, the associated easements shall be dedicated to the County of Orange.

Prior to issuance of certificates of use and occupancy, or whichever comes first, said improvements shall be constructed in a manner meeting the approval of the Manager, EMA/Construction Division.

17. Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Development Services, for his approval. This report will primarily involve assessment of potential soil related constraints and hazards such as slope instability, settlement, liquefaction, or related secondary seismic impacts where determined to be appropriate by the Manager, Development Services. The report shall also include evaluation of potentially expansive soils and recommended construction procedures and/or design criteria to minimize the effect of these soils on the proposed development. All reports shall recommend appropriate mitigation measures and be completed in the manner specified in the Orange County Grading Manual and State/County Subdivision Ordinance.

Fire

18. Prior to the issuance of any building permits, plans for an automatic fire extinguishing system shall be approved by the Fire Chief. Such systems shall be operational prior to the issuance of a certificate of use and occupancy.

19. Prior to the issuance of any building permits, construction details for the controlled emergency access shall be approved by the Fire Chief. These

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details shall include width, clear height, and means of emergency vehicle override. Prior to issuance of any certificate of use and occupancy, emergency access shall be operational in a manner meeting the approval of the Manager, Construction Division.

Light/Glare

20. Notwithstanding the submitted site plan, the site plan shall be revised to incorporate the use of nonreflective materials including recessed windows, non-reflective glass and other non-glare materials, to reduce light and glare on Zenith Avenue elevation. No building or grading permits or certificates of use and occupancy authorized by this permit shall be issued until revised plans are submitted to the Director, EMA, and found by the Director or his designee to be consistent with the action of the approving authority. If such revision is not submitted within sixty (60) days, or as otherwise specified by the approving authority, after the date of final determination, the permit shall thereafter be null and void. However, prior to the expiration of this period, the Director, EMA, may grant one extension of time of an additional sixty (60) days if it is requested and justified by the applicant.

Caveats

21. Applicant agrees as a condition of issuance and use of this permit to defend at her/his sole expense any action brought against the County because of issuance of this permit or, in the alternative, the relinquishment of such permit. Applicant will reimburse the County for any court costs and attorney's fees which the County may be required to pay as a result of such action. County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve applicant of his obligations under this condition (Government Code Section 65907 requires that any action to attach, review, set aside, void or annul the use permit must be brought within 180 days of approval).

22. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.

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AYES: SUPERVISORS THOMAS F. RILEY, RALPH B. CLARK, ROGER R. STANTON, HARRIETT M. WIEDER, BRUCE NESTANDE

NOES: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, LINDA D. ROBERTS, Clerk of the Board of Supervisors of Orange County, California, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the 20th day of August, 1986, and passed by a unanimous vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of August, 1986.

LINDA D. ROBERTS
Clerk of the Board of Supervisors
of Orange County, California

OFFICE OF COUNTY COUNSEL ORANGE COUNTY

FD192-208.1

Newport Beach City Hall Park
Botanical Inventory

Prepared for City of Newport Beach
Dan Sereno, Parks Superintendant
October, 2014

CNPS ORANGE COUNTY CHAPTER
California Native Plant Society

ROGER'S GARDENS

Ron Vanderhoff
October, 2014

Newport Beach City Hall Park
Botanical Inventory
October, 2014

Overview

On April 11, 2013, the City of Newport Beach opened a new City Hall near Avocado Street and San Miguel Road. Adjacent to the City Hall is a new park, which with the City Library, comprises a complete City Hall complex. The entire City Hall area encompasses about 20 acres, 14.3 acres of total park space. Of the park space, approximately 1.67 acres were preserved essentially in their pre-existing natural state.

The complete park space incorporates a combination of both natural and developed areas. The natural area includes existing native plants and minimal amenities. The developed park areas include traditional park features such as extensive ornamental plantings, a dog park, walking paths, seating areas, interpretive signage and urban art.

Preceding the development and planning of the area the city contracted a complete biological assessment of the 20 acre site. This assessment was completed by LSA Associates and submitted to the city in July 2009. Included in this assessment were botanical field surveys conducted by LSA staff on Feb 4, Feb 12, April 1, April 29 and June 29, 2009. The resulting biological assessment satisfied requirements set forth by the California Environmental Quality Act (CEQA), as well as California and Federal Endangered Species Acts. The report provided an inventory of the flora at the site prior to development.

In June of 2013 Ron Vanderhoff, a director of The California Native Plant Society in Orange County and Vice President of Roger's Gardens in Corona del Mar, approached the city with an offer to perform several botanical surveys of the natural areas and some surrounding portions at the site. The city agreed, and the surveys attached now provide a complete and current inventory of all flora present within this 1.67 acre natural area and a portion of the surrounding predominantly native landscaped area, a total space of 3.49 acres.

The survey area, as defined in this report (Figures 1 and 2), includes the natural and undeveloped areas of the site. This area is highlighted by a V-shaped drainage at the Northern end of the main park parcel.

This natural area, due to its adjacency to city government offices and its high profile location within the community, is an important natural resource and an area of biological interest. It was agreed that an updated botanical inventory may be of use to the community, park visitors and other interested parties. Furthermore, this inventory would have value if the city were to add additional interpretive features to the park in the future, such as additional signage, plant lists and website content.

All services were donated and no city expenses were incurred in any portion of this project.

Methods

For the purposes of these surveys the area included in this inventory needed to be defined in laymen terms that the casual user could understand. The decision was made to use the park's permanent walkways and property lines to define the survey area (Figure 2). These borders, although somewhat arbitrary, are easy for the public to understand and visualize.

Because the natural areas and the adjacent landscaped areas intergrade considerably, some landscape plantings are included in this inventory. However, those plants that were not originally present on the site are reported in the inventory as “Planted-Landscape”.

On Jan. 8, Jan. 29, April 2, April 30, June 5, Aug. 11 and Sept 25, 2014 complete botanical surveys were conducted for the entire 3.49 acre survey area. Additionally, the site was surveyed less thoroughly in 2013. All surveys were led by Ron Vanderhoff, with assistance from James Maxwell and Aaron Potter.

Given the small geography of the site, complete surveys of the entire space were performed, versus using various sampling techniques that are often employed in larger spaces.

All vascular plant taxa on the site were recorded. These plants include those that appeared to be of native occurrence, those that were non-native and naturalized or those that were planted and at least to some degree cultivated. All surveys were recorded with full details, including GPS routes, field-hours, weather conditions, etc. The coordinates of significant plants were plotted and voucher samples were taken for the few plants that required additional taxonomic work.

In total, 29:55 field hours were invested, with approximately 13.59 team miles travelled. 28:00 office hours were invested.

In addition to cataloging the plant taxa, abundance estimates were also made for each taxa, as were details about the plants nativity and its general growth habit (annual, perennial, tree, etc.).

Ecological and Biological Resources

The survey site is comprised primarily of a disturbed California Coastal Sage Scrub plant community surrounding narrow wetland/riparian areas. A small but deep V-shaped ravine toward the center of the natural area is the most obvious natural feature of the space. This wetland area is fed during the rainy season by the small amount of natural watershed at the site. More significantly, throughout the year this area receives moisture from urban runoff. This water enters the ravine through a culvert on the Eastern portion and, after travelling slowly through the wetland, exits the site on the Western edge through a large standpipe. A second connecting arm with additional wetlands begins near the Northcentral portion of the site, with water appearing to enter via an underground concrete culvert. This drainage connects to the prior drainage at the midway point and exits through the same outlet. These wetland areas support an isolated riparian plant community.

Specific vegetation types retained on the site (as defined by the OC Habitat Classification System) include sagebrush scrub, Southern cactus scrub, ruderal grassland, freshwater marsh, willow riparian scrub and mulefat scrub, surrounded on most sides by primarily native plant landscaping.

152 taxa of vascular plants were documented from the site during this survey. Of these, 54 were considered native and naturally occurring, 74 were considered non-native and naturalized, and 41 were considered planted and at least to some degree cultivated (17 were both naturalized and cultivated). Relative abundance of all taxa was also estimated and is included in the report. Of the native taxa, 25 were considered scarce (the highest level of rarity), with between 1 and 4 individuals.

In contrast, the LSA survey of the entire 20 acre site, completed in 2009, recorded 141 vascular plant taxa. The net increase of eleven plant taxa between 2009 and 2014 was unexpected, considering the much smaller area surveyed in 2014. Reasons for this increase in taxa are likely from: 1) several cultivated plants added to the site and 2) more focused and thorough survey work in 2014.

64 taxa were recorded in 2014 that were not recorded in 2009. Conversely, 44 taxa were recorded in 2009 that were not recorded in 2014.

No state or federally endangered plants were recorded in 2014. Additionally, no plants were recorded in 2014 with a California Rare Plant Rank (CRPR). One species, *Atriplex coulteri*, with a California Rare Plant Rank of 1B.2 (rare, threatened, or endangered in CA and elsewhere) was recorded in 2009. In accordance with regulatory guidelines, these 18 plants were relocated to another location in Newport Beach prior to construction. No *Atriplex coulteri* were recorded in 2014.

The species richness of the site is considered moderate to high for such a small area, surrounded on all sides by dense urban development. Gene flow in and out of the site is likely very limited, due to its isolation from other stands of native plants.

Understanding the Survey

The following survey provides a complete list of vascular plant taxa surveyed at the site in 2014 and 2013. The taxonomy and organization follows *The Jepson Manual: Vascular Plants of California, Second Edition 2012.* Occurrence data is included, providing survey dates and individual records. General abundance estimates as well as life form information is also included.

Nativity details at the site are added to assist the user in understanding the origins of the plants present at the site. *Native to site* implies that the plants are native to this specific site and are naturally occurring. *Naturalized-Exotic* are plants that are not native to the site, but have naturalized unassisted. Most of these would also be considered invasive species. *Planted-Landscape* are those plants that have been intentionally planted and introduced onto the site. These may be plants that are native to the general Southern CA region, but these are not plants that are native and naturally occurring at this site.

Finally, notes have been added for several of the taxa surveyed.

Management Recommendations

The city of Newport Beach should be commended for setting aside and managing this fragment of natural space, as well as for planting and maintaining the surrounding acres in a semi-native manner. In addition to the preserved natural area, the landscaped areas support many additional California native plants and other carefully selected plants from similar Mediterranean climates.

The city also should be acknowledged for avoiding the introduction of exotic plants into the landscaped areas of the park. These invasive plants could potentially invade and overwhelm this small natural area.

Other than direct loss of land, invasive plant species are the largest threat to our natural areas. This is especially true in small pockets of natural space that are surrounded by urban development, such as this site. Diligence must be taken to both exclude and remove invasive exotic plants on an on-going and regular manner. Unfortunately, invasive plant management will be a requirement that will have no end.

If invasive plant management were to stop, even for brief periods, the sites overall ecology and species richness would almost certainly degrade quickly as these species overwhelm the native plants.

During the survey a few high profile invasive species and their exact locations were communicated to city staff. The city was responsive to these communications and the city made efforts to address several of these threats.

Current and specific management recommendations:

- Continue to remove specific existing invasive plants at this site. Efforts should be prioritized to those species with the greatest potential to spread and/or degrade the natural habitat, as well as the efficiency and likelihood of control. Specifically these non-native invasive plants include:
    - *Carpobrotus edulis* - Hottentot-fig
    - *Centaurea melitensis* - Tocalote
    - *Cortaderia selloana* - Pampas grass
    - *Cupaniopsis anacardioides* - Carrotwood
    - *Cynara cardunculus ssp. flavescens* - Artichoke thistle
    - *Echium candicans* - Pride of Madeira
    - *Emex spinosa* - Devil's thorn
    - *Eucalyptus camaldulensis* - River red gum
    - *Foeniculum vulgare* - Sweet fennel
    - *Glebonis coronarium* - Garland chrysanthemum
    - *Lepidium latifolium* - Perennial pepperweed
    - *Malephora crocea* - Croceum ice plant
    - *Marrubium vulgare* - Horehound
    - *Melaleuca viminalis* - Weeping bottlebrush
    - *Myoporum laetum* - Myoporum
    - *Nicotiana glauca* - Tree tobacco
    - *Ricinus communis* - Castor bean

- In addition to those above, many other invasive plant species are present at the site, but are excluded from management recommendations due to their ubiquitous qualities and the unlikely probability of successful eradication or significant and lasting control.

- In addition to the invasive plants already present at the site and in need of management, new invasive plants are a significant threat. On-going invasive plant monitoring should be performed in order to address and manage these future threats. Specific examples are *Pennisetum setaceum* (Fountaingrass), *Asphodelus fistulosus* (Onionweed) and *Plantago lanceolata* (English Plaintain) all of which are present elsewhere on the City Hall site, but not yet within the survey area. Each of these is a listed species by The California Invasive Plant Council (Cal-IPC). These plants should be eliminated elsewhere on the property, before they enter this natural area.

- The timing of invasive plant treatments is critical to effective management. For instance, annual species must be cut, treated or removed each year before viable seed is produced. Perennial species must also be managed prior to seed development, but the parent plants must also be removed or killed as well.

- A large planting of non-native *Acacia redolens* occupies approximately 830 square meters as a monoculture along the slope above the Eastern border of the wetlands and culvert. This

planting appears to have been present here for many years. It should be removed and re-vegetated with locally native species in order to enhance the natural area.

- Green waste, which often includes non-native invasive plants, should at no time be stored on site and especially not within the natural area. Many of these plants can continue to propagate and disperse vegetatively and from viable seed, even after they are removed. On several occasions piles of green waste were observed being stored on the site.

- Soil erosion along the edges of the ravine is likely to cause sediment buildup in the wetland area, both degrading the habitat and affecting the hydrology of the site. Many of the upland margins of this ravine were planted and the soils have thus been disturbed, increasing the likelihood of sediment flow into the wetlands, especially during rain events.
    - Maintenance workers should be trained to avoid working and walking along the immediate edge of the ravine.
    - Use paths should be avoided when they transect an area into the ravine and wetland area.
    - Where use paths are already present, they should be obscured or replanted to reduce further use.
    - If erosion continues or use paths enlarge, fencing or signage should be considered, although the appearance of either would detract from the aesthetics of the area.

- Landscape and maintenance workers should be periodically trained in invasive plant identification and able to distinguish native (desirable species) from non-native (undesirable) invasive species.

- Proper techniques to remove invasive species are critical. Usually this is a species specific decision. Many perennial and woody invasive species will quickly re-sprout from perennial roots or basal burls if simply cut away at or near the soil line. These species need thorough removal of the entire basal crown (grubbing) or complete root removal. However, root removal may increase soil erosion, so care must be taken. Alternatively, many of these woody or perennial species can be killed with cut-and-treat herbicide techniques. Unfortunately, many of the invasive plants cut out during 2014 by contractors and city staff were not grubbed and are aggressively re-sprouting (*Foeniculum, Eucalyptus, Cupaniopsis, Cynara, Nicotiana* and others).

- A bacterial disease**,** *Erwinia amylovora* or fire blight, was observed on a few of the Toyon (*Heteromeles*) planted along MacArthur Blvd. Although slightly outside of the survey area, this disease is a threat. This disease is vectored from plant to plant through contamination of pruning equipment. Proper sanitation and training of maintenance personnel should be provided.

- The maintenance plan for the site should be reviewed periodically and adjustments should be made in management strategies, including those mentioned here.

Opportunities
Additional interpretive resources could be added to help visitors understand and appreciate this natural area and its important biological resources.

An online and interactive resource could be established which would include this plant list and thumbnail photos of many or all of the plants on the site. Original, high quality images are available from the author for this purpose, if desired.

Printed materials could be developed and made available for self-guided tours of the natural and other features of the park.

An audio tour could be recorded and made available for self-guided tours. The recording would explain the natural and other features of the park. These headsets could be distributed or rented at the adjacent city library.

Periodic interpretive nature walks, led by trained docents could be conducted to introduce the public to many of the natural resources present at the site. Customized walks could be made available for school and youth groups.

This natural area and the surrounding park is a quality example of a positive trend in public landscapes. By blending the community's need for recreational space with the need to protect and preserve some of our remaining natural areas, spaces such as this are important in our communities. Use of limited natural resources, particularly water, is well accomplished at this site. Additionally, many negative environmental impacts associated with traditional parklands have been greatly reduced here. These reduced impacts include limited green waste, fewer carbon emissions, reduction in fossil fuels from maintenance activities, reduction in nutrient flow off the site and lower noise pollution.

Furthermore, many enhancements to the greater environment are supported by park spaces such as this one. These benefits include far greater levels of biodiversity, such as native pollinators, migratory birds, small reptiles, amphibians and microbial soil health.

CNPS ORANGE COUNTY CHAPTER
California Native Plant Society

ROGER'S GARDENS

Ron Vanderhoff
October, 2014

Ron Vanderhoff is the General Manager and Vice President of Roger's Gardens,
2301 San Joaquin Hills Road, Corona del Mar.
He is a Board member of the California Native Plant Society, Orange County.
He assists with native plant field surveys, vegetation assessments and
rare plant mapping throughout Orange County and adjacent areas.



Figure 1. The complete area of the surveys and vascular plant inventory (blue shaded). This includes the preserved natural areas as well as adjacent native landscaping and revegetation. 3.49 acres.



Figure 2. The preserved natural area (yellow shaded). This area is primarily pre-existing native and naturalized vegetation. 1.67 acres.



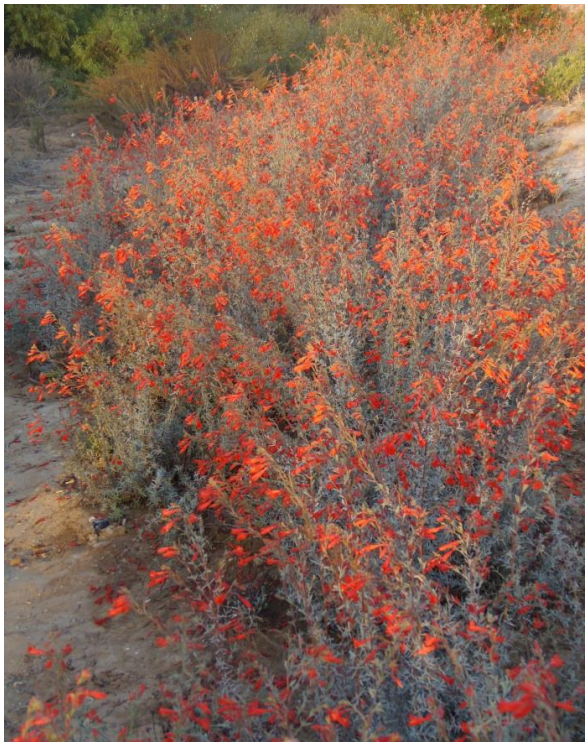




1 'Sunset' Manzanita



2 Western Goldenrod



3 California Fuschsia



4 Coastal Prickly Pear



5 Giant Tickseed



6 California Buckwheat



7 Deer Grass



8 Marsh Fleabane



9 Douglas Nightshade



10 A California landscape

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
LYCOPODIOPHYTA-CLUB MOSS & ALLIES																						
Selaginellaceae Spike Moss Family																						
Selaginella bigelovii - Bigelow's spike moss				X		X				X					X					X		
Few plants, N facing position above watershed.																						
POLYPODIOPHYTA-FERNS																						
Pteridaceae Lip Fern Family																						
Pentagramma triangularis ssp. triangularis - Gold back fern				X		X	X			X					X					X		
Few plants, N facing position above watershed.																						
GYMNOSPERMAE CONE-BEARING PLANTS																						
Pinaceae Pine Family																						
Pinus halepensis - Aleppo pine	X	X	X	X	X	X	X	X	X				X				X					X
Edge of survey area.																						
ANGIOSPERMAE: DICOTYLEDONAE DICOT FLOWERING PLANTS																						
Aizoaceae Carpet-weed Family																						
Carpobrotus edulis - Hottentot-fig	X	X	X	X	X	X	X	X	X			X						X			X	
Invasive priority.																						
Malephora crocea - Croceum ice plant	X	X	X	X	X	X	X	X				X						X			X	
Invasive priority.																						
Mesembryanthemum crystallinum - Crystal ice plant								X						X							X	
Invasive.																						
Mesembryanthemum nodiflorum - Small-flowered ice plant							X	X		X				X							X	
Invasive.																						
Anacardiaceae Sumac Family																						
Rhus integrifolia - Lemonade berry	X	X	X	X	X	X	X	X	X			X				X				X		
Apiaceae Carrot Family																						
Apium graveolens - Common celery	X	X	X	X	X	X	X	X	X				X		X						X	
Invasive.																						
Foeniculum vulgare - Sweet fennel	X	X	X	X	X	X	X	X	X			X			X						X	
Invasive priority.																						
Asteraceae Sunflower Family																						
Artemisia californica - California sagebrush	X	X	X	X	X	X	X	X	X				X			X				X		X
Includes both native occurances and those planted.																						
Baccharis pilularis ssp. consanguinea - Coyote brush	X	X	X	X	X	X	X	X	X				X			X				X		
Baccharis salicina - Willow baccharis	X	X	X	X	X	X	X		X			X				X				X		

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 2
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Baccharis salicifolia ssp. salicifolia - Mule fat	X	X	X	X	X	X	X	X	X				X			X				X		
Centaurea melitensis - Tocalote	X	X	X	X	X	X	X	X	X				X	X							X	
Invasive priority.																						
Cirsium vulgare - Bull thistle								X							X						X	
Invasive.																						
Corethrogyne filaginifolia 'Silver Carpet' - Cudweed aster	X	X	X	X	X	X	X	X	X				X		X							X
Native to area, a planted cultivar at site.																						
Cotula australis - Australian brass buttons			X	X						X				X							X	
One plant. Invasive.																						
Cynara cardunculus ssp. flavescens - Artichoke thistle		X	X	X	X	X	X	X	X		X				X						X	
Invasive priority.																						
Deinandra fasciculata - Fascicled tarweed			X	X				X			X			X						X		
Dimorphotheca ecklonis - Trailing African daisy	X		X	X	X	X	X	X		X								X			X	
Invasive.																						
Encelia californica - California encelia	X	X	X	X	X	X	X	X	X				X			X				X		X
Includes both native occurances and those planted.																						
Encelia farinosa - California brittlebush		X	X	X	X	X	X			X						X						X
Single plant. Invasive priority, hybridizes w/ native species.																						
Erigeron bonariensis - Flax-leaved horseweed	X	X	X									X		X						X		
Erigeron canadensis - Common horseweed	X	X	X	X	X	X	X	X	X				X	X						X		
Erigeron glaucus 'Bountiful' - Seaside daisy	X	X	X	X	X	X	X		X				X		X							X
Native to coastal Central CA, planted at site.																						
Eriophyllum confertiflorum var. confertiflorum - Gold yarrow	X	X	X	X	X	X	X		X		X				X					X		X
Native to area, but nativity at site uncertain.																						
Gaillardia aristata - Blanket flower	X	X	X	X	X						X				X							X
Abundant in nearby landscape.																						
Gazania linearis - Gazania	X	X	X						X		X				X							X
Abundant in nearby landscape.																						
Glebonis coronarium - Garland chrysanthemum	X	X	X	X	X	X	X	X	X				X	X							X	
Invasive priority.																						
Grindelia camporum - Big gumplant	X	X	X	X				X		X					X					X		
Hazardia squarrosa var. grindelioides - Saw-tooth goldenbush	X	X	X	X				X			X					X				X		
Helminthotheca echioides - Bristly ox-tongue	X	X	X	X				X	X			X		X							X	
Invasive.																						

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 3
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Heterotheca grandiflora - Telegraph weed					X	X	X	X	X		X			X						X		
Isocoma menziesii var. vernonioides - Coastal goldenbush	X	X	X	X	X	X	X	X	X				X			X				X		
Lactuca serriola - Prickly lettuce						X	X	X			X			X							X	
Invasive.																						
Leptosyne gigantea - Giant tickseed	X	X	X	X	X	X	X		X			X			X							X
Native to Channel Islands, planted at site.																						
Leptosyne maritima - Sea dahlia	X	X	X	X	X	X	X		X			X			X							X
Native to coastal San Diego Co., planted at site.																						
Plechostachys serpyllifolia - Petite-licorice	X	X	X	X	X	X	X		X		X				X						X	
Invasive.																						
Pluchea odorata var. odorata - Marsh fleabane	X	X	X	X	X	X	X	X	X				X		X					X		
Pseudognaphalium biolettii - Bicolored cudweed	X	X	X	X	X	X	X	X				X			X					X		
Pseudognaphalium californicum - California everlasting	X	X	X	X	X	X	X	X				X			X					X		
Pseudognaphalium leucocephalum - White rabbit tobacco				X								X			X					X		
CA Rare Plant Rank: 2.2.																						
Pseudognaphalium luteoalbum - Weedy cudweed	X	X	X	X	X	X	X	X					X	X							X	
Invasive.																						
Pseudognaphalium stramineum - Cottonbatting plant	X				X	X					X				X					X		
Pulicaria paludosa - Spanish sunflower	X	X	X	X	X	X	X	X	X				X		X						X	
Invasive.																						
Senecio vulgaris - Common groundsel		X	X	X	X	X	X					X		X							X	
Invasive.																						
Solidago velutina ssp. californica - Western Goldenrod	X	X	X	X	X	X	X					X			X						X	
Native to area. Introduced to site on nursery plants.																						
Sonchus asper ssp. asper - Prickly sow-thistle				X	X	X	X	X			X			X							X	
Invasive.																						
Sonchus oleraceus - Common sow-thistle	X	X	X	X		X	X	X				X		X							X	
Invasive.																						
Symphyotrichum chilense - American aster	X	X	X	X	X	X	X	X	X				X		X							X
Native in So Cal, planted at site.																						
Taraxacum officinale - Common dandelion	X	X						X	X		X				X						X	
Invasive.																						
Xanthium strumarium - Cocklebur	X	X											X	X						X		
Boraginaceae Borage Family																						

Native to site: Naturally occurring. Naturalized-Exotic: Naturalized and not native to the site. Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 4
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Amsinckia intermedia - Common fiddleneck								X						X						X		
Cryptantha sp . - Cryptantha								X						X						X		
Echium candicans - Pride of Madeira	X	X	X	X	X	X		X			X					X					X	
Invasive priority.																						
Heliotropium curassavicum var. oculatum - Salt heliotrope	X	X	X	X	X	X	X	X					X		X					X		
Brassicaceae Mustard Family																						
Brassica nigra - Black mustard	X	X	X	X	X	X	X	X	X				X	X							X	
Invasive.																						
Descurainia pinnata ssp. ochroleuca - Western tansy-mustard								X						X						X		
Descurainia pinnata ssp. menziesii - Menzies tansy-mustard					X					X				X						X		
Hirschfeldia incana - Shortpod mustard	X	X	X	X	X			X	X				X	X							X	
Invasive.																						
Lepidium latifolium - Perennial pepperweed					X	X	X				X				X						X	
Invasive.																						
Lepidium nitidum - Shining peppergrass					X	X	X	X			X			X						X		
Limited to one small N facing slope.																						
Nasturtium officinale - White water-cress	X	X			X	X	X	X	X				X		X						X	
Invasive.																						
Sisymbrium orientale - Oriental mustard				X										X							X	
Invasive.																						
Cactaceae Cactus Family																						
Opuntia littoralis - Coastal prickly pear	X	X	X	X	X	X	X	X	X			X				X				X		
Includes both native and planted.																						
Caryophyllaceae Pink Family																						
Spergularia bocconi - Boccone's sand spurry				X				X		X				X							X	
Chenopodiaceae Goosefoot Family																						
Atriplex argentea var. argentea - Common silver-scale	X	X						X			X			X						X		
Single plant.																						
Chenopodium berlandieri var. sinuatum - Pitseed goosefoot	X		X	X	X	X	X	X				X		X							X	
Invasive.																						
Dysphania ambrosioides - Mexican tea	X	X										X			X						X	
Invasive.																						
Salsola tragus - Russian-thistle	X	X	X		X	X	X	X	X				X	X							X	
Invasive.																						

Native to site: Naturally occurring. Naturalized-Exotic: Naturalized and not native to the site. Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 5
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Cleomaceae Spiderflower Family																						
Peritoma arborea var. globosa - Bladderpod	X	X	X	X	X	X	X	X	X			X				X				X		
Includes both native and planted.																						
Cucurbitaceae Gourd Family																						
Marah macrocarpa - Wild cucumber								X	X									X		X		
Ericaceae Heath Family																						
Arctostaphylos manzanita 'Dr. Hurd'	X	X	X	X	X	X	X		X				X			X						X
Native to N. Cal., a planted cultivar at site.																						
Arctostaphylos 'Sunset' - *'Sunset* manzanita	X	X	X	X	X	X	X		X				X			X						X
Native to N. Cal., planted cultivar at site.																						
Euphorbiaceae Spurge Family																						
Euphorbia serpens - Creeping spurge	X	X	X		X			X				X		X						X		
Invasive.																						
Euphorbia maculata - Spotted spurge	X	X	X	X	X	X	X		X				X	X							X	
Invasive.																						
Euphorbia peplus - Petty spurge			X	X	X	X	X	X				X		X							X	
Invasive.																						
Ricinus communis - Castor bean	X	X	X	X	X	X	X	X	X			X			X						X	
Invasive priority.																						
Fabaceae Legume Family																						
Acacia redolens - Vanilla-scented wattle	X	X	X	X	X	X	X	X	X				X			X					X	
Recorded as Acacia sp. In 2009. Invasive. Should be removed.																						
Acmispon glaber var. glaber - Coastal deerweed	X	X	X	X	X	X	X	X	X			X			X					X		
Lupinus albifrons var. albifrons - Silver bush lupine	X	X	X	X	X	X	X		X			X		X								X
Native to area, planted at site.																						
Medicago polymorpha - California burclover			X	X	X	X	X	X	X			X		X							X	
Invasive.																						
Melilotus indicus - Yellow sweet-clover	X	X	X	X	X	X	X	X					X	X							X	
Invasive.																						
Fagaceae Oak Family																						
Quercus agrifolia var. agrifolia - Coast live oak	X	X	X	X	X	X	X		X			X					X					X
Native to area, planted at site.																						
Geraniaceae Geranium Family																						

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 6
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Erodium botrys - Long-beaked filaree				X	X	X						X									X	
Invasive.																						
Erodium brachycarpum - Short-fruited filaree								X	X			X		X							X	
Invasive.																						
Erodium cicutarium - Red-stemmed filaree				X	X			X	X			X		X							X	
Invasive.																						
Erodium moschatum - White-stemmed filaree							X				X			X							X	
Invasive.																						
Lamiaceae Mint Family																						
Marrubium vulgare - Horehound		X	X	X	X	X	X		X			X		X							X	
Invasive.																						
Monardella odoratissima - Coyote mint	X	X	X	X	X	X	X		X				X		X							X
Native to other parts of CA, planted at site.																						
Salvia apiana - White sage	X	X	X	X	X	X	X		X				X			X						X
Salvia leucophylla x sonomensis 'Bee's Bliss' - Hhybrid sage	X	X	X	X	X	X	X		X				X			X						X
Native to area, planted hybrid at site.																						
Salvia clevelandii 'Baja' - Baja sage	X	X	X	X	X	X	X						X			X						X
Native to San Diego Co., planted cultivar at site.																						
Salvia leucophylla 'Point Sal' - Point Sal purple sage	X	X	X	X	X	X	X		X				X			X						X
Native to area, but a planted cultivar at site.																						
Salvia mellifera - Black sage	X							X	X			X				X				X		
Salvia microphylla 'Hot Lips' - Hybrid sage		X								X					X							X
One plant, likely accidental from landscape.																						
Trichostemma lanatum - Woolly blue curls	X	X	X	X	X	X	X		X			X				X						X
Native to area, planted at site.																						
Malvaceae Mallow Family																						
Malva parviflora - Cheeseweed					X	X	X	X				X		X							X	
Invasive.																						
Myricaceae Wax Myrtle Family																						
Myrica californica - Pacific wax myrtle	X	X	X	X	X	X	X		X				X			X						X
Native to other parts of CA., but planted at site.																						
Myrsinaceae Myrsine Family																						
Anagallis arvensis - Scarlet pimpernel	X		X	X	X	X	X	X	X			X		X							X	
Invasive.																						

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 7
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Myrtaceae Myrtle Family																						
Eucalyptus camaldulensis - River red gum	X	X	X	X	X	X	X	X	X		X						X				X	
Invasive priority. Cut to stumps, resprouting.																						
Melaleuca viminalis - Weeping bottlebrush	X					X	X	X	X	X							X				X	
Invasive. Single plant, cut to stump. May resprout.																						
Nyctaginaceae Four O'clock Family																						
Mirabilis laevis var. crassifolia - California wishbone bush	X	X	X	X	X		X	X		X					X					X		
One small clump.																						
Onagraceae - Evening Primrose Family																						
Epilobium canum 'Catalina' - California fuchsia	X	X	X	X	X	X	X		X				X		X							X
Native to area, a planted cultivar at site.																						
Epilobium ciliatum ssp. ciliatum - Northern willowherb	X	X	X	X			X					X		X							X	
Invasive.																						
Oxalidaceae Oxalis Family																						
Oxalis corniculata - Creeping woodsorrel			X	X	X	X	X					X		X							X	
Invasive.																						
Oxalis pes-caprae - Bermuda-buttercup				X	X	X	X	X	X			X			X						X	
Invasive.																						
Papaveraceae Poppy Family																						
Eschscholzia californica - California poppy									X	X				X						X		
Not recorded in 2014. Nativity at site uncertain.																						
Phrymaceae Monkeyflower Family																						
Mimulus aurantiacus var. pubescens - Bush monkey flower	X	X	X	X				X				X			X					X		
Mimulus gutattus - Seep monkey flower					X					X				X							X	
Native to area. Prob. on site from nursery plants.																						
Plantaginaceae Plantain Family																						
Gambelia speciosa 'Firecracker' - Showy island snapdragon	X	X	X	X	X	X	X		X				X			X						X
Native to Channel Islands, hybrid planted at site.																						
Platanaceae Sycamore Family																						
Platanus racemosa - Western sycamore	X	X	X	X	X	X	X		X			X					X					X
Native to area, planted at site.																						
Plumbaginaceae Leadwort Family																						
Limonium ramosissimum - Province sea-lavender	X	X	X	X	X	X	X	X					X		X						X	
Invasive. In riparian swale. Reported as Limonium sp. In 2009.																						

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 8
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Polygonaceae Buckwheat Family																						
Emex spinosa - Devil's thorn					X					X				X							X	
Invasive priority. A few plants, one location.																						
Eriogonum giganteum - Saint Caterine's lace buckwheat	X	X	X	X	X	X	X	X	X				X			X						X
Native to Channel Islands, planted at site.																						
Eriogonum grande var. rubescens - Red-flowered buckwheat	X	X	X	X	X	X	X		X				X		X							X
Native to Northern Channel Islands, planted at site.																						
Eriogonum fasciculatum var. fasciculatum - Calif. buckwheat	X	X	X	X	X	X	X	X	X				X			X				X		
Eriogonum parvifolium - Bluff buckwheat	X	X	X	X				X			X					X						X
Native to area, planted at site.																						
Polygonum aviculare ssp. depressum - Common knotweed	X	X	X	X	X			X					X	X							X	
Invasive.																						
Rumex crispus - Curly dock		X	X	X	X	X	X	X	X			X			X						X	
Invasive.																						
Rhamnaceae Buckthorn Family																						
Ceanothus impressus x papillosus 'Concha' - Cal. Lilac	X	X	X	X	X	X	X						X			X						X
Ceanothus species Cult.							X			X						X						X
1 plant in mixed landscape. Large leaves. Not native.																						
Rosaceae Rose Family																						
Heteromeles arbutifolia - Toyon	X	X	X	X	X	X	X	X			X					X						X
Native to area, planted at site.																						
Salicaceae Willow Family																						
Salix exigua var. hindsiana - Narrow-leaved willow	X	X	X	X	X	X	X		X				X			X						X
Native to area, planted at site.																						
Salix gooddingii - Goodding's black willow	X	X	X	X	X	X	X	X	X		X						X			X		
1 large plant.																						
Salix lasiolepis - Arroyo willow	X	X	X	X	X	X	X	X	X				X			X				X		
Sapindaceae Soapberry Family																						
Cupaniopsis anacardioides - Carrotwood	X	X				X	X		X	X							X				X	
Invasive. Cut to stumps, resprouting.																						
Scrophulariaceae Figwort Family																						
Myoporum laetum - Myoporum	X	X	X	X	X	X	X	X	X			X				X					X	
Invasive priority. Several large plants.																						
Solanaceae Nightshade Family																						

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 9
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Nicotiana glauca - Tree tobacco	X	X	X	X	X	X	X	X	X		X					X					X	
Invasive priority.																						
Solanum douglasii - Douglas' nightshade	X	X	X	X	X	X	X	X	X		X				X					X		
Verbenaceae Vervain Family																						
Verbena lilacina - Cedros island verbena	X	X	X	X	X	X	X		X				X		X							X
Native to Mexico, planted at site.																						
ANGIOSPERMAE: MONOCOTYLEDONAE MONOCOT FLOWERING PLANTS																						
Amaryllidaceae Amaryllis Family																						
Agapanthus africanus - Lily-of-the-nile			X	X		X				X					X						X	
1 clump within sage scrub.																						
Araceae Arum Family																						
Lemna sp. - Duckweed	X	X	X	X	X	X	X	X	X			X							X	X		
On free water at Eastern culvert.																						
Zantedeschia aethiopica - Calla lily		X	X	X	X	X	X	X	X	X					X						X	
Invasive. One small colony in wetland.																						
Cyperaceae Sedge Family																						
Carex praegracilis - Clustered field sedge	X	X	X	X	X	X	X		X				X					X				X
Native to area, planted at site.																						
Cyperus eragrostis - Tall flatsedge	X	X	X	X	X	X	X		X		X				X					X		
Cyperus involucratus - Africa umbrella-sedge																						
Schoenoplectus californicus - California bulrush	X	X	X	X	X	X	X	X	X				X		X					X		
Iridaceae Iris Family																						
Sisyrinchium bellum - Western blue-eyed grass	X	X	X	X	X	X	X		X				X		X							X
Native to area, planted at site.																						
Juncaceae Rush Family																						
Juncus bufonius var. bufonius - Toad rush				X	X			X			X			X						X		
Juncus mexicanus - Mexican rush		X	X								X				X					X		
Poaceae Grass Family																						
Avena barbata - Slender wild oat			X	X	X			X					X	X							X	
Invasive.																						
Avena fatua - Common wild oat					X			X			X			X							X	
Invasive.																						
Bouteloua gracilis - Blue grama	X	X	X	X	X	X	X		X				X		X							X
Native to CA deserts, planted at site.																						

Native to site: Naturally occurring. Naturalized-Exotic: Naturalized and not native to the site. Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.

NEWPORT BEACH CITY HALL PARK - VASCULAR PLANT SPECIES OBSERVED - Pg. 10
2014

Taxa	Presence									Abundance				Life Form						Other		
	9/25/2014	8/11/2014	6/5/2014	4/30/2014	4/2/2014	1/29/2014	1/8/2014	2009	2013	Scarce	Uncommon	Occasional	Common	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	Planted-Landscape
Bromus diandrus - Ripgut grass			X	X	X			X					X	X							X	
Invasive.																						
Bromus hordeaceus - Soft chess				X	X			X				X		X							X	
Invasive.																						
Bromus madritensis ssp. rubens - Foxtail chess				X	X		X	X				X		X							X	
Invasive.																						
Cortaderia selloana - Pampas grass	X	X	X	X	X	X	X		X		X				X						X	
Invasive priority.																						
Cynodon dactylon - Bermuda grass	X	X						X			X				X						X	
Invasive.																						
Poa annua - Annual bluegrass					X	X	X		X			X		X							X	
Invasive.																						
Distichlis spicata - Salt grass	X	X			X			X			X				X					X		
Invasive.																						
Muhlenbergia rigens - Deer grass	X	X	X	X	X	X	X						X		X							X
Native to area, planted at site.																						
Nassella tenuissima - Mexican feathergrass				X	X		X			X					X						X	
Invasive. Single plant.																						
Poa pratensis ssp. pratensis - Kentucky bluegrass			X	X	X	X					X				X						X	
Invasive.																						
Polypogon interruptus - Ditch polypogon	X	X	X	X	X		X	X					X		X						X	
Invasive.																						
Polypogon monspeliensis - Rabbitsfoot grass	X				X						X			X							X	
Invasive.																						
Stipa lepida - Foothill needlegrass				X				X		X					X					X		
Single plant.																						
Stipa pulchra - Purple needlegrass	X	X	X	X	X		X	X			X				X					X		
2-3 scattered plants.																						
Typhaceae Cat-tail Family																						
Typha domingensis - Southern cat-tail	X	X	X	X	X	X	X	X	X				X		X					X		
Count:	115	112	115	124	123	110	113	99	88	29	37	49	57	62	62	37	11	9	5	59	76	43

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized and not native to the site.* *Planted-Landscape: Planted or only present in landscaped area; regional native or exotic.*

NEWPORT BEACH CITY HALL PARK - Additional plants recorded during the 2009 LSA survey on the full site

Taxa	Life Form						Other		Comments
	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	
Acacia longifolia - Sydney golden wattle			X					X	
Acmispon americanus var. americanus - Spanish lotus	X						X		
Acmispon micranthus - San Diego lotus	X						X		
Apiastrum angustifolium - Mock parsley	X						X		
Asphodelus fistulosus - Onionweed		X						X	Invasive. Noxious weed, still 200 m. W, nr. library.
Atriplex coulteri - Coulter's saltbush		X					X		Formerly on site. Relocated as mitigation.
Atriplex semibaccata - Australian saltbush		X						X	
Bougainvillea glabra - Bougainvillea			X					X	
Brassica rapa - Field mustard	X							X	
Bromus catharticus var. catharticus - Rescue grass	X							X	Invasive.
Calandrinia ciliata - Red maids	X						X		
Ceanothus oliganthus var. sorediatus - Jim brush			X					X	2009 ID is doubtful. Out of range.
Convolvulus arvensis - Field bindweed					X			X	
Cortaderia jubata - Jubatagrass		X						X	2009 species ID doubtful, likely *C. sellowiana* .
Crassula connata - Sand pygmy-stonecrop	X						X		
Croton setigerus - Doveweed	X						X		
Descurainia pinnata ssp. ochroleuca - Western tansy-mustard	X						X		2009 ID is doubtful, likely *D. p. ssp. menziesii.*
Dichelostemma capitatum ssp. capitatum - Blue dicks		X					X		
Festuca myuros - Rattail fescue		X						X	Invasive.
Geranium carolinianum - Carolina geranium	X						X		
Hordeum murinum ssp. leporinum - Hare barley	X							X	Invasive.
Hypochaeris glabra - Smooth cat's-ear	X							X	
Lantana camara - Lantana			X					X	
Limonium sinuatum - Winged sea-lavender		X						X	
Lobularia maritima - Sweet-alyssum	X							X	
Lupinus succulentus - Arroyo lupine	X						X		
Malva sylvestris - High mallow		X						X	
Nuttallanthus texanus - Larger blue toadflax	X						X		
Pectocarya linearis ssp. ferocula - Slender pectocarya	X						X		
Pennisetum clandestinum - Kikuyu grass		X						X	Invasive.
Phoenix dactylifera - Date palm				X				X	*P. canariensis* is more likely.
Plantago erecta - California plantain	X						X		
Plantago lanceolata - English plantain		X						X	Still present 200 m W nr. Library.
Psilocarphus brevissimus var. brevissimus - Woolly marbles	X						X		

Native to site: Naturally occurring. Naturalized-Exotic: Naturalized (invasive) and not native to the site.

NEWPORT BEACH CITY HALL PARK - Additional plants recorded during the 2009 LSA survey on the full site

Taxa	Life Form						Other		Comments
	Annual	Perennial	Shrub	Tree	Vine/G. C.	Aquatic	Native to Site	Naturalized-Exotic	
Pterostegia drymarioides - Granny's hairnet	X						X		
Salix lasiandra var. lasiandra - Yellow willow				X			X		2009 ID is doubtful. Quite uncommon.
Trifolium hirtum - Bristled clover	X							X	
Typha angustifolia - Narrow-leaved cat-tail		X						X	2009 ID doubtful. Quite rare in our area.
Typha latifolia - Broad-leaved cat-tail		X					X		
Uropappus lindleyi - Silver puffs	X						X		
Verbena pulchella - Moss verbena		X						X	
Veronica anagallis-aquatica - Water speedwell		X						X	
Vinca major - Blue periwinkle					X			X	
Washingtonia filifera - California fan palm				X				X	

Native to site: Naturally occurring. *Naturalized-Exotic: Naturalized (invasive) and not native to the site.*



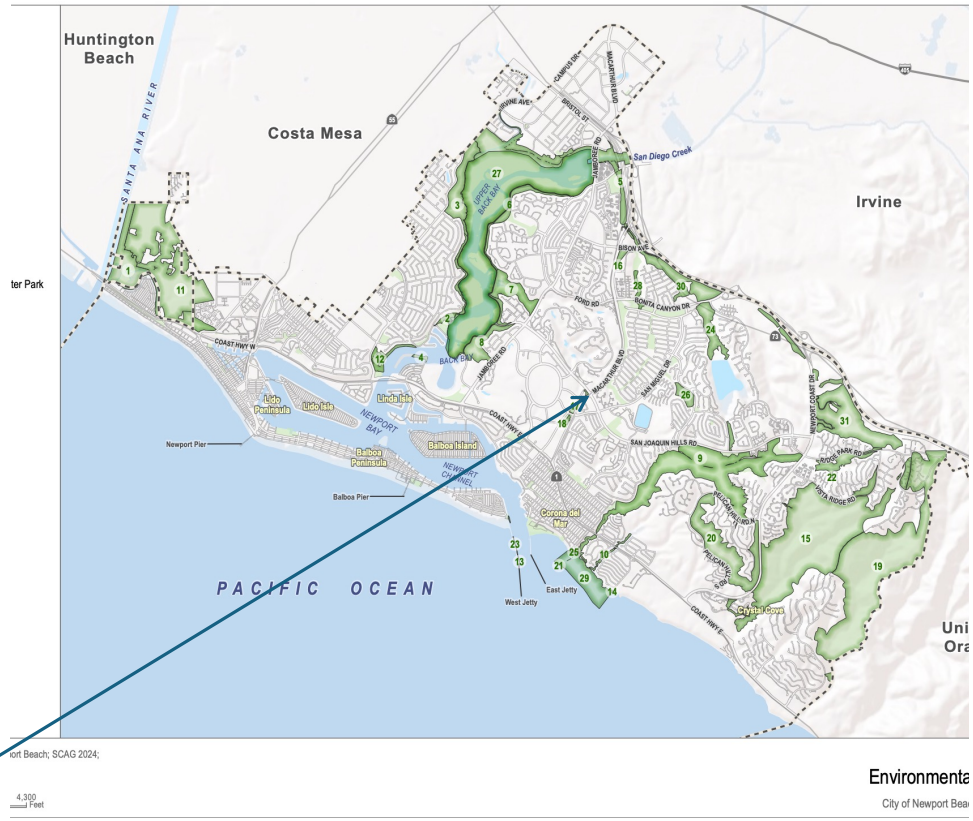
https://newporttogether.mysocialpinpoint.com/2050-general-plan-draft-elements

- **General Plan, Natural Resources Element of Biological Resources**

- Newport Beach is made up of a diverse range of elevations, biogeographic features, and ecosystems, with 6 plant and 23 animal species classified as endangered, threatened, or both by Federal and/or State agencies (see Natural Resources Existing Conditions and Background Analysis). Many of these species live in **environmental study areas**, as shown in Figure NR-2, and environmentally sensitive habitat areas. Both environmental study areas and environmentally sensitive habitat areas are subject to stricter regulations, implemented through the Local Coastal Program.

March 2026 NR-4 City of Newport Beach General Plan – Natural Resources Element

- Consistent with Assembly Bill 1889 (2024), wildlife corridors should be developed to connect **environmentally sensitive habitat areas** with other core habitat areas. This may be accomplished by protecting existing open spaces between habitats, planting native plants that provide food and/or shelter on developed sites, and reducing the introduction of invasive species.



Civic Center Park and the Dog Park areas are identified as ESAs 17 & 18 in the City's ESA Map.


5 Giant Tickseed


6 California Buckwheat


7 Deer Grass


8 Marsh Fleabane


9 Douglas Nightshade


10 A California landscape

- **Goal NR-7: Native and naturalized non-invasive species habitats in parks and public open spaces**

- **Policy NR-7.1: Native Plant Species.** Review existing policies, procedures, and guidelines regarding plant, shrub, and tree palettes, and consider revisions to ensure they feature native and naturalized non-invasive species. (Imp. 8.2)

- - **Policy NR-7.2: Native Plants in Parks.** Adopt standards for new public parks to include vegetation for the revised plant, shrub, and tree palette. Imp. 8.2)



- **Goal NR-10: Land use and development standards to conserve important ecosystem services and habitats**

- Policy NR-10.3: Resource Protection. Require that the siting and design of new development, including landscaping and public access, reasonably **protect sensitive and rare resources against any significant disruption of habitat values.** (Imp. 1.1, 2.1)

Goal NR-13: Standards and programs to limit runoff of pollution to preserve water quality of groundwater sources

Policy NR-13.11**: Impervious Surfaces.** Require new development and public facilities to minimize the creation of and increases in impervious surfaces, especially those directly adjacent to existing
impervious areas, to the maximum extent possible.





Goal NR-18: Viewsheds and corridors that are preserved

Goal NR-19: Minimized visual impacts of signs and utilities

- **Policy NR-18.1 (LU-2.7):** Public Views. **Protect and, where feasible, enhance significant scenic and visual resources that include views of open space,** mountains, canyons, ridges, the ocean, and the harbor from public vantage points, as shown in Figure NR-4. (Imp. 5.2, 20.4)

- **Policy NR-18.3: View Corridors.** Protect and enhance public view corridors from roadway segments

Goal: Celebrate Art, Culture, and History

- Culture, art, and history make up the tapestry that bonds the community together and creates a sense of civic pride.
- 6.1 Art that is highlighted throughout Newport Beach that represents the common language and shared experiences that exist between all cultures



Please contact Laura Curran with any questions about this PPT.

From: City Clerk's Office

Sent: July 13, 2026 7:05 AM

To: Mulvey, Jennifer

Subject: FW: Concerns about the cost of Newport Heights proposed undergrounding of utilities

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From: wilson.simone10@gmail.com <wilson.simone10@gmail.com>
Sent: Monday, July 13, 2026 7:04:29 AM (UTC-08:00) Pacific Time (US & Canada)
To: Dept - City Council <CityCouncil@newportbeachca.gov>; Sinacori, Mike <MSinacori@newportbeachca.gov>; City Clerk's Office <CityClerk@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>
Subject: Concerns about the cost of Newport Heights proposed undergrounding of utilities

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

City Council and city officials,

The purpose of this letter is to ask you **not** to do the following: certify the current petition to underground utilities in the proposed district 118-2 of Newport Heights, spend money on an engineering study if the proponents do present you with petition signatures, or proceed with a vote.

After speaking with many of our neighbors recently, it sounds like the petition gatherers for this effort have not abided by the law. I am deeply concerned that they have misled people to sign the petition by saying that signing is simply to get more information about the issue. They have also attached all sorts of extra written material (much of it not fact) to the actual petition, which is not legal. This should not be permitted and should invalidate the petition. If a future petition were submitted to you, I would expect the city to ensure the law was followed to gather and the signatures would be examined to ensure they are real homeowners.

I hope that the city is very careful with the money it spends. I don't think that spending money on an engineering study, and then a vote when it has a chance of not passing, as happened 10 years ago, is a good plan.

I am concerned about the City's lack of transparency regarding this process, and the fact that this process doesn't seem to have any city oversight. The current City website has no information about this proposed effort. I fear many of our neighbors don't know what is being proposed, and the personal impacts to each of them. We have lived in Newport Heights for over 25 years. We care about what happens in our neighborhood, and care about our neighbors. We would hate to be forced to pay for an aesthetic change that only some residents want. Additionally, it would be a tremendous hardship for many of our older residents. Allowing some residents to try to force everyone in the neighborhood, especially using a boundary line they drew up, to pay for an expensive change they want is not right. Please seriously consider your decisions about this issue.

Sincerely,

Simone and Mark Wilson

427 El Modena Ave

Newport Beach, CA 92663

City of Newport Beach
100 Civic Center Drive
Newport Beach, California 92660

July 13, 2026

Sent via e-mail to:
lkleiman@newportbeachca.gov; nblom@newportbeachca.gov;
jstapleton@newportbeachca.gov; mbarto@newportbeachca.gov;
eweigand@newportbeachca.gov; rgrant@newportbeachca.gov
sweber@newportbeachca.gov; citycouncil@newportbeachca.gov

Re: Transparency/Public Comment for Council Meetings

Dear Mayor Kleiman and each City Councilmember,

As you have heard from public commentors at a number of Council meetings this year, previously the City would offer paper copies of public comment submitted for each of those meetings, at the meetings. Printed copies of various materials related to agenda items were also common. Staff Reports; Contract Proposals; Bids; City Financials; Letters; Updates; Etc.; Etc. You may even recall having seen these things being available to the public, in the alcove of chambers as you entered.

As you've also been told, these types of materials being readily available at your meetings, so that members of the public may be more fully informed of what you're considering or acting on, and be better able to offer informed input, is now a thing of the past. Myself and others are deeply troubled by this, particularly in light of what we have heard from some of you about your promoting of, and campaigning on "transparency".

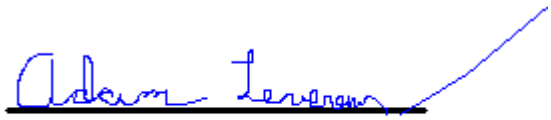
Even more concerning though, is that not only has the City, under your stewardship, stopped providing copies of public comment and agenda materials at meetings, the Clerk has now stopped allowing members of the public to themselves pay the City to print the public record materials, so that other members of the public can have easy access to them at meetings like they used to.

In 2026, I've heard from several of you, at multiple meetings of Newport's City Council, and at other types of meetings as well, talk about "transparency". I had presumed your talk was about **government** transparency in the City of Newport Beach under **you**.

If that is indeed what you were talking about, I shall hope that the Mayor, and each Councilmember will now advocate in public, for a return to a time when attendees could be well informed with copies of materials to be considered at your meetings, rather than having to thumb through a City provided binder of materials at a library, the City Clerk's Office, or wait in line at a meeting, with very limited time before the start of each meeting.

Enclosure: e-mails, with City Clerk declining to allow a member of the public to pay the City for copies of public record materials to be distributed at the July 14, 2026 City Council Meeting.

Thank you,



Adam Leverenz
adlever@hotmail.com

From: Ad lever <adlever@hotmail.com>

Sent: July 11, 2026 12:01 PM

To: Shumway, Lena <LShumway@newportbeachca.gov>

Subject: Public Comment for 07/14/2026

Public Comment - Agenda It... 238 KB | Flyer - Fairness through Tidel... 1 MB | Flyer - Transfer Policy Inform... 468 KB

Hi Lena,

I have attached some materials as public comment for the City Council Meeting of 07/14/2026. I would like to have printed, 20 copies of each, for distribution at the meeting.
Please have the remarks on Agenda Item #4, Ordinance No. 2026-090 printed on two sides of one page, and the other materials printed single-sided.

Thank you,
Adam

From: Shumway, Lena <LShumway@newportbeachca.gov>
Sent: Monday, July 13, 2026 7:49 AM
To: Ad lever <adlever@hotmail.com>
Subject: RE: Public Comment for 07/14/2026

Hi Adam,

The City Clerk's Office does not provide copying services. However, you are welcome to have additional copies made at the Newport Beach Public Library, which offers public printing and copying services.

We will print one copy of your submission and include it with the other public comments as part of the agenda materials.

Best regards,

Lena Shumway
City Clerk
City Clerk's Office
Office: 949-644-3007

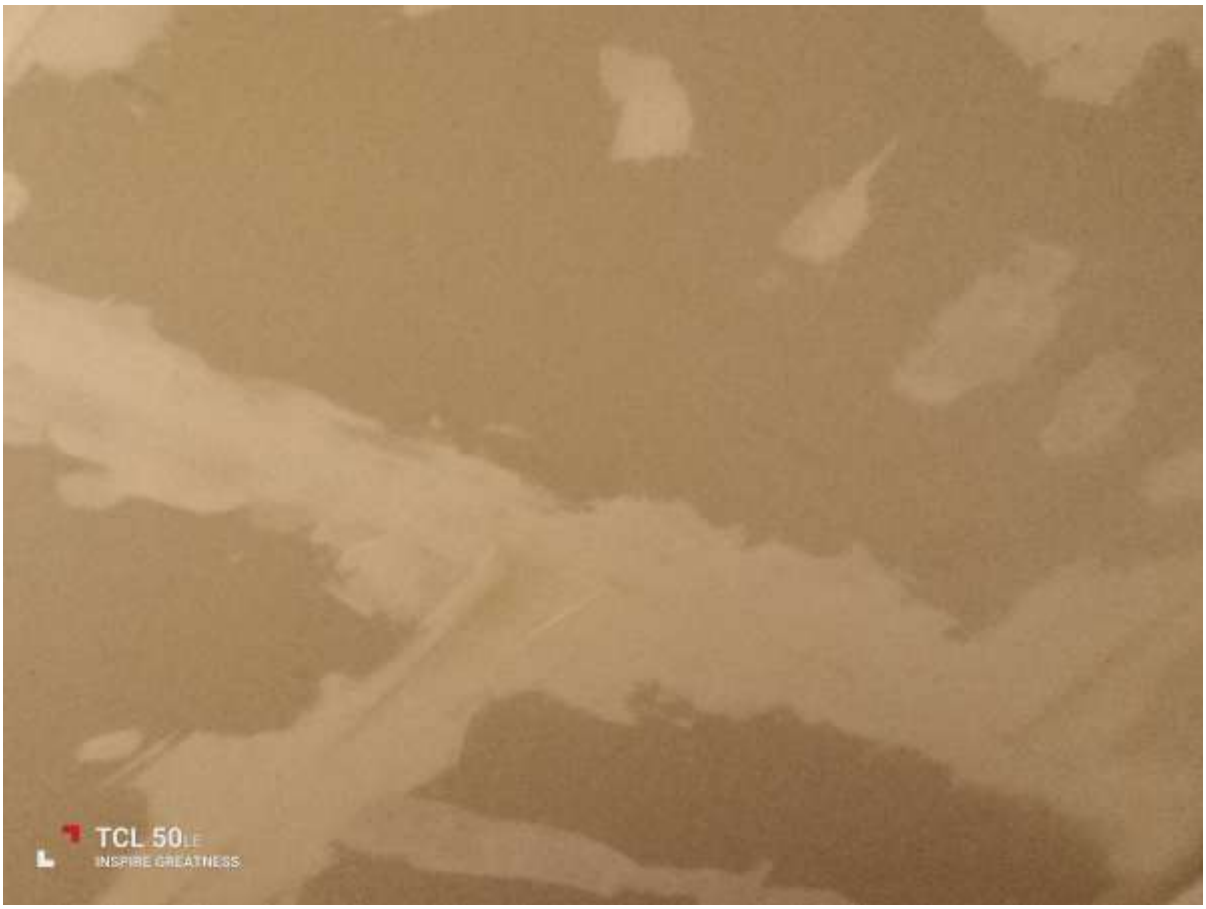
100 Civic Center Dr
Newport Beach, CA 92660

From: City Clerk's Office
Sent: July 13, 2026 3:30 PM
To: Mulvey, Jennifer
Subject: FW: Eight 80 Newport Beach 949-815-1963

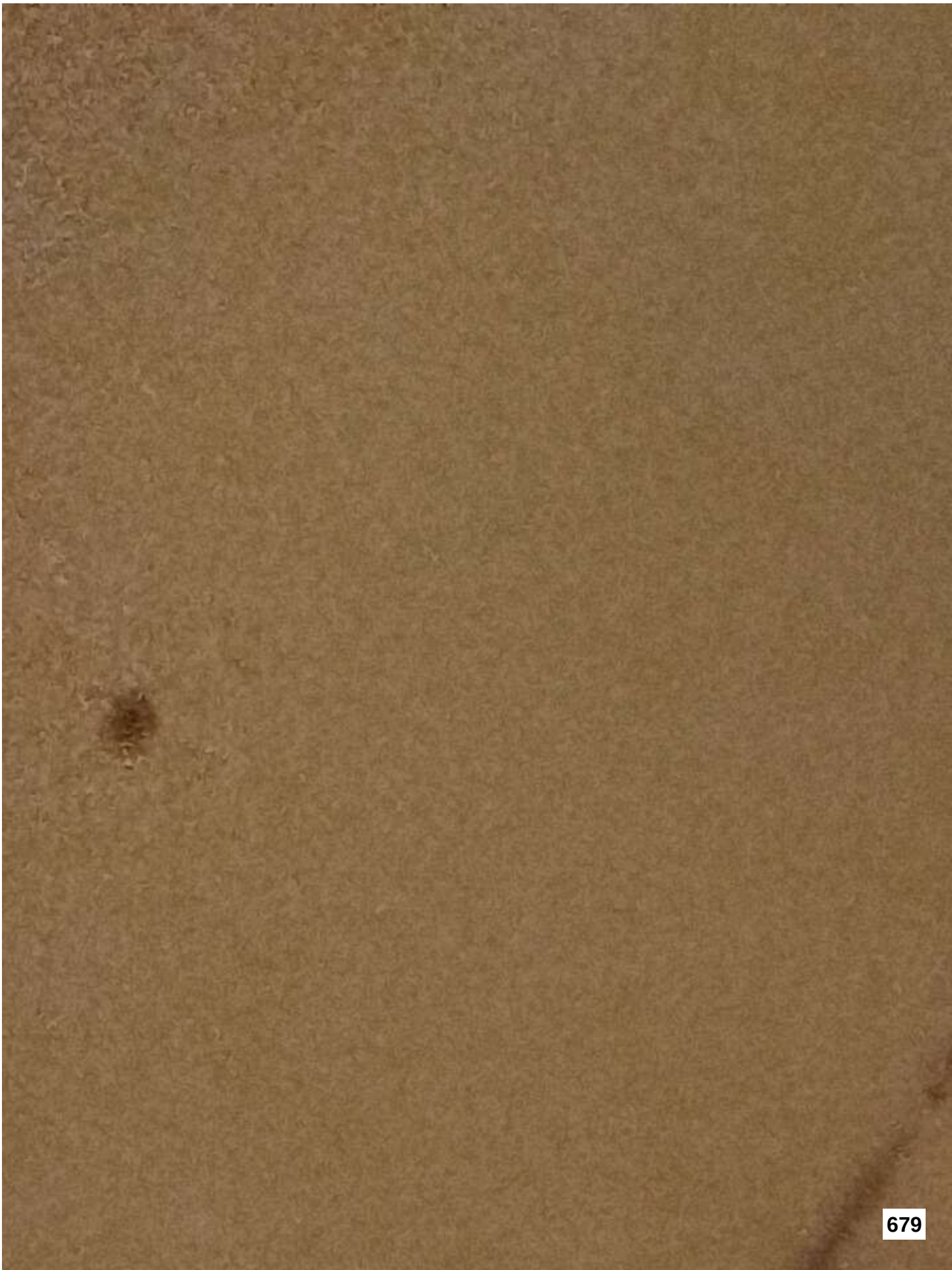
From: Amanda's Pandas <mandyspanda@protonmail.com>
Sent: Monday, July 13, 2026 3:29:23 PM (UTC-08:00) Pacific Time (US & Canada)
To: City Clerk's Office <CityClerk@newportbeachca.gov>; lwilliams@servpronet.com <lwilliams@servpronet.com>
Subject: Eight 80 Newport Beach 949-815-1963

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Dear City of Newport Beach Council,
I am sending this as public comment on behalf of a Disabled friend of mine who can't speak up for herself. She resides at Eight 80 Newport apartments, situated near Dover and 16th Street. The Housing Authority pays most of her rent and she's dependent on this to continue. Tragically, the property management is **jeopardizing** her Section 8 Voucher by failing to follow through with essential home repairs.
I agreed to write in on her behalf because she's experiencing a lot of pain and suffering. She's been enduring a nightmare from unusually lengthy repairs that have been going on, in some form or another, since 5/20/26.
According to documents I've seen and videos I've watched, property management grossly misled her as to the timeline of her apartment repairs and failed to adhere to basic industry standards, as well as ignoring safety protocol and permit mandates.

On 5/5/26 the Housing Authority did their annual inspection which revealed multiple deficiencies in her dwelling unit. Of those, the most serious one was mold on her bedroom ceiling. Management has a contract with a certain Servpro franchise based out of Cerritos, and they did an assessment on her unit in the middle of May. They made no effort to apply for permits with the City until 5/21.

On 6/8 and 6/9, Servpro began demolition of her bedroom ceiling despite not having a permit. It was actually not until several days after said demolition that a permit was approved and issued by the City.

The lady was coerced by management into allowing the demolition to proceed without the mandatory permit, and the **demolition took place while she was on the other side of the bedroom wall in the living room!** As part of the demolition process, Servpro also took out a vertical beam that functions as a structural column. This beam runs from the ceiling down to the floorboard where it's anchored. It basically holds up the wood framing within the ceiling and functions as a support.
Over 5 weeks later, the structural beam is still laying on the floor, right where Servpro left it after the demolition. It has nails in it that look to be about 6-8 inches long, and on the top the wood is rotten and slimy. There are also several other support beams and poles that were left laying on the floor with similar nails and screws and in a similar state. The closet doors, which were removed also have mold at the bottom of them, but were left propped vertically up against the wall.
I have been in her apartment several times since the project started and the nasty smell and mess left behind by Servpro was really cringe!

To back up and unpack; On 6/2 she was forced by management to empty the bedroom of everything save for one mattress. Her bedroom remains vacant at time of writing. Every day she has had to make do with using her living room as a storage place for her bedroom belongings. Her living room qualifies as a fire hazard due to all her belongings tightly packed together.
At first she was advised (per a written notice) that the repairs would take "2-3 weeks". Once that timeframe expired, she was promptly given another notice of the exact same repairs again predicting "2-3 weeks" (in addition to).

It's believed that the property management, UDR is serving these continuous "2-3 weeks" notices to circumvent the requirements of temporarily relocating her. They knew, or must have known, that repairs would take far in excess of 30 days. They pretended it would not exceed 3 weeks to avoid their obligation to arrange alternate lodging while the repairs were in progress.

At this time, the mold remediation and build back are complete, but Servpro is delaying the restoration process. They have only finished about 1/5th of the paint, despite the painting portion of the job being ongoing since 6/29.

She has video evidence to support the fact a demolition was performed on 6/9 without a permit (something UDR Eight 80 has not even denied happening.) She's also concerned the delays caused by Servpro are going to lead to the loss of her Housing Choice Voucher and ability to remain here. This would be catastrophic, because finding another place would take months. Besides, she does not want to move, despite everything UDR Eight 80 has put her through. She actually says she likes living here and loves Newport Beach! She does not understand why the management is making her miserable over repairs.

If this property does not finish the project by **7/20**, which is only a week from now **the Housing Authority will stop paying and she will be facing eviction for something that's not even her fault.**

She says a significant reason for the unjustified delay is Servpro only has one guy working and he frequently abandons the project in order to work in other units on the same property. She says she informed Servpro over and over again of the urgency of the matter, and asked them to commit to a completion date, but to no avail.

She is traumatized by the intrusive and invasive nature of the repairs and the fact that Servpro employees have the entry code to her front door's keypad and often come in and out after normal business hours. I have watched videos and they are not even wearing uniforms, and drive unmarked work vans. This is against Servpro's own regulations which require their franchisee's employees and vehicles to be recognizable.

The lady has also informed management that some of her personal belongings were damaged by Servpro during the repairs, but got no response or acknowledgement.

I attached some pictures of the repairs and lack of progress. The paint job does seem very sloppy. The lady is interested in any professional contractors who might be able to take over and professionally complete the job. She would pay out of pocket and seek reimbursement from UDR Eight 80, because she desperately wants to remain stably housed.

If you have any comments please contact Mimi Steiner, who is in charge of Remediations at UDR EIGHT 80. She can be reached at 949-815-1963.

Best,
Mandy J.

Sent with Proton Mail secure email.

From: City Clerk"s Office
To: Mulvey, Jennifer
Subject: FW: Public Comment for July 14, 2026 City Council Meeting – Resident Concerns on Neighboring STR Smoke, Community Safety, and City Services
Date: July 06, 2026 7:02:54 AM

From: JuliAna B <j.boses@yahoo.com>
Sent: Monday, July 6, 2026 7:02:22 AM (UTC-08:00) Pacific Time (US & Canada)
To: City Clerk's Office <CityClerk@newportbeachca.gov>; Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Public Comment for July 14, 2026 City Council Meeting – Resident Concerns on Neighboring STR Smoke, Community Safety, and City Services

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Dear Mayor Kleiman, Members of the City Council, and City Clerk,
My name is JuliAna Boses and I am a long-time resident, homeowner, and taxpayer here in Newport Beach. This upcoming meeting will be my first time participating in the council process, and I am submitting this comment because I love our community and want to ensure its safety and quality of life remain a top priority.
I respectfully request that the Council review and prioritize action on the following critical issues impacting our neighborhoods:

1. **Daily Drifting Smoke from Short-Term Rentals:** The close proximity of our homes significantly worsens the impact of short-term rentals. My property shares a fence line and sits only two feet away from a neighboring Airbnb. Guests smoke outside constantly—at least 2 to 3 times every single day. This heavy, drifting secondhand smoke directly enters my home on a daily basis. It is a horrible, constant nuisance that I am incredibly exhausted by, and it severely affects my health. The City must implement strict regulations or bans on smoking at short-term rental properties to protect the health and rights of permanent residents.
2. **Short-Term Rental (Airbnb) Caps:** Beyond the smoking issue, the sheer volume of short-term rentals is bringing a disruptive influx of people into residential zones, compromising our community's safety and neighborhood character. I ask the Council to place stricter limits on the number of Airbnb permits allowed.
3. **4th of July Crowd Mitigation:** While Newport Beach is a premier holiday destination, the massive, overwhelming influx of people this past 4th of July created significant safety concerns for residents. Why did the City allow crowding to reach this scale, and what steps will be taken to better control and limit these crowds in the future to protect local neighborhoods?
4. **Increased Street Cleaning:** With increased tourism and foot traffic comes a heavy burden on our infrastructure. The city streets must be cleaned much more frequently to maintain the cleanliness and standards that Newport Beach homeowners expect and pay for.

As a dedicated member of this community, I ask that these items be given immediate consideration and priority. Thank you for your time, your leadership, and your commitment to

keeping Newport Beach safe and livable for its permanent residents.
Sincerely,

JuliAna Boses
119 24th Street Newport Beach Ca 92663

From: Garrett, Errica
Sent: July 13, 2026 8:13 AM
To: Dept - City Clerk
Subject: FW: To Michelle Clark and City of NB Code Enforcement - Request for Follow Up Regarding Alleged Unruly STL Unit on July 4th

Errica Garrett
Administrative Assistant to
the Mayor and City Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660

From: Carmen Rawson <carmen_rawson@att.net>
Sent: July 10, 2026 9:13 AM
To: Murray, John <jmurray@newportbeachca.gov>; Code Enforcement <CodeEnforcement@newportbeachca.gov>
Cc: Miner, David <dminer@nbpd.org>; Jurjis, Seimone <sjurjis@newportbeachca.gov>; Stapleton, Joe <jstapleton@newportbeachca.gov>; Dept - City Council <CityCouncil@newportbeachca.gov>; Ken & Carmen Rawson <ckrawson@att.net>
Subject: To Michelle Clark and City of NB Code Enforcement - Request for Follow Up Regarding Alleged Unruly STL Unit on July 4th

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Hello John, et al,

I saw a (Sunday 05Jul26) post on Nextdoor, by Michelle Clark who is addressed also on this email, stating that the chaos experienced on July 4th was mainly caused by guests staying at short-term lodging units in the Peninsula. Michelle specifically refers to a house on "her street" that, when the police arrived to handle the situation "hundreds of kids came out flying" from said house. Down on the comments to her post Michelle also posted the house in question is "A two story rental managed by Avantstay".

Among the comments to Michelle's post was the following one:

- Avantstay advertises on TikTok. I doubt our local rental companies (many of which have been around for decades) advertise there. Avantstay is global and renters are not vetted.

The purpose of this email to Code Enforcement is:

a) I am requesting for Code Enforcement to contact Michelle Clark to get the specific address of the house in question for Code Enforcement to open a case and investigate that property.

b) I am requesting for Code Enforcement to investigate Avantstay and TikTok for their advertising/marketing of short-term lodging (STL) units in Newport Beach to ensure they are complying with all the requirements/restrictions already imposed on Newport Beach STL units through the various related City Ordinances already in place.

Regards,
Carmen Rawson
949-2178-2447 Cell

FOR QUICK REFERENCE - TEXT OF MICHELLE CLARK's 05JUL26 NEXTDOOR POST:

I sent this email to City Council this morning. Michelle Clark From: michk364@sbcglobal.net To: citycouncil@newportbeachca.gov Sun, Jul 5 at 4:07 PM I am a bit perplexed at how the Newport Beach City Council and the newly appointed Newport Beach City Manager were not able to predict the unspeakable and outrageous incidents that occurred last night in our city. I have been telling the council for months that the new breed of teenager is without moral, value, common sense and dignity. I have been spit at, harassed, taunted, cussed at, blocked and followed home on many occasions and the only response I get from city council is to ride down the alleys. Well, I did ride down the alleys and there was no break from these thugs that have (once again) invaded our city. I have seen all of the videos from last night and our police department had no where near the support and resources that should have been in place last night. I was in Pavilions Friday night and their plan of mayhem and destruction was already being put into place. Do any of you ever visit the peninsula or shop in our stores? I was extremely taken aback that the presence of these thugs was not taken more seriously. Perhaps if one or two or three of you ventured into the may lay (during the afternoon and early evening), you may have been better able to gauge the pre-planning of these events by these thugs. Our police force was left vulnerable; they were intentionally targeted and this is unacceptable. **Why are all of these STR management companies allowed to get their leads from Airbnb's? They are not vetted - they are simply referred and approved sight unseen. There was a fight on my street Friday night and when the police arrived to manage the situation, hundreds of kids came flying out of that house. Most of them underage. This should not be allowed and the sheer number of these STR's is insane**. The events of last night could have been avoided if city council and the city manager would have assisted our police force with planning, staffing, police presence, got serious about enforcing the illegal motorized usage on our streets and boardwalks, begin impounding

these illegal vehicles, **implementing tougher criteria for these STRs** and continuously letting these punk-thugs know that illegal behavior will not be tolerated. On my way home this morning, these punk thugs were laughing at all of the videos that have been posted and congratulating each other for a job well done. Our police force deserves better and so do the residents. Michelle A. Clark

----- Forwarded Message -----
From: Balboa Peninsula Trending Posts <reply@rs.email.nextdoor.com>
To: "carmen_rawson@att.net" <carmen_rawson@att.net>
Sent: Sunday, July 5, 2026 at 06:24:08 PM PDT
Subject: I sent this email to City Council this morning.



I sent this email to City Council this morning. Michelle...
See more

Michelle Clark • <1 hr ago

7 19

Darlene Chess & 6 others replied

View post

Was this email relevant for you?

This message was intended for carmen_rawson@att.net
420 Taylor Street, San Francisco, CA 94102
Unsubscribe or adjust your email settings

From: Garrett, Errica
Sent: July 13, 2026 8:05 AM
To: Dept - City Clerk
Subject: FW: Suggested Solutions / July 4th, 2026

Errica Garrett
Administrative Assistant to
the Mayor and City Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660

From: Brian Fagan <bfagan@selectivere.com>
Sent: July 12, 2026 2:57 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Suggested Solutions / July 4th, 2026

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Dear Mayor and City Council Members, my family has enjoyed living at 1905 East Bay Ave., towards the end of Peninsula Point for over 10 years. Our parents also have lived and still own a home closer to the Wedge for the past 40 years. I earned an engineering and MBA from UCI in the 80s. We love Newport and the surrounding communities.

As a result of the civil unrest, 20 of our guests on July 4th were unable to get off the Peninsula and stuck at our house until about 2:00 am, over 4 hours after they had planned to leave. Luckily, they are good friends.
Our adult children witnessed live fireworks being tossed towards spectators and police...what if someone would have been injured as a result? What if an ambulance could not get through?

As a possible solution to avoid another "out of towner" disruption of our community, I suggest homeowners and guests of homeowners be provided a QR code access system for the Peninsula. Newport Beach Police, in coordination with the City staff, should generate a very simple Newport Beach Access APP to allow residents to have and send to guests a QR code permitting access to the areas south of 36th street (when coming along W. Balboa Blvd. from Huntington Beach). Access along Newport Blvd. can be provided past or

blocked at 32nd street (before Pavilions when coming down Newport Blvd) such that those with QR codes are permitted to continue past checkpoints. Checkpoints can be set up by Police to turn those around that do not have access code.

Clearly, due to the number of people there will be traffic backed up on the roads and may even impact Newport Blvd all the way back to near Hoag. To solve this, I suggest the QR code be printed out by guests and homeowners and placed in the car windshield (like the Fast Pass for the HOV lanes on the freeway). The printed small paper inside the windshield (on a temporary basis) can be displayed such that Police can quickly scan and allow through cars with pre-posted QR codes. Those without a pre-printed code, would need to stop and roll down the window and show their QR code on their phone or turn around.

We all look forward to America's 251st birthday celebration in Newport being a safe celebration and less stressful day for all !

Brian Fagan
Managing Partner
Selective Real Estate Investments
16830 Ventura Blvd., Suite 320
Encino, CA 91436
Office 818-995-4900 x 224
Fax 818-995-4911
Bfagan@SelectiveRE.com
www.SelectiveRE.com

From: Garrett, Errica
Sent: July 13, 2026 8:05 AM
To: Dept - City Clerk
Subject: FW: Newport Beach 4th 2026

Errica Garrett
Administrative Assistant to
the Mayor and City Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660

From: Jeanette Towne <jeanettetowne11@gmail.com>
Sent: July 12, 2026 1:03 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Cc: Sam Towne <SamTowne77@gmail.com>
Subject: Newport Beach 4th 2026

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Hello,

As a resident living on the 100 Block of 26th Street, I would like to make a few comment/suggestions in preparation for the 7/14/26 4pm Meeting.

1. I want to commend the city for the stellar effort, planned action and deployment of the Newport's Finest Officers on the 4th. Well done!

2. 3 years ago - there was a stabbing on the pier and revelry late into the night. From our 3rd floor deck we witnessed two large groups coming onto 26th from the beach. One aggressive male sucker-punched and knocked out an suspecting male in the other group. We called the police. (Always so responsive - thank you!!!). People were seen running down the streets screaming as other offenders were firing bottle rockets into the crowd.

2. Last year it was worse. We decided to attend a private event in CDM. Upon driving home - the peninsula was mobbed with young drunk people- pouring out from the sidewalks and

walking onto Balboa Blvd - everywhere. It was frightening and unsafe! Same behaviors from the year before but triple the number of people.

3. This year - we left our beautiful city and took a 2-week holiday to avoid being in our favorite place! Our neighbors sent us videos and multiple friends reached out to see if we were ok. I have those videos and AGAIN we thank Newport Beach PD they had multiple patrol cars on our 100 Block of 26th!!

4. Suggestions;

- From information about the last few years and the explosion this year - assign a social media expert(s) to monitor activity on Instagram, Snap Chat and Mainly TicToc. This is how the information was spread and what contributed to the rioting, looting and massive arrests.

-Create a blanket notice for all Newport AirBNB, and Local rental agencies to MONITOR who is renting over the 4th and to verify IF there are reasonable adults OVER the age of 25 renting!

- Communicate with HB and Costa Mesa rental agencies as above.

- Last year I spoke with many of the young people who walked by our home - Curious where they were from....90% + said Scottsdale (mainly) or other AZ cities (called themselves 'Zonies'). Many were underage and when I asked them where they were staying - most said Costa Mesa - where they had dozens of friends flopping in a rental for 4 people! Parents 'rented' the place! They all took Uber to the beach. This story was repeated as I spoke with groups of young people.

I am a long-term citizen, surfing as a teen at Blackie's Beach and growing up in OC. We love our city and hope and pray it can be kept safe for our young adult children and young baby grandchildren to enjoy all year long and especially on the 4th of July- to celebrate our country in the best city in America!

If there is anything I can do to help, please communicate with me.

Respectfully,

Jeanette M. Towne
CEO
Stone Impact Media
jeanette@stoneimpactmedia.com
(916) 240-6600

These Stones -Season 1

Streaming NOW ON **YouTube**

https://m.youtube.com/watch?v=NfIqGhqluhI&pp=0gcJCR4Bo7VqN5tD

From: City Clerk's Office
Sent: July 12, 2026 12:40 PM
To: Mulvey, Jennifer
Subject: FW: City Council meeting. July 14.: request for public comments on law enforcement matters, especially.

From: Philip Bettencourt <philip@bettencourtplans.com>
Sent: Sunday, July 12, 2026 12:37:19 PM (UTC-08:00) Pacific Time (US & Canada)
To: City Clerk's Office <CityClerk@newportbeachca.gov>
Cc: Stapleton, Joe <jstapleton@newportbeachca.gov>; paul@lawfriend.com <paul@lawfriend.com>; steve@newportbeach.com <steve@newportbeach.com>; edselich@adelphia.net <edselich@adelphia.net>; info@visitnewportbeach.com <info@visitnewportbeach.com>; tom@stunews.com <tom@stunews.com>; pbcourt2018@gmail.com <pbcourt2018@gmail.com>
Subject: City Council meeting. July 14.: request for public comments on law enforcement matters, especially.

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Madam City Clerk, mayor and City Council members and distinguished public officials, I would like permission to offer public comments on the. Agenda item concerning. The. July 4th weekend - Outrageous behavior. That endangered public safety and certainly, gave our city a black eye.

Like you folks, I salute all of our first responders for their professionalism and conduct dealing with a convulsive public safety dilemma..

(Meredith and I are. City of La Quinta residents now and had the good fortune to spend our 4th of July holiday with her family in the great **city of Savannah**. But the 4th of July news about Newport Beach traveled quickly.)

I should say by way of explanation that our roots in Newport Beach run. deeply. We have had an office in. Namport Center for more than 30 years. I was a two-term president of the **Newport Coast Community Association**. And was honored to serve as interim City Manager back in the day.

(**In fact.** I was the project manager for the current police building that was built. After. A bond issue for a proposed Newport Center civic center site had cratered badly.)

I know you have a well-staffed. Site selection facility processes now underway. And I will leave it to those good folks do the right thing. I wish them God-Speed.

Law Enforcement Issues. I'm a public administration graduate of **Cal State University Long Beach** with a police science minor so I have some sense of the law enforcement issues that your folks faced over this weekend.

I have three modest proposals to make.

1. *The pre deployment. of SWAT teams* from cooperating police agencies on the peninsula.. In advance. In full riot gear. You simply had to know that an **Unlawful Assembly Order**. Was going to emerge as the most effective way to deal with unruly crowds.

The challenges of getting on to the peninsula from off site to Ground Zero Are legendary. You need to fast moving Well equipped. Experienced. Officers in place in advance *in proper gear* to move immediately to enforce an unlawful assembly order.

Secondly. You should have had. **High-powered. Area Lighting In place. Before sundown**. Drunken hooligans are like cockroaches, and they do not like bright lights.

Lighting of trouble zones in advance would have enabled officers to move more confidently and to take down hooligans and law breakers and fragment the crowds. Of course, forensic photography would help as would remote booking area buses. To get these troublemakers out of the area.

Finally. There's been a good deal of talk about the number of people who were here from. Out of the city. I'm presuming over the two-day holiday. They had to sleep somewhere.

I would hope. That you were. Conducting **third party forensic audits of short-term rentals**. And if any of these hooligans came from those rentals you would deal with the Hosts and/o hostesses promptly and sternly.

.

I support the city manager's sober assessment. And join him and you and also saluting all our first responders and Our General Services personnel for the often-thankless job they do of cleaning our city streets and ……. beaches.

Philip F. & Meredith Bettencourt

Real Estate Development Planning | Stewardship

Newport Beach | La Quinta | RivCo

Philip@Bettencourtplans.com

949-874-4443

From: City Clerk's Office
Sent: July 13, 2026 1:31 PM
To: Mulvey, Jennifer
Subject: FW: Subject- summary comments for july 14 city council study session re. July 4th

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From: Denys Oberman <dho@obermanassociates.com>
Sent: Monday, July 13, 2026 1:30:36 PM (UTC-08:00) Pacific Time (US & Canada)
To: Dept - City Council <CityCouncil@newportbeachca.gov>; City Clerk's Office <CityClerk@newportbeachca.gov>; Denys Oberman <ccnb@obermanassociates.com>; fred levine <fredric.mark.levine@gmail.com>
Subject: Subject- summary comments for july 14 city council study session re. July 4th

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Mayor,council members and senior staff:
I am travelling and unable to attend this important meeting.these comments summarize highlights of my individual and community perspective.they also provide a placemark for related comments and standing, to be provided shortly.

- we appreciate the efforts of nbpd and other enforcement personnel. It is unfortunate that the city was unwilling and/or unable to establish a meaningful proactive approach . Residents,businesses and vacation visitors were unnecessarily put in harms way.

-multiple residents and stakeholders requested city action in this and prior years .however,the City largely turned a blind eye to obseevations,evidence,and requests for assistance. One example running for at least this and prior several years: we pleaded with the City to have regular,nightly beach patrol. Several years of multiple people lighting illegal fireworks,which caused fires.these were in close proximity to residences, Balboa peninsula and cdm. Practices began week or two prior to each 4th of July. Residents feared for safety and contacted nbpd for service. It was consistently not forthcoming.
- commentaries on social media and physical group/gang presence increased significantly with accompanying interactions and messages. I advise city representatives of concerns for civil stride.they blew off our comments.bottom line: there was evidence of growing civil disruptions coming to the city. (more to follow shortly).rhe city has not listened to our concerns,evidence or guidance. This is not the first year we have berm put at risk.
A fundamental change in outlook and leadership is essential to protect and preserve..safety, property,integrity
Solution at minimum needs plan and im0lementation of the following:
1. Management and control of ingress onto Balboa penni sula and potentially other coastal areas.elements to include rexidentband permit based visitors only on july 4th after10 am.also on the weekends evening. We need capacity metrics as well.

It is unsafe to allow volume which impairs emergency,ada,parking,access and response.

2. Immediately implement consistent evening boots the ground, patrol of beaches and adjacent boardwalk. Presence and enforcement of beach and related operating hours. Suggest year round,at least nightly .

3.change in leadership direction and commitment.. these are serious issues.we need experienced experts who know how to make the balance happen.

Thank you
Denys oberman
Oceanfront resident and community stakeholder
..

(please disregard

Notice below
)

Regards,
Denys H. Oberman, CEO

OBERMAN Strategy and Financial Advisors
19200 Von Karman Ave, 6th Floor
Irvine, CA 92612
Tel (949) 476-0790
Cell (949) 230-5868
Email: dho@obermanassociates.com

www.obermanassociates.com

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Catherine H. Daniels
3607 Lake Ave
Newport Beach, CA 92663
mouseak@yahoo.com

July 12, 2026

Newport Beach City Council
100 Civic Center Drive
Newport Beach, CA 92660

Dear Members of the City Council,

I'm joining in what I'm sure is quite a chorus of outrage from fellow residents of the Balboa Peninsula. The disorder and lawlessness that transpired on July 4, 2026 should never have happened and should never be repeated.

On Thursday, July 9, Mayor Lauren Kleiman sent her email "Mayor's Memo: Mayor's Message about the 4th of July". In the email she states "Leading up to nightfall on the 4th, officers evicted non-compliant short-term lodging tenants and made almost 50 arrests. As the sun started to set, these anarchic adolescents began to instigate chaos on the beach and on social media."

At approximately 3:00 P.M. on July 4th, police helicopters started circling over our part of the peninsula, clearly declaring over their loudspeakers that the beach and boardwalk between 28th and 36th streets were closed and everyone on the beach needed to evacuate.

My point is that "instigated chaos on the beach and social media" certainly began well before nightfall, as did the "clarion call" TikTok and Instagram posts. Indeed, the social media posts may have started WEEKS before the 4th of July, considering how many people from out of town and even out of state were at the beach.

I applaud our Police Department and other first responders for their brave response to the unruly crowds and the chaos that unfolded. I am truly thankful that law officers from 17 different agencies were able to assist our city. However, I am completely disappointed in our city management for not being more proactive in preventing this whole situation.

Going forward, the city should have a staff member who monitors social media about Newport Beach. Be it a paid position or be it an internship, the city needs someone to know, on all channels of social media, what is being said about the city.

The Mayor's email states that the "Coastal Commission prevents the City from restricting access to beach areas, but I have reached out to set up a meeting to advocate for relief..." I certainly hope that meeting is a success as the most likely solution to the issue is limiting both automobile AND e-bike traffic onto the Peninsula.

There were TOO MANY PEOPLE on the Peninsula on the 4th of July. Traffic was deadlocked. Parking violations were rampant. Thousands of e-bikes and bikes were on the streets, the boardwalk, and the beaches. Residents and visitors alike could not make phone calls as the cell phone systems were overloaded. Too many visitors used our streets and alleys as toilets. Limiting the number of people on the Peninsula must be the path forward.

I certainly don't agree with keeping the peninsula closed to non-residents. Proper vetting of short-term rental tenants is important. However, for other visitors, consider a system like the Orange County Fair (also public property), where attendees must purchase a ticket to attend on a certain day and time, thus safely regulating the number of people and cars present. Perhaps "selling" a ticket or permit to be on the Peninsula would not be required, but "registering" for a limited number of car or e-bike permits would be a reasonable accommodation.

I hope that you, the members of the City Council, and other city managers develop a proactive path forward soon and that our upcoming Labor Day celebrations and all future holidays are fun and safe.

Very sincerely,

Catherine H. Daniels

From: Garrett, Errica
Sent: July 13, 2026 3:20 PM
To: Dept - City Clerk
Subject: FW: Written Comments: Year-Round STR Reduction, Peninsula Capacity and Public Safety

Errica Garrett
Administrative Assistant to
the Mayor and City Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660

From: Scott McFetters <smcfetters@outlook.com>
Sent: July 13, 2026 3:19 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Written Comments: Year-Round STR Reduction, Peninsula Capacity and Public Safety

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Mayor and Members of the Newport Beach City Council:

Thank you for considering the City's response to the serious conditions that occurred on the Balboa Peninsula on July 4.

I am a Newport Island resident and intend to speak briefly at the City Council meeting. I am submitting these written comments because the issues cannot be adequately addressed within a two-minute public-comment period.

Short-term rentals are no longer simply a three-month summer issue.

Many now operate as year-round businesses, available nearly every day of the year. The owners may never stay at the property, while professional management companies handle a constant rotation of temporary occupants.

These are not occasional rentals of family beach homes. Many are commercial lodging businesses operating inside or close to residential neighborhoods.

Residents experience the effects throughout the year through constant occupant turnover, additional vehicles, parking pressure, noise, trash, dogs, parties, enforcement challenges and the loss of residential housing.

During the summer, those year-round impacts are added to already severe beach traffic, parking demand and public-safety pressures.

July 4 did not create the underlying problem. It exposed how serious the consequences can become when year-round STR activity, STRs operating without permits, professionally managed 30-day residential rentals and a sudden crowd surge occur at the same time.

July 4 was the emergency. STRs are the year-round problem.

A similar social-media event could be organized on almost any summer weekend with little warning. The City therefore needs both:

1. A year-round STR reduction, enforcement and accountability plan; and
2. A summer traffic, parking, capacity and emergency-response plan that can be activated whenever conditions become unsafe.

MY EXPERIENCE ON JULY 4

At around 3:30 p.m., I was at the beach near 34th Street with friends and other families when we were told to leave.

Later that evening, at around 9:00 p.m., my wife and I were returning from Niguel Shores to our home on Newport Island. Once we reached the Peninsula area, it took us nearly two hours to travel approximately one mile.

There were no officers visibly directing traffic at PCH and Superior or at the Balboa Boulevard entrance, and there was no apparent functioning traffic-flow plan.

This was more than an inconvenience. It raised a serious public-safety question: if residents could not move through the area, how would an ambulance, fire engine or police vehicle have gotten through?

The City must have a traffic and emergency-access plan in place before roads become impassable—not after the Peninsula has already been overwhelmed.

A YEAR-ROUND STR BUSINESS MODEL

Many short-term rentals are no longer family beach homes rented occasionally during the summer.

They operate throughout the year as commercial lodging businesses. Some owners never occupy the homes, own multiple properties or lease their properties to professional management companies that attempt to rent them nearly every available night.

This business model creates a constant rotation of temporary occupants in residential neighborhoods.

Residents experience:

- Constant occupant turnover;
- Additional vehicles and parking pressure;
- Noise and parties;
- Trash and sanitation problems;
- Dogs and other disturbances;
- Fireworks and unsafe behavior;
- Loss of quiet enjoyment;
- Reduced housing availability; and
- Repeated reliance on neighbors to report violations.

Even when there is no large party, the continual turnover of unrelated occupants changes the character of a residential neighborhood.

The City should consider reducing both the total number and concentration of STR permits, particularly where multiple STRs affect the same block or neighborhood.

The City should not evaluate STRs only by the transient occupancy tax collected. It should also consider Code Enforcement, police and fire response, sanitation, trash

collection, administration, housing loss and neighborhood impacts.

HOTELS ARE NOT THE ISSUE

My concern is not Newport Beach hotels and resorts.

Hotels operate with established room-occupancy limits, on-site management, fire and life-safety requirements, security and employees who can respond immediately when a problem develops.

A short-term rental outside of a commercial area is different.

A property may have a limited number of registered overnight guests but still attract dozens of additional visitors. The owner may be absent, entry may occur through a keypad and the management company may never personally see the occupants.

Unless a neighbor reports the activity and City personnel arrive while the violation is occurring, an excessive gathering may continue without intervention.

The City should therefore enforce both overnight occupancy and the total number of people permitted at an STR property at any time, including visitors, parties and daytime gatherings.

A SUMMER CAPACITY AND EMERGENCY-ACCESS PROBLEM

The Peninsula has limited roads, limited parking and limited ways to enter and leave.

During the summer, year-round STR activity is combined with heavy beach traffic, large crowds and severe parking demand.

The City should determine how many vehicles, visitors and residential-rental occupants the Peninsula can safely accommodate while maintaining:

- Emergency access;
- Functional traffic flow;
- Access for residents and employees;
- Lawful parking;
- Police and fire response;
- Sanitation and trash service; and
- Meaningful public coastal access.

The City should establish measurable capacity thresholds involving roadway movement, lawful parking, emergency access, crowd size and public-safety conditions.

Once those thresholds are reached, the City should stop additional vehicles from entering the affected area and stop encouraging or facilitating additional arrivals.

The objective should not be to find additional ways to bring more people into an area that has already reached an unsafe capacity.

That plan should apply throughout the summer and during any social-media event, large gathering or unexpected visitor surge—not only on July 4.

NEWPORT HEIGHTS AND SURROUNDING NEIGHBORHOODS

The July 4 traffic and parking impacts were not limited to the Balboa Peninsula.

Newport Heights and other nearby residential neighborhoods are regularly used as parking and staging areas by people heading to the Peninsula. Visitors park there and then walk, bicycle, use electric bicycles or take rideshare vehicles toward the beach.

On July 4, that existing pattern became substantially more intense and added traffic, parking demand and disruption to surrounding residential streets.

Those neighborhoods should not be expected to function as unrestricted satellite parking and staging areas during major holidays or extraordinary crowd events.

The City should evaluate narrowly tailored, temporary parking protections for Newport Heights and other heavily affected neighborhoods on July 4 and during similarly high-risk events.

Options could include:

- Temporary resident parking permits;
- Guest passes for residents;
- Temporary time limits or restrictions on selected residential streets;
- Exceptions for caregivers and essential visitors;
- Immediate enforcement against vehicles blocking driveways, sidewalks, red zones or emergency routes; and
- Advance notice explaining the temporary restrictions.

The purpose should be to preserve access for residents, emergency vehicles and essential services—not to create additional parking or staging capacity for larger crowds.

Public coastal access does not require the City to continue adding vehicles and people after the affected area has reached an unsafe capacity.

COASTAL COMMISSION AUTHORITY

Residents are frequently told that the California Coastal Commission prevents Newport Beach from modifying STR regulations or managing access to the Peninsula.

That statement is too broad and should be supported by specific written legal authority.

I am not proposing a permanent beach closure or the general exclusion of the public from the coast.

I am asking the City to manage vehicle volume, residential-rental occupancy and emergency capacity during high-risk periods.

Coastal access should not mean:

- Unlimited vehicles entering without regard to roadway capacity;
- Unlimited gatherings at residential rental properties;
- Streets becoming impassable;
- Surrounding neighborhoods becoming unmanaged parking and staging areas; or
- Emergency vehicles being unable to respond.

If a proposed measure requires Coastal Commission approval, the City should prepare and submit the proposal.

If City staff believes the Coastal Commission prevents further action, I respectfully request that the City publicly provide:

1. The specific Coastal Act provision supporting that position;
2. Any written opinion received from Coastal Commission staff;
3. Any prior Commission decision involving the same proposed measures; and
4. The City's written legal analysis.

There is an important difference between an action being prohibited, requiring approval and simply never having been formally proposed.

STRS OPERATING WITHOUT PERMITS

The City should increase efforts to identify short-term rentals operating without required permits.

Enforcement should not depend entirely on a neighbor discovering an online listing or reporting a gathering.

The City should use available advertising, booking and property information to proactively identify homes being offered for short stays without permits.

The City should publicly report:

- The number of unpermitted rentals identified;
- Investigations opened;

• Citations and penalties issued;
• Repeat violations; and
• Whether platforms or management companies continued advertising cited properties.

PROFESSIONALLY MANAGED 30-DAY RENTALS

Management companies are increasingly operating homes through consecutive or repeated 30-day rental agreements when an STR permit is unavailable.

Although an agreement may state that it is for 30 days, some properties function in practice as professionally managed temporary accommodations.

The owner may never occupy the property, and the home may be occupied by a continuing succession of temporary guests throughout the year.

These properties can create many of the same neighborhood and traffic impacts as STRs while avoiding STR permitting requirements, enforcement standards and transient occupancy tax.

The City should examine how these properties actually operate rather than relying exclusively on the stated term of a rental agreement.

ENFORCEMENT AND ADVANCE NOTICE

Current STR enforcement appears to depend heavily on residents reporting violations.

Residents may experience long waits when calling the STR hotline. Based on our experience with the current process, the hotline or Code Enforcement contacts the property owner or designated manager to advise them of the complaint and that a response is being made.

That advance warning gives the owner, manager or occupants an opportunity to reduce the noise, disperse visitors, move vehicles or temporarily correct the condition before City personnel arrive.

Code Enforcement may then need to personally witness the violation, while photographs or videos submitted by neighbors may not be accepted as sufficient evidence.

This creates a system in which the suspected violator may receive advance notice while the resident who complained still bears the burden of proving the violation.

The City should publicly explain whether advance notification is required by law, City policy or contract, and whether unannounced responses can be made when there is an active complaint involving overcrowding, noise, unsafe occupancy or another public-safety concern.

The City should publish a regular STR accountability report showing:

- Active permits;
- Complaints and response times;
- Citations issued by property;
- Repeat-violation properties;

• Appeals;
• Citations affirmed, reduced or dismissed;
• Reasons for dismissal;
• Permit suspensions and revocations;
• Permit transfers following property sales;
• STRs operating without permits;
• The method used to verify rental activity and TOT payments; and
• The full cost of enforcement, policing, fire response, sanitation and administration.

REVOKED PERMITS SHOULD NOT SIMPLY BE RELOCATED

The City should also examine what happens after an STR permit is revoked.

If a permit is revoked because of serious or repeated violations and the City then issues a replacement permit to a property that has never operated as an STR, the total number of STRs is not reduced. The neighborhood impact is simply moved from one block to another.

The residents surrounding the newly permitted property may suddenly face year-round guest turnover, additional vehicles, parking pressure, noise, trash, dogs, parties and repeated reliance on City enforcement. Their street may be changed permanently even though they had no connection to the violations that caused the original permit to be revoked.

Revocation should produce an actual consequence for the STR system—not merely change the address where the commercial lodging activity occurs.

The City should evaluate retiring revoked permits through attrition rather than automatically returning them to the available permit pool.

The Council should also consider retiring permits that are surrendered, abandoned, not renewed or terminated following a property sale so the total number and concentration of STRs decline gradually over time.

At a minimum, the City should provide advance public notice and conduct a neighborhood-impact and concentration review before issuing an STR permit to a property that has not previously operated as one.

MEANINGFUL PENALTIES

Parking, occupancy and other public-safety violations must carry penalties that actually deter the conduct.

If a citation is low enough to be divided among a large group of renters or visitors, it may simply be treated as part of the cost of the day.

If twenty people can split the fine, it is not a deterrent. It is simply part of the price of the party.

Where legally permitted, penalties should:

• Be substantial enough to deter violations;
• Increase sharply for repeat offenses;
• Apply to occupants, owners or operators when appropriate;
• Include escalating consequences for managers who repeatedly fail to control properties;
• Allow permit suspension or revocation for serious or repeated violations; and
• Include towing or immediate enforcement when vehicles block sidewalks, driveways, red zones, emergency routes or traffic flow.

REQUESTED ACTIONS

I respectfully ask the City Council to direct staff to develop and publicly evaluate:

1. A year-round STR reduction, enforcement and accountability plan;
2. Reduction of the total number and concentration of STR permits in residential neighborhoods;
3. Retirement of revoked STR permits rather than automatically returning them to the available permit pool;
4. An attrition policy for permits that are revoked, surrendered, abandoned, not renewed or terminated following a property sale;
5. Advance public notice and a neighborhood-impact and concentration review before issuing a permit to a property that has not previously operated as an STR;

6. A summer Peninsula capacity and emergency-response plan for holidays, social-media events and unexpected crowd surges;
7. Enforceable capacity thresholds based on roadway movement, lawful parking, crowd size and emergency access;
8. Stopping additional vehicles from entering affected areas once safe capacity has been reached;
9. Avoiding additional parking or transportation measures that would facilitate larger crowds during an active capacity emergency;
10. Restrictions on STR check-ins during designated high-risk periods;
11. Strict enforcement of overnight occupancy and total gathering limits at each STR property;
12. Personal verification of occupancy, parking and house rules by professional managers during high-risk periods;
13. Advance inspections of repeat-problem and high-occupancy properties;
14. Temporary July 4 parking protections in Newport Heights and other affected residential neighborhoods;
15. Protected emergency routes and a reliable resident, employee and property-owner reentry procedure;
16. Trained traffic-control officers at PCH and Superior and principal Balboa Boulevard access points;
17. Proactive enforcement against STRs operating without permits;
18. Registration and a responsible local contact for professionally managed 30-day residential rentals;

19. Independent auditing of STR rental activity and TOT compliance;
20. Review of whether STR permits should transfer following a property sale;
21. Revision of any policy requiring advance warning before responding to an active STR complaint, including unannounced responses where legally permissible;
22. Increased and escalating penalties for parking, overcrowding and other high-risk violations;
23. Immediate towing and enforcement when vehicles block sidewalks, driveways, red zones, emergency routes or traffic flow;
24. Suspension or revocation of permits when serious or repeated violations demonstrate that a property is not responsibly managed; and
25. A determination of the true net financial benefit of STRs after accounting for enforcement, policing, fire response, cleanup, administration, housing loss and neighborhood impacts.

RESIDENT PARTICIPATION

I would like to volunteer to serve on any resident advisory committee, task force or working group formed to address these issues and any other quality-of-life concerns affecting residents of the Peninsula.

Residents who directly experience these conditions should have a meaningful role in developing the solution.

CONCLUSION

This is not about closing the beach, preventing lawful coastal access or targeting hotels.

It is about addressing year-round commercial lodging activity in residential neighborhoods and recognizing that the Peninsula and surrounding neighborhoods have finite public-safety, traffic and parking capacity.

July 4 was the emergency. STRs are the year-round problem.

Another social-media event could create similar conditions on a different summer weekend with very little warning.

The goal should not be to find more ways to bring people in after the Peninsula has reached capacity. The goal should be to prevent unsafe conditions before they develop.

Please create a plan that reduces STR impacts, strengthens year-round enforcement and manages traffic, parking, access and residential-rental occupancy before conditions become dangerous.

Thank you for your consideration. I would welcome the opportunity to assist the City in this work.

Sincerely,

Scott McFetters
Newport Island Resident

From: Garrett, Errica
Sent: July 13, 2026 3:34 PM
To: Dept - City Clerk
Subject: FW: Short term rentals are part of the problem.

Errica Garrett
Administrative Assistant to the Mayor and City Council City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660

-----Original Message-----
From: Tim Woodall <timwoodall@mac.com>
Sent: July 13, 2026 3:33 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Subject: Short term rentals are part of the problem.

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Hi City Council,
Short Term Rentals are certainly part of the social problem. I actually lived next door to a short term rental unit on the peninsula for more than 3 years. Every issue on our street came from that house. Not every short term renter was an issue- certainly good people came through. But often they weren't good people. The often had no regard for neighbors and community. Other than money for the owners of these short term rentals- what do the people coming in to rent offer the community? Not enough to offset be issues.
Short term rentals should be banned entirely in our city.

Tim Woodall
949-280-8617
Sent from my iPhone

July 14, 2026, City Council Agenda Comments

The following comments on items on the Newport Beach City Council agenda are submitted by:
Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item IV. MATTERS WHICH COUNCILMEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA (NON-DISCUSSION ITEM)

The Council is apparently being asked to consider having staff prepare, for consideration at a future meeting, resolutions taking a position on four statewide propositions expected to appear on the November 3, 2026, ballot. I consider such things a waste of public resources. Not only is the world unlikely to note or long remember the positions taken by the Council, but the resolutions, if prepared, will represent only the preferences of a majority of the seven people on the Council, and not the views of the city's residents (which the Council has no way of knowing).

Item 1. Approval of Minutes

The passages shown in *italics* below are from the draft minutes of the June 23, 2026, Regular City Council Meeting, with suggested corrections shown in ***~~strikeout~~*** ***underline*** format. The draft minutes have been posted as a 9-page PDF without page numbers. The page numbers below refer to the position in the PDF.

Page 3, Council Announcements, paragraph 2: "*Councilmember Barto reported attending the Lifeguard All-Hands meeting, the Newport Beach Junior Guards Summer Kickoff, and the* ***~~Oasis~~*** ***OASIS*** *Senior Center Wine and Cheese event.*"

Page 4, Item IV. CONSENT CALENDAR:

> **Comment**: Starting with this page, the minutes have been shortened by listing the Consent Calendar items, with the exception of Item 1, by title only, omitting the description of what action(s) were recommended and taken under those titles. This creates a problem in that for what is likely the first time in the City's history, the minutes will not provide a record of those actions. For example, Item 5 (Community Programs Grants, Community Event Assistance and Strategic Sponsorship Recommendations for Fiscal Year 2026 - 27) appears in a section titled "Resolutions for Adoption." One might reasonably assume one or more resolutions were approved under that title. But the minutes give no hint as to which one(s) might have been approved. Similarly, Item 15 (Irrigation Controllers Replacement Phase 4 Award of Contract No. 10128-1) gives no hint of who the contract was awarded to, or in one amount. And Item 20 (Appointments to Police Headquarters Advisory Committee) gives no hint of who was appointed. This new approach seems fundamentally inconsistent with responsibility placed on the City Clerk by City Charter Subsection 603(a) "*for the recording and maintaining of a* ***full*** *and true record of all of the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purpose*." A record that fails to reflect such essential details of the Council's core actions would not seem to be a "full" record.

Page 8, Item 22, paragraph 1, sentence 3: "~~*A*~~ *The General Plan Advisory Committee and Steering Committee collectively met over 100 times and voted 25–1 to support the draft*."

Page 9, Item 23, paragraph 3: "*Jim Mosher noted that for properties within the City's pre-November 1, 1996 boundaries receiving curbside refuse service, Municipal Code Section* ~~*604.14*~~ *6.04.140 may require that the cost of collecting and disposing of recyclables be covered entirely by ad valorem tax revenue, suggesting a supplemental recycling charge for such properties could be legally questionable*."

Item 2. Ordinance No. 2026-07: Updating Titles 13 (Streets, Sidewalks and Public Property) and 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Personal Wireless Service Facilities

49 pages of new code (plus 33 pages of administrative standards and 47 pages of "master license agreement") is quite a lot to review. Like most first drafts the City produces, I feel this is a product that needs more discussion and revision before adoption.

While I appreciate the chance of influencing it is small, in the following I will try to separate the biggest problems I see with it from the many lesser ones.

Principal Comments

1. The staff report from when this was introduced on June 9 said the structure of the ordinance was modeled after that of Santa Monica. While Santa Monica segregated applications in the public right-of-way from those on other property, and this follows suit with PROW applications handled in proposed new Chapter 13.22 and other applications in a revised Chapter 20.49, the biggest concern I have is with the proposed novel introduction in proposed Subsection 20.49.030.B.6 of an exemption from regulation of applications for telecom sites on city-owned land and City-held trust property. For a city that values local control, this creates a gaping hole in regulation and is more than a bit strange to see. An application to construct a freestanding tower in the middle of a park or next to a playground or in the Central Library entryway, would fall under neither Chapter 13.22 (since it is not in the PROW) nor under Chapter 20.49 (since this new provision exempts it). If this were adopted as written, it would be subject only to a rental agreement negotiated by the City Manager pursuant to Council Policy L-23. And I can hear it now: "Our hands were tied. We don't like it, but Federal law required us to approve whatever was applied for" (because we have no local standards it would violate). Shouldn't we want to retain control over installations in City parks, on City buildings and in public plazas? Santa Monica did not do this. Why would we?
2. The second major concern I have is with the introduction in the revised Chapter 20.49 of a new non-appealable "Administrative Clearance" for approving certain applications. First, it would seem the ordinance fails to integrate it into the overall structure of Title 20, where one would expect to find it included in Table 5-1 of Chapter 20.50. More importantly, the definition in proposed Section 20.49.020 mischaracterize it as "a ministerial, non-discretionary approval" for Class 1 (stealth) and 6409(a) (minor changes) facilities. But the decision of what is, or is not, "stealth" is not an entirely objective one.

Proposed Section 20.49.070.B.1.c retains the existing requirement that the enclosure chosen be "architecturally compatible with the existing structure or building." Like some of the decisions required to approve a "Zoning Clearance," that is a judgement regarding which reasonable people can differ. Non-objective judgement is needed to decide compliance with many of the more general Design Standards of Section 20.49.070.A. Likewise, to be eligible for "6409(a)" processing, the proposed changes cannot disrupt the original concealment plan or most conditions of the original approval. That too is subjective. Zoning Clearances are appealable, why would "AC"'s not be?

3. A significant feature of the proposed new Chapter 13.22 seems to be the availability of "Master License Agreements." It is concerning to me that the code does not appear to establish any requirements for their content nor define how or by whom they become approved (proposed Section 13.22.050.C indicates a template will be approved by the City Council, but I cannot find the procedure by which the actual agreements get signed).
4. Similarly, proposed Section 20.49.030.C requires applications for 6409(a) facilities on private property to be approved by an "AC," but no process or criteria for doing that is defined (in contrast to the process proposed to be needed when the Public Works Director faces a similar decision in Section 13.22.090.
5. It is also concerning that per Section 13.22.230, decisions by the Public Works Director, which will apparently be posted on the City website, can be appealed by the telecom applicant, but by no one else.
6. Staff may consider this minor, but I do not: the opening clause proposed Subsection 20.49.030.B (Exempt Facilities) is missing the word "not" (in "shall not apply"), without which the subsection's intent is unintelligible.

Minor Comments

1. I continue to wonder why the City does not allow the installation of small wireless equipment on traffic standards, which would often seem the least intrusive location since they are already festooned with other equipment. Should the Council reconsider this restriction?
2. I also wonder why the Section 20.49.020 definition of "Class 1 (Stealth/Screened)" facilities seems to restrict them to nonresidential buildings, even though Section 20.49.040.B.2 would seem to allow wireless facilities on properties zoned for residential buildings of more than five units. Why would we allow facilities on them, but not encourage them to be stealth?
3. It is similarly unclear whether the determination of whether wireless facilities are allowed or prohibited on a property should be based on its zoning or on its actual land use at the time of the proposal.
4. The June 9 staff report referred to "Community Input" received at a meeting with "concerned residents" resulting in some modifications to what had been considered b the Planning Commission. I do not believe this was an open or advertised meeting, and am concerned staff wrote this without actively seeking any other community input.

5. The preamble to the ordinance includes what has become boilerplate in Newport Beach ordinances since about 2020, to the effect that "*WHEREAS, Section 200 of the City Charter, of the City of Newport Beach ("City"), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California ("State")*." Although frequently repeated, this is incorrect. Charter Section 200 actually vests those powers in "the City," not the "City Council." It is Section 405 which vests in the Council "*All powers of the City … **except** as otherwise provided in this Charter*." And the exceptions are fairly large. For example, various powers are vested in the appointed officers, and the Council is prohibited from interfering with the City Manager's administration of the City staff.
6. The ordinance frequently refers to "Section 6409(a)," yet gives the lay reader no hint of what the term entails. Couldn't some explanation have been included in the definition?
7. The definitions in proposed Chapter 13.22 include references to requirements on "towers other than towers in the public rights-of-way." Isn't it confusing to include that in code meant to apply only to towers in the public rights-of-way?
8. In proposed Section 13.22.070, is there a limit on how much time staff can take to notify an applicant their submission is incomplete?
9. Proposed Section 13.22.160 seems to be saying that if the City needs to use a previously-permitted location, the occupant is automatically authorized to install a new pole of their own within 500 feet of the old location. Shouldn't there be a priority on using existing poles before a new one is authorized?
10. There are obvious typographical errors at the end of proposed Section 13.22.200.B and the start of 13.22.200.C.
11. After missing a "not" in the opening clause, the list following Section 20.49.030.B has inconsistent grammar (singular vs. plural).
12. The list should also be checked for consistency with Section 3.2.4 of the proposed Public Works standards, which exempt a "*Personal wireless service facility or 6409(a) facility used solely for wireless-based reading of water, gas, or electric meters*" (not just electric).
13. The opening sentence of proposed Section 20.49.050 says "Unless exempted pursuant to Section 20.49.030(B)" twice.
14. I have many more comments, but am up against the new 4:00 p.m. deadline for submitting them!

Item 4. Ordinance No. 2026-09: Amending the Newport Beach Municipal Code to Regulate and Manage Certain Activities within Newport Harbor

This ordinance was introduced as Item 3 on the June 23 consent calendar, and is now scheduled for adoption on the present consent calendar, which means the proposed code changes will be made with no public discussion by the Council, and possibly no review by its members.

This increasing practice of adopting ordinances without Council discussion of what they intend to accomplish and whether the proposed code language achieves the stated purpose is a problem. It frequently leads to the adoption of poorly-written provisions whose intent is unclear or whose language literally says something different from the intent suggested in the staff report. That, in turn, results in laws that will be selectively enforced, not enforced as written, or enforced differently than written, and that would likely not stand up if challenged in court. They do not result in just or predictable outcomes.

In the present case, I have seen written comments from Adam Leverenz questioning the way two of the proposed code sections are written. I agree they are problematic.

Adam's concerns relate to the proposed revisions to existing NBMC Sec. 17.25.020.H.3 (Vessel Condition—Public Nuisance) found on Page 9 of 11 of the proposed ordinance. The existing code declares the following to be a nuisance: "*m. Installation of a marine sanitation device that is not connected directly to an internal holding tank at all times while in Newport Bay*." That is proposed to be revised, and two new subsections ("n." and "o.") are proposed to be added.

The present staff report does not disclose what the intent of the revision and additions is. Page 2 of the June 23 staff report provides this description of the proposed changes, but does not disclose what problem is being addressed or how the described changes will solve it: "*NBMC Section 17.25.020(H)(3) defines what constitutes a public nuisance as it relates to the condition of a vessel in Newport Harbor. The proposed revisions will make it a public nuisance for any vessel docked, moored or anchored in Newport Harbor to have a portable or permanently installed marine sanitation device that is not operable or connected to an internal holding tank. Additionally, improvised waste containment methods such as buckets or bags will be prohibited.*"

To discover what the changes are attempting to accomplish, one has to go back to Attachment A to a staff report provided to the Harbor Commission as Item 6.3 at their February 11, 2026, meeting. It says: "*This proposal seeks to amend Title 17 of the Newport Beach Municipal Code to require that* ***any vessel on which a person stays aboard overnight*** *be equipped with either a legitimate portable marine sanitation device (MSD) — compliant with U.S. Coast Guard and California State Parks Division of Boating and Waterways standards —* ***or*** *a permanently installed and operable marine sanitation system. The use of non-compliant, improvised waste containment methods,* ***such as buckets****, will not be considered acceptable. … Ensuring that all* ***overnighting vessels*** *are equipped with appropriate sanitation systems reinforces the City's long-standing commitment to a clean, safe, and sustainable harbor environment for all users.*"

As Adam points out: (1) the applicability is intended to be limited to vessels on which people are actually staying overnight, (2) for those, a "portable marine sanitation device"[1] is intended to be an alternative to a permanently installed system, and (3) those proposing this had specific examples of "improvised waste containment methods" in mind.

None of this is evident from the proposed code.

Instead, the proposed revisions to subsection "m." add a new prohibition on use of self-contained portable waste disposal units unless it can be connected to a holding tank, which most cannot. How that is intended to help the harbor is unclear.

The proposed new subsection "n.", intended to address overnight stays, now imposes a new requirement to have such a compliant device not just on vessels being used for overnight stays, but on any vessel capable of accommodating an overnight stay, or even just anchoring in the harbor. That would appear to impose the requirement on a large fraction of the boats in the harbor, whether an overnight stay on them is contemplated or not.

The proposed new subsection "o." prohibits "The use of improvised waste containment methods for human or animal excreta," without providing any guidance as to what methods might be regarded as "improvised." I believe other sections of Title 17 allow washing bird and sea lion waste off boats, but to the best of my knowledge, something like a pet dog aboard for a while would be difficult to potty train. What methods of containing its waste would not need to be "improvised"?

Why would the Council wish to adopt such poorly-crafted laws?

Item 5. Approval of a Professional Services Agreement with Arts Orange County to Manage Phase XI of the Sculpture Exhibition in Civic Center Park

Section 1 of the contract indicates it will run through July 31, 2030.

Yet the Capital Improvement Program the Council adopted as part of Item 19 on June 9 anticipates in FY2028-2029 the award of a construction contract for a new Police Headquarters, quite possibly in the same Civic Center Park where the Sculpture Exhibition that is the subject of this contract is expected to take place. Shouldn't the possibility of that conflict be acknowledged in this contact and in Council discussion of it?

In this 11th iteration of the contract, there seems also to be scant attention to its continuing no-bid, sole-source nature. The predictable result is that staff and the contractor settle into a comfortable pattern lacking innovation, despite anemic public participation in the poll through

[1] The term "marine sanitation device" does not appear to be defined in Title 17. It seems to be used at times as a euphemism for what landlubbers would call a toilet, although technically the term refers not to the toilet, but to the device to which the toilet is connected to process and store the waste collected. A holding tank is one type of MSD (a "Type III"). The other two types treat the waste for discharge. Connecting an MSD to a holding tank would appear to be a misnomer, since the holding tank, not the toilet, *is* the MSD. A "portable MSD" would seem to be by definition a self-contained unit not intended to be permanently attached to a boat, and quite likely with no mechanism for connecting to a holding tank.

which the entries to be exhibited are selected (fewer than 250 residents voting out of a population of 83,000).

As to that selection process, the vendor continues to recommend, as they always do, that three outside jurors, along with the seven City Arts Commissioners, whittle the entries received (usually about 80) down to just 30 or so for the public to vote on, despite that process having been shown to do nothing other than prevent the public from seeing entries they might prefer to those presented to them. One might guess there are better ways, but there is no incentive to change.

Item 11. Planning Commission Agenda for the July 9, 2026, Meeting

As the report will show, the Commission continues to approve market rate housing projects in the area of the city that has historically been regarded as the one most suitable for affordable housing projects.

This approval is particularly troubling because staff appears to have determined, for reasons that were not explained, that the existing affordability requirement, which is the subject of Item 13 on this Council agenda, does not apply to this property, apparently because it was designated as a “Housing Opportunity” site.

In any event, the applicant applied for 139 of the 8,174-unit total of “housing opportunity overlays” the Council added to the General Plan without a Greenlight vote on the pretext that the state required the Council to approve them to make possible reaching its affordable housing target. Since no affordable units were offered or required, it seems reasonable for the public to believe they were the victims of a “bait and switch," for, as here, few (and in this case none) of the 8,174 units are being used to build affordable housing.

As this first tranche of units gets used up for purposes other than what was promised, it seems likely staff and Council will say the state is forcing them to raise (again without a Greenlight vote) the 8,174-unit General Plan limit to allow the previously-promised affordable units to materialize. And that could repeat indefinitely as the city fills with market rate units *not* required by the state, and regarding which residents are not allowed to vote on the repeated General Plan increases allowing them.

Item 12. Resolution No. 2026-52: 2350 Bristol Street Driveway Access Appeal (PA2025-0112)

It seems important to appreciate this is not an appeal from denial of an application to modify the existing use permit to allow unrestricted use of the rear driveway. Nor is it, as the “On the Agenda” portion of the City Manager’s July 10 weekly newsletter claims, an appeal of “the Planning Commission’s decision to ***allow*** an existing emergency access driveway to also be used for employee and delivery vehicle access”

It is, instead, the appeal of the denial of a request to determine that the existing use permit ***already allows*** (and has *always allowed*) unrestricted use of the rear driveway.

This question regarding the interpretation of the 1986 permit is the only matter presently applied for, and the only question to be resolved on appeal.

A request to issue a new or modified permit allowing unrestricted use would be processed through a different kind of application.

Item 13. Ordinance No. 2026-10: Approving Amendment to Newport Place Planned Community Development Plan (PC-11) Related to the Minimum Percentage of Inclusionary For-Sale Housing within the Residential Overlay and Resolution No. 2026-53: Overriding Airport Land Use Commission's Determination of Inconsistency (PA2025-0196)

In light of City staff's recent interpretation of the "Housing Opportunity Overlay Districts," this immense effort on the part of City staff appears to be for the sole benefit of the property owner at 1401 Quail Street, a sophisticated developer, Intracorp, who previously, as explained on page 4 of the staff report, obtained approval of an application for a 67-unit development with 15% affordable housing.

Curiously, the agenda materials do not appear to include the September 3, 2025, letter from the developer precipitating this, which had been included as Attachment 2 in the March 19 staff report to the Planning Commission. Contrary to what the present staff report says, nothing I can see in that letter says "the approved project is no longer financially viable to implement." It *does*, for reasons it does not explain, request the City reduce the inclusionary requirement for for sale units from 15% to 7.5%.[2]

The staff report also curiously fails to mention that on September 24, 2024, the Council adopted Ordinance No. 2024-16 which established development standards for the 6th Cycle Housing Opportunity Overlay properties. Those standards include no affordability requirement at all, and staff apparently interprets this silence as an "inconsistency" with the requirement in the planned community text, which per NBMC Section 20.28.060 is to be resolved, in their minds, in favor of the lack of a requirement in the HO overlay. In other words, having an HO designation eliminates any affordability requirement regardless of the underlying zoning. Staff applied this interpretation to the 1301 Dove St. application being reported as part of Item 11 on the present agenda, and appears to have previously applied it to the 1300 Dove St application, heard by the Planning Commission on June 4, which is seeking designation as an HO site.[3]

Strangely, 1401 Quail was designated as HO Site No. 64 in the Housing Element, but the Intracorp application may have been filed before it was rezoned to reflect that, and hence is being processed under the pre-HO rules. By staff's reasoning, if Intracorp wanted to avoid the inclusionary requirement that is the subject of the present agenda item, they could simply re-flie the identical application (without any affordable units) to be approved as an HO project.

[2] Strangely, the subject line of the letter says it is a request to reduce the percentage "from 15 percent to **8** percent," but the body states "7.5%" three times.
[3] The 1300 Dove St. application proposes 5% very-low income housing, but this does not appear to be in response to any inclusionary requirement. Rather it seems to be offered to make the developer eligible for a development standard concession.

In other words, the affordability requirements the Council is being asked to modify are, at least in staff's view, a mirage nullified by the adoption of Housing Opportunity zoning overlays.

As a result, if staff's view of this prevails, its approval, or not, of the present agenda item, over the objections of the Airport Land Use Commission and Caltrans, does nothing to improve the City's ability to meet its affordable housing targets. It modifies in staff's view is an orphaned and currently dead code requirement.

It is, however, questionable that staff's view is correct. Under NBMC Section 20.28.060, the underlying affordable housing requirement would be voided *only* if it is inconsistent with some new and different standard imposed by the overlay (as might happen, for example, if the overlay allowed greater building heights or more units than the underlying zoning). But it is hard to see how the overlay's complete silence on whether affordable housing is required, or not, can be seen as creating a new and conflicting standard of "no affordable housing is required."