

**CITY COUNCIL OF MONTEREY PARK
THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY OF THE FORMER
REDEVELOPMENT AGENCY, THE HOUSING AUTHORITY, THE MONTEREY PARK FINANCING
AUTHORITY AND THE MONTEREY PARK GEOLOGIC HAZARD ABATEMENT DISTRICT
AGENDA**

**REGULAR CITY COUNCIL MEETING
MONTEREY PARK CITY HALL COUNCIL CHAMBERS
320 W. NEWMARK AVENUE, MONTEREY PARK, CA 91754**

**Wednesday
August 16, 2023
6:30 p.m.**

MISSION STATEMENT

The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.

LAND ACKNOWLEDGMENT

We would like to acknowledge that the land we inhabit today was once known as
Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the
Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future,
and honor their labor as original caretakers of this land. We commit to uplifting the
Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring
for this land.

GENERAL INFORMATION

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter/City-Council-17>.

The public may watch the meeting live on the city's cable channel MPKTV (AT&T U-verse, channel 99 or Charter Communications, channel 182) or by visiting the city's website at <http://www.montereypark.ca.gov/133/City-Council-Meeting-Videos>.

PUBLIC PARTICIPATION

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Mayor and City Council may change the amount of time allowed for speakers. Written Communication will be accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER	Mayor
FLAG SALUTE	The Monterey Park Police Explores
ROLL CALL	Henry Lo, Vinh Ngo, Jose Sanchez, Thomas Wong, Yvonne Yiu

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS:

While all comments are welcome, the Brown Act does not allow the City Council to take action on any item not on the agenda. The Council may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the City Council's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

STAFF COMMUNICATIONS:

- Police Department
- Recreation and Community Services

[1.] PRESENTATION

1-A. RESIDENT NEEDS ASSESSMENT SURVEY RESULTS

1-B. ZONING CODE UPDATES, OUTREACH AND ENGAGEMENT – “OUR CITY, OUR PLAN”

[2.] OLD BUSINESS

2-A. FIREARMS PLEDGE AND ORDINANCE PROHIBITING FIREARMS ON CITY-OWNED PROPERTY

It is recommended that the City Council consider:

- (1) Receiving and filing this report;
- (2) Adopting a Resolution declaring the City Council's intent to support federal, state and local gun regulation including adopting various city-wide policies; approving a related voluntary Firearms Pledge for all elected officials; and authorizing the City Manager to implement the City Council's policies;
- (3) Introducing and waiving first reading of an Ordinance prohibiting the possession of firearms, with certain exceptions, on City-owned public property; and
- (4) Taking such additional, related, action that may be desirable.

ENVIRONMENTAL ASSESSMENT:

This Ordinance was reviewed pursuant to CEQA. Adopting this Ordinance is exempt from further environmental review because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; minor alterations in land use; new construction of small structures; and minor structures accessory to existing commercial facilities. The Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303, 15304(e); 15305; and 15311. Further, the adopting the ordinance is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Individual projects utilizing these regulations will each be separately subject to an environmental assessment. Finally, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.

2-B. CONSIDERATION AND POSSIBLE ACTION TO INTRODUCE AN ORDINANCE ADDING SECTION 9.58.050 ENTITLED “SAFE STORAGE” TO THE MONTEREY PARK MUNICIPAL CODE

It is recommended that the City Council consider:

- (1) Introduce and waive first reading of Ordinance No. _____ adding § 9.58.050 entitled “Safe Storage” to the Monterey Park Municipal Code;
- (2) Taking such additional, related, action that may be desirable.

ENVIRONMENTAL ASSESSMENT:

The City reviewed the environmental impacts of this Ordinance under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the “CEQA Guidelines”). This Ordinance is not subject to further review environmental review because: (1) it will not result in a direct or reasonably foreseeable indirect physical change in the environment (14 Cal. Code Regs. § 15060(c)(2); (2) there is no possibility that the Ordinance itself may have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)); and (3) the Ordinance, by itself, does not constitute a “project” as defined in the CEQA Guidelines (14 Cal. Code Regs. § 15378). The Ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

[3.] CONSENT CALENDAR ITEM NOS. 3A-3H

All items under the Consent Calendar are considered by the City Council to be routine and will be enacted by one motion. Specific items may be removed from the Consent Calendar at the request of any member of the City Council for separate consideration.

3-A. MONTHLY INVESTMENT REPORT – JULY 2023

It is recommended that the City Council consider:

- (1) Receiving and filing the monthly investment report; and
- (2) Taking such additional, related, action that may be desirable.

3-B. CONTINUE TO EXTEND THE EXISTENCE OF AN EMPLOYMENT EMERGENCY FOR THE CITY OF MONTEREY PARK

It is recommended that the City Council consider:

- (1) Receiving and filing this report;
- (2) Continuing to extend the existence of an employment emergency for the City of Monterey Park and authorizing the City Manager to take all practical actions needed to implement the efficient recruitment and retention of persons for employment; and
- (3) Taking such additional, related, action that may be desirable.

3-C. CONSIDERATION AND DIRECTION REGARDING SB 1186 - MEDICINAL CANNABIS PATIENTS’ RIGHT OF ACCESS ACT

It is recommended that the City Council consider:

- (1) Receiving and filing this report;
- (2) Direct the City Manager and City Attorney to draft proposed regulations for medical cannabis delivery facilities in accordance with SB 1186; and
- (3) Taking such additional, related, action that may be desirable.

3-D. STATE HOMELAND SECURITY PROGRAM – AWARD OF CONTRACT TO NAPPI FABRICATIONS, FOR THE PURCHASE OF A CUSTOMIZED TRAILER

It is recommended that the City Council consider:

- (1) Authorizing the Interim City Manager to execute an agreement with Nappi Fabrications, in a form approved by the City Attorney, to purchase a customized trailer, for the amount of \$172,640.77;
- (2) Taking such additional, related, action that may be desirable.

3-E. CITY PARKS PLAYGROUND REPLACEMENT PROJECT – AWARD OF CONTRACT

It is recommended that the City Council consider:

- (1) Authorizing the Interim City Manager to execute a public works contract, in a form approved by the City Attorney, with R.E. Schultz Construction, Inc. in the amount of \$986,149 for City Parks Replacement Project, Specification No. 2023-007;
- (2) Authorizing the Director of Public Works to approve change orders and contingency up to \$25,000 and the Interim City Manager up to \$60,000;
- (3) Authorizing the appropriation of an additional \$286,700 from Development Impact Fund – 231 for this project; and
- (4) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The Project results in minor alterations to existing public facilities involving no significant expansion of the existing use. The Project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality.

3-F. SOUTHERN CALIFORNIA EDISON 5-YEAR REVOCABLE SECONDARY LAND USE LICENSE FOR EDISON TRAILS PARK

It is recommended that the City Council consider:

- (1) Authorizing the Interim City Manager to execute a 5-year Revocable Secondary Land Use License, in a form approved by the City Attorney, with Southern California Edison (SCE) for the City's use of Edison Trails for park and public recreation purposes in the amount of \$12,805.05; and
- (2) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is Class 1 Categorically Exempt pursuant to the California Environmental Quality Act (CEQA) (Existing Facilities). The Lease Agreement will not result in any change in operation or use of the existing park.

3-G. RECEIVE AND FILE STAFF REPORT SUMMARIZING THE STATUS OF EMERGENCY REPAIRS OF THE MONTEREY PASS ROAD WATER LINE

It is recommended that the City Council consider:

- (1) Receive and File the staff report summarizing the status of emergency repairs of the Monterey Pass Road water line; and
- (2) Taking such additional, related, action that may be desirable.

3-H. CURED-IN-PLACE PIPE (CIPP) LINING AT VARIOUS LOCATIONS – AWARD OF CONTRACT

It is recommended that the City Council consider:

- (1) Authorizing the Interim City Manager to execute a public works contract, in a form approved by the City Attorney, with Southwest Pipeline Trenchless Corp., in the amount of \$823,699 for the CIPP Lining at Various Locations, Specification No. 2023-005; and
- (2) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The project results in minor alterations to existing public facilities involving no significant expansion of the existing use.

[4.] PUBLIC HEARING

4-A. A CONTINUED PUBLIC HEARING TO CONSIDER INTRODUCTION AND FIRST READING OF ZONING CODE AMENDMENT NO. 22-01 (“ZCA-22-01”), AN ORDINANCE ADDING THE MONTEREY PARK MUNICIPAL CODE, CHAPTER 21.19, ENTITLED “INCLUSIONARY HOUSING” TO IMPLEMENT THE MONTEREY PARK HOUSING ELEMENT

It is recommended that the City Council consider:

- (1) Opening a public hearing and taking testimonial and documentary evidence
- (2) After closing the public hearing and considering the evidence submitted during that public hearing to introduce and waive first reading of Ordinance No. _____ adding Chapter 21.19 (“Inclusionary Housing”) to the Monterey Park Municipal Code (“MPMC”) to implement the Monterey Park Housing Element; and
- (3) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*; “CEQA”) and its implementing regulations (14 Cal. Code of Regs. § 15000, *et seq.*; the “CEQA Guidelines”), the proposed Ordinance and Resolution (ZCA 22-01) are exempt from further CEQA review for the following reasons: (1) they will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15060(c)(2)); (2) there is no possibility that the Ordinance may have a significant effect on the environment because any potential, future, housing projects would undergo separate environmental review (CEQA Guidelines § 15061(b)(3)); and (3) the Ordinance and Resolution, by themselves, do not constitute a “project” as defined in the CEQA Guidelines because they involve a policy action that is legislative implementing affordable housing policy and affects prospective future housing development to comply with Housing Element Program 15 (CEQA Guidelines § 15378). The notice of exemption prepared for this project is contained in Attachment 4.

4-B. A PUBLIC HEARING TO CONSIDER ADOPTING A RESOLUTION ESTABLISHING CITY-WIDE FEES RELATED TO THE INCLUSIONARY HOUSING ORDINANCE

It is recommended that the City Council consider:

- (1) Continue the public hearing to the September 6, 2023 City Council meeting; and
- (2) Taking such additional, related, action that may be desirable.

[5.] NEW BUSINESS – None.

[6.] CITY COMMUNICATIONS (CITY COUNCIL)

6-A. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA, DENOUNCING ANTISEMITISM

It is recommended that the City Council consider:

- (1) Adopting a Resolution of the City Council of the City of Monterey Park, California, denouncing antisemitism; and
- (2) Taking such additional, related, action that may be desirable.

[7.] FUTURE AGENDA ITEMS

[8.] CLOSED SESSION (IF REQUIRED; CITY ATTORNEY TO ANNOUNCE)

ADJOURNED



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Old Business - 2A

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Interim City Manager
Karl H. Berger, City Attorney
SUBJECT: Firearms Pledge and Ordinance prohibiting firearms on City-owned property

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report;
2. Adopting a Resolution declaring the City Council's intent to support federal, state and local gun regulation including adopting various city-wide policies; approving a related voluntary Firearms Pledge for all elected officials; and authorizing the City Manager to implement the City Council's policies;
3. Introducing and waiving first reading of an Ordinance prohibiting the possession of firearms, with certain exceptions, on City-owned public property; and
4. Taking such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

On March 1, 2023, the City Council adopted Resolution No. 2023-R15 in response to the Mass Casualty Incident ("MCI") on January 21, 2023 that killed 11 people and critically injured nine others. On July 19, 2023, the City Council adopted Ordinance No. 2233 on an urgency basis that added a new Chapter 21.55 to the Monterey Park Municipal Code ("MPMC") establishing a Firearm Health Protection Zone regulating firearms dealers.

During the same meeting, the City Council gave direction on several additional items that were identified in Resolution No. 2023-R15. Among other things, the City Council directed that two ordinances be drafted: one requiring that trigger locks or storage devices be used for firearms; the other prohibiting firearms on City-owned property. The former ordinance is a separate agenda item; the latter is part of this agenda item.

Additionally, the City Council gave general policy directions for a myriad of firearms related matters that are reflected in the draft resolution accompanying this staff report.

BACKGROUND:

Since January, the City Council undertook a series of actions aimed at protecting public health and safety from firearms related incidents. In addition to lending the City's support to various federal and state legislation that, if adopted, would help curb the increase in gun violence, the City Council provided direction on matters under its own authority. Most of these are reflected in the staff report from July 19, 2023 which is attached (without any exhibits) for reference.

On July 19th, the City Council gave specific policy direction in three categories:

1. Draft an ordinance requiring all firearms in residences be securely stored in a locked container or disabled with a trigger lock;
2. Draft an ordinance prohibiting the possession of firearms on all City-owned property; and
3. Implement various policies as to Gun Violence Restraining Orders ("GVRO"); standard conditions of approval for firearms dealers; ensure destruction of all seized weapons; implement a gun buyback program; support new legislation regarding MCIs and weapons regulation.

As to Item No. 1, that draft Ordinance is a separate (but related) agenda item. The reason for this is the caution expressed during the July 19th meeting as to whether such regulations would be legally defensible after two significant court decisions in 2022.¹

For Item No. 2, it is plain that the City Council may control all City-owned property. The City has the same right as private landowners to "preserve the property under its control for the use to which it is lawfully dedicated." This is reflected in California law which states that

"the legislative body having control of any property owned or controlled by the city may at any time withdraw the property from the personal access and use of members of the public, or limit the access or use in area or time or in any other reasonable manner deemed necessary. Any person thereafter using the property without permission or in a manner other than that prescribed is a trespasser. . . ."

If adopted, the proposed Ordinance would prohibit (with exceptions for law enforcement personnel) the possession of loaded firearms on any City-owned property. That would

¹ *New York State Rifle & Pistol Assoc., Inc. v. Bruen* (2022) ___ U.S. ___, 142 S.Ct. 2111; *United States v. Alaniz* (9th Cir. 2023) 69 F.4th 1124; *but see, Jackson v. City and County of San Francisco* (9th Cir. 2014) 746 F. 3d 953.

include, without limitation, persons carrying concealed weapons in accordance with valid permits.

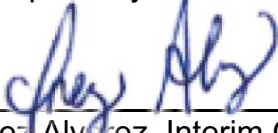
For Item No. 3, the draft Resolution would memorialize the City Council's various policy directions and delegation of authority regarding, without limitation, firearms related legislation; GVROs; CUPs; and weapons destruction. As noted in the draft Resolution, the City Manager would be directed to participate in the "Increasing Access to Gun Violence Restraining Orders" campaign initiated by the Los Angeles County Board of Supervisors on August 8, 2023. The information provided to the Board of Supervisors on this matter is included as attachments. Additionally, the Resolution would incorporate by reference the prohibitions in AB 733 (2023 Fong) which is currently pending before the California Legislature. Specifically, the Resolution would direct the City Manager to destroy all weapons confiscated or acquired by the City that need not be preserved for evidentiary or other law enforcement purposes.

The draft Resolution includes a voluntary pledge for all elected officials in Monterey Park to dedicate themselves in taking all reasonable actions needed to protect the public from gun violence. That Pledge incorporates the City Council's policy expressions during the past eight months since the MCI occurred.

FISCAL IMPACT:

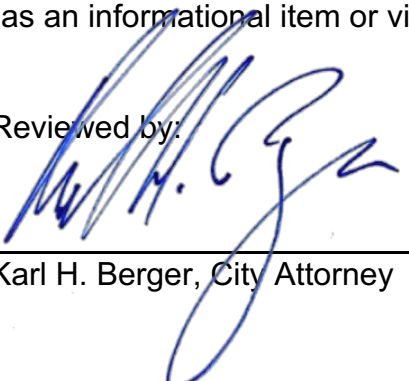
There are no specific fiscal impacts identified with the proposed actions. Should the the Interim City Manager exercise her contracting authority – as set forth in the draft Resolution – the City Council would be informed either as an informational item or via a budget adjustment.

Respectfully submitted by:



Inez Alvarez, Interim City Manager

Reviewed by:



Karl H. Berger, City Attorney

ATTACHMENTS:

- A. Staff report dated July 19, 2023 (without attachments)
- B. August 8, 2023 materials presented to the Los Angeles Board of Supervisors
- C. Current text of AB 733 (2023 Fong)
- D. Proposed Ordinance
- E. Proposed Resolution

ATTACHMENT A
Staff report dated July 19, 2023
(without attachments)



City Council Staff Report

DATE: July 19, 2023

AGENDA ITEM NO: Old Business -2A

TO: The Honorable Mayor and City Council

FROM: Inez Alvarez, Interim City Manager
Karl H. Berger, City Attorney

SUBJECT: Gun Regulations

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report;
2. If desirable, providing direction to the Interim City Manager and City Attorney regarding "next steps"; and
3. Taking such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

On March 1, 2023, the City Council adopted Resolution No. 2023-R15. Section 3(B) and (C) directed the City Manager and City Attorney to make recommendations regarding various regulations that, if adopted, might reduce the likelihood of an incident similar to that of the Mass Casualty Incident ("MCI") on January 21, 2023 that killed 11 people, critically injured nine others, and profoundly impacted the entire Monterey Park community. This Staff Report provides the City Council with an overview of the matters that may be subject to local governance. The outline of this Staff Report is reconciled with that of Resolution No. 2023-R15.

BACKGROUND:

Reacting to the MCI, the City Council took several immediate actions to mitigate the long-term effects of that shooting in the community. Among other things, the City Council adopted Resolution No. 2023-R15 that provided a framework for considering various firearms related regulations that might be adopted by the City Council. The Ordinance drafted pursuant to Section 3(A) of that Resolution is part of a separate Agenda Item. This Staff Report considers the 12 specific categories of regulations listed in Section 3(B) and the "catch-all" language of Section 3(C).

- Overview of local firearm regulations

Article XI, section 7 of the California Constitution grants each city the power to "make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." This includes the power to enact

regulations that “meet existing conditions of modern life and thereby keep pace with the social, economic, moral and intellectual evolution of the human race.”¹ Accordingly, subject to the limitation that regulations avoid conflicts with California law, the police power of a city is as broad as the police power exercised by the state Legislature itself.

As to firearms regulations, California law preempts the City’s police powers in discrete areas but allows local government to govern other substantive areas. Accordingly, the City may not regulate the following:

- Registration or licensing of firearms;
- Manufacture, sale, or possession of imitation firearms;
- Banning the manufacture, distribution, transportation, importation, and sale of assault weapons;
- Restrictions on handgun possession in an individual’s home, business, or private property;
- Storing handguns in unattended vehicles; and
- Restriction of certain ammunition sales.

California law does not preempt the following:

- Regulating the display and discharge of firearms by police officers;
- Restricting gun dealerships to commercial areas and requiring land use and police permits; and
- Regulating the use of firearms in county parks and recreation areas.

Moreover, California law expressly authorizes cities to approve or deny permits to sell guns.

➤ Resolution No. 2023-R15 – Consideration of various regulations

Resolution No. 2023-R15 provided direction in three categories: (1) a buffer zone ordinance; (2) “other” regulations; and (3) recommendations regarding items not considered in March 2023. The buffer zone ordinance is considered in a separate agenda item.

¹ *Miller v. City of Los Angeles* (1925) 195 Cal. 477, 485.

It does, however, affect the analysis regarding the “other” regulations in category two. Specifically, the the Firearm Health Protection Zone contemplated by that Ordinance would require a Conditional Use Permit (“CUP”) for firearms dealers. Such CUPs may include standard conditions of approval that could regulate the following (the numbering corresponds with Resolution No. 2023-R15):

- 1.Restrict minors’ presence in gun and ammunition stores and require corresponding signage to be posted at entrances to stores.
- 2.Require firearms dealers to maintain annual sales reports and make them available to law enforcement upon request.
- 3.Require firearms dealers to maintain a fingerprint log and make it available to law enforcement upon request.
- 4.Require firearms dealers to maintain and report inventory in real-time and make it available to law enforcement upon request.
- 5.Require firearms dealers to install and maintain security cameras and make footage available to law enforcement immediately upon request.
- 6.Require firearms and ammunition dealers to provide purchasers a letter regarding gun owner responsibilities and firearms laws.
- 7.Requiring signs to be displayed with specific language warning customers about the risk associated with access to firearms at any site where firearm sales or transfers are conducted within the City. Such warning signs would need to be carefully worded and tailored to be factual.

Other potential regulations that the City Council considered as part of Resolution No. 2023-R15 are listed here:

- 8.Requiring all firearms in a residence be securely stored in a locked container or disabled with a trigger lock.

There is a historical legal precedent for such regulations. Cases addressing this issue, however, were decided before a 2022 decision by the United States Supreme Court (“SCOTUS”)² and a Ninth Circuit Appellate Court (“9th Circuit Court”) decision last month³ which altered the method for analyzing regulations affecting the Second Amendment. It is unclear, therefore, whether these regulations would be legally defensible.

² *New York State Rifle & Pistol Assoc., Inc. v. Bruen* (2022) __ U.S. __, 142 S.Ct. 2111.

³ *United States v. Alaniz* (9th Cir. 2023) 69 F.4th 1124.

9. Mandate liability insurance for firearms owners in the City.

The requirement to mandate insurance would be a case of first impression. Under general Second Amendment principles, the requirements could be legally permissible if they are drafted to not be overly burdensome and to be reasonable tailored to achieve the government's goal. Factors to consider may include the cost it imposes on the firearm owner, the time and administrative burden on the firearm owner, and the development of evidence and reasoning for why the law is necessary and what the overall goal is for the law. If adopted, SB 8 (attached) would impose this requirement at a state level. It is recommended that the City Council postpone any consideration of local regulations.

10. The feasibility of implementing a City firearms database that may be accessed by first responders to protect the health and safety of those individuals and the larger community.

Staff is researching the feasibility of creating a local data base of voluntary firearms registration with state and federal agencies that currently manage those data bases. There is no current system that can classify ownership of firearms based on a geographical location (such as zip code).

It is unclear whether such regulations would be defensible under either Second Amendment principles or the strict confidentiality laws in California. This would require additional study if the Council wished to consider such regulations.

11. Banning the sale of .50 caliber handguns and ammunition in City.

There is precedent that could arguably support such regulations. Based upon the 2022 SCOTUS and 2023 9th Circuit Court decisions, however, it is not recommended that the City adopt such regulations.

12. Prohibiting carrying/possession of firearms on all City owned property.

Existing law would support such regulations. If desirable, the City Council may direct drafting of an ordinance that would implement this prohibition.

13. Provide such additional, practical, recommendations for changes in federal, state, or local laws that may help prevent a future MCI but also mitigate the aftershocks of such events. Such recommendations may include, for example, changes to the Internal Revenue Code that facilitate the creation of community funds that may accept – and disburse – tax exempt monies to persons affected by MCIs.

Supporting changes in federal, state, and/or local laws could help municipalities respond more quickly to the needs of their communities with legislation that provides

flexibility in funding collection to provide immediate relief to persons impacted by a MCI. In addition, the creation of legislation that provides direct resources and/or funding reimbursement to be allocated to communities impacted by a MCI to help in response efforts, such as overtime for staff responding to the MCI and aftermath events/activities; activation of resource centers opened to support various services including mental health counseling and healing opportunities for community members; and to purchase various supplies/materials needed to respond to unforeseen expenses directly related to the MCI.

➤ Weapons Confiscation

On April 5, 2023, the City Council gave direction regarding what, if anything, the City could do to further reduce the number of weapons within its jurisdiction. A copy of that Staff Report is attached (without its exhibits).

In sum, there are three means by which weapons may be confiscated by law enforcement:

- Mental Condition (Welfare and Institutions Code §§ 5150 and 8102): law enforcement is required to confiscate firearms or other deadly weapons found to be in the possession or under the control of an individual, when there is probable cause to believe that the individual represents some danger to themselves and was taken into custody for examination of their mental condition.
- Domestic Violence (Penal Code § 18250): law enforcement officers witnessing domestic violence involving a threat to human life or physical assault where the officer reasonably believes that the return of the firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat.
- Gun Violence Restraining Order (Penal Code §§ 18100-18205): this is a civil procedure for obtaining a court order, i.e., a Gun Violence Restraining Order. This involves petitioning the court when a person believes someone is an "immediate and present danger" to themselves or others. A judge may then order a person to temporarily give up possession of firearms and ammunition (including magazines) for 21 days, subject to a 1-year extension.

Note that California Senate Bill 320 (October 2021) amends Family Code § 6322.5 to allow for law enforcement agencies to confiscate firearms of a person found to be a "prohibited person" based on certain domestic violence, family law, and other felony convictions. The current program is managed by the Los Angeles District Attorney and requires enforcement from local jurisdictions where the prohibited lives.

FISCAL IMPACT:

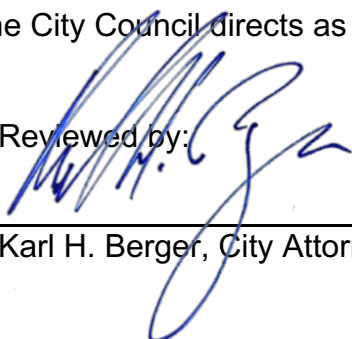
The fiscal impact will depend upon what, if anything, the City Council directs as to additional regulations.

Respectfully submitted by:



Inez Alvarez, Interim City Manager

Reviewed by:



Karl H. Berger, City Attorney

ATTACHMENTS:

1. SB 8
2. April 5, 2023 - Staff Report without Exhibits

ATTACHMENT B
August 8, 2023 materials presented to the
Los Angeles Board of Supervisors

August 08, 2023

**MOTION BY SUPERVISOR JANICE HAHN
AND HILDA L. SOLIS**

Moving Forward with Improving Access to Gun Violence Restraining Orders

A 2016 California law, known more commonly as the “red flag law,” allows certain eligible people, including law enforcement, family members, intimate partners, housemates, employers, co-workers, and school officials, to petition a court for a Gun Violence Restraining Order (GVRO). If granted by the court, the GVRO would mandate that the subject of the petition, who is deemed a threat to themselves or others, have firearms or ammunition removed from their possession for up to five years (with options to petition to the judge to lift the order once a year). It also prohibits those subject to a GVRO from purchasing firearms or ammunition, meaning a GVRO can be filed with respect to a person who does not currently possess a gun in order to prevent them from purchasing one in the future to inflict harm on themselves or others.

While this law has great potential to prevent gun violence and save lives, it is drastically underutilized in Los Angeles County, especially by members of the public. In 2022, a total of only 66 GVROs were granted countywide, and only one of those was requested by a non-law enforcement party. This is in stark contrast to San Diego County, which issued more than 400 GVROs in 2022 despite having a population nearly one third the size of Los Angeles County. This red flag law has the potential to save lives by preventing people from using firearms to harm themselves or other people, but in order for it to be effective there needs to be widespread

MOTION

SOLIS _____

MITCHELL _____

HORVATH _____

BARGER _____

HAHN _____

awareness and understanding of the law and how to access GVROs. That is why the Los Angeles County Board of Supervisors (Board) passed the motion “Improving Access to Gun Violence Restraining Orders” on February 28, 2023, directing the Department of Public Health - Office of Violence Prevention (OVP) to report back with a plan to implement a culturally and linguistically relevant public awareness campaign about GVROs, options to establish a process to collect data on GVROs, and recommendations for assigning responsibility within Los Angeles County for streamlining and enhancing the GVRO process.

On July 7, OVP released the report back to the motion that described the need to spread awareness about GVROs and support access to them in LA County. The report presented a series of recommendations that would designate OVP as the lead entity in coordinating the efforts to improve access to GVROs through a public awareness campaign, data collection, training and system navigation support, and communication and coordination with law enforcement and community partners. The recommendations are divided into two categories: actions that can be done immediately within existing resources, and actions that will require additional financial and personnel resources.

This motion directs OVP to move forward with the plan laid out in the July 7 report back and implement the recommendations that can be done within existing resources. This includes beginning the public awareness campaign by launching a website and disseminating information about GVROs; collecting, synthesizing, and publicly sharing existing data on GVROs; advocating for better access to accurate data from the courts and law enforcement; and providing training on

GVROs that support both law enforcement and public access. The motion also directs the Chief Executive Office to collaborate with OVP, the Los Angeles County Sheriff's Department, and County Counsel to identify funding options for the additional recommendations laid out in the report that would increase the reach of the public awareness campaign and provide dedicated individuals to support members of the public who are seeking a GVRO. The process to petition for a GVRO can be very challenging and the decision to pursue one is not to be taken lightly, so having dedicated personnel housed in OVP to help navigate that system would be very beneficial.

Gun violence is an epidemic that has taken too many lives and continues to plague too many communities. The Board has taken multiple steps to combat this epidemic from all angles, including strengthening local gun regulations, advocating for stronger federal and state regulations, investing in community-based violence prevention programs, holding gun buy-back events, and creating various risk assessment and co-response programs. Another way that the Board can fight gun violence is to spread awareness and improve access to Gun Violence Restraining Orders under California's "red flag" law. This is a vastly underutilized tool that can help save lives, so it is time for Los Angeles County to ensure that its residents are aware of this tool and have access to it when needed.

WE, THEREFORE, MOVE that the Board of Supervisors direct the Department of Public Health - Office of Violence Prevention (OVP) to do the following:

1. Implement an initial public awareness campaign that is culturally and linguistically relevant about Gun Violence Restraining Orders (GVROs). The campaign should include:

- a. Creating a dedicated webpage on the OVP website to share information, answer questions, and provide resources related to GVROs, including:
 - i. Elements of the California GVRO law;
 - ii. Who is eligible to request a GVRO under the law;
 - iii. How to request a GVRO and what the process looks like;
 - iv. Average time between submission of a request and implementation of an order;
 - v. Other kinds of restraining orders and gun relinquishment options;
 - vi. Warning signs of suicide or mass shooting risk; and
 - vii. Mental health action steps and resources
 - b. Creating flyers with information about GVROs; and
 - c. Working with community and county partners to design and implement targeted outreach strategies.
2. Collect and compile existing GVRO data from the California Department of Justice (DOJ), Los Angeles Superior Courts, and Los Angeles County Sheriff's Department (LASD) and make the data publicly available on the OVP website in an accessible, understandable format;
 3. Support efforts to expand access to GVRO data by doing the following:
 - a. Seeking permission from the California DOJ to access de-identified data from the California Restraining and Protective Orders;

- b. Collaborating with LASD to ensure that LASD staff are being provided with regular information about the correct use of the statistical code used to identify GVROs; and
 - c. Requesting that LASD ask the California DOJ to add a code to the Armed and Prohibited Persons System to identify a person prohibited from owning a gun because of a GVRO.
- 4. Collaborate with County Counsel and LASD to coordinate and provide training (i.e., San Diego City Attorney training) and assistance related to GVROs to address the needs of both law enforcement and the public;
 - a. This should include collaborating with LASD to designate a trained representative/liaison at each patrol station to serve as a station resource for deputies regarding GVROs; and
- 5. Report back in writing in 90 days with progress made on the above directives and any additional recommendations to improve awareness and access to GVROs.

WE, FURTHER, MOVE that the Board of Supervisors direct the Chief Executive Office (CEO), in collaboration with the Department of Public Health - Office of Violence Prevention (OVP), Los Angeles County Sheriff's Department (LASD), and County Counsel, to report back during the Fiscal Year (FY) 2023-24 Supplemental Budget phase on potential funding options to support efforts to expand Gun Violence Restraining Order (GVRO) awareness and assistance as described in the proposal included in the July 7, 2023, report back "Responding to Los Angeles

County's Board Of Supervisors Motion: Increasing Access to Gun Violence Restraining orders."

The report back should specifically consider funding for the following:

1. A robust public awareness campaign on California's GVRO law that includes creating a variety of materials on different platforms, implementing a marketing strategy, and engaging with various diverse partners;
2. Two System Navigator positions within OVP, subject to allocation by CEO Classification and Compensation, to provide support to members of the public requesting GVROs, work with county and community partners to develop and provide trainings on GVROs, and develop outreach plans to meet specific and most impacted populations; and
3. A Senior Deputy County Counsel position, subject to allocation by CEO Classification and Compensation dedicated to support GVRO filings by LASD and serve as counsel in GVRO hearings/proceedings.

#

JH:kc/cc



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BOARD OF SUPERVISORS

Hilda L. Solis
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Kathryn Barger
Fifth District

July 7th, 2023

TO: Each Supervisor

FROM: Barbara Ferrer, Ph.D., M.P.H., M.Ed.
Director 

**SUBJECT: RESPONDING TO LOS ANGELES COUNTY'S BOARD OF SUPERVISORS
MOTION: INCREASING ACCESS TO GUN VIOLENCE RESTRAINING
ORDERS (ITEM 11, BOARD AGENDA OF MARCH 7, 2023)**

This report is in response to the Board's March 7, 2023, motion by Supervisors Hahn and Solis directing the Department of Public Health (Public Health) – Office of Violence Prevention, in collaboration with the Chief Executive Office, County Counsel, Office of the District Attorney, Los Angeles County Superior Court, Sheriff's Department, Chief Executive Office - Chief Information Office, and all other relevant departments, to report back in 90 days with the following:

1. A plan to implement a culturally and linguistically relevant public awareness campaign about Gun Violence Restraining Orders (GVROs) that will, at a minimum, inform and educate the public on California's landmark GVRO law that took effect in 2016 including what GVROs are, how to apply for one, who can apply for one, the application process, and how to access resources that can provide assistance;
2. Options to establish a process to collect data on GVROs that are submitted in Los Angeles County including, but not limited to, the number of GVROs filed annually, the number of emergency GVROs, the number of petitions that result in an order after a court hearing, the number of firearms removed as a result of the GVRO, the relationship of petitioners to the subject, zip code and demographic data for petitioners and subjects;
3. Options and recommendations for assigning responsibility within Los Angeles County for streamlining the GVRO process, collecting data, providing training to law enforcement and the public, and assisting with both public-initiated and law enforcement-initiated GVRO petitions. These options should consider models implemented in other cities and counties (like San Diego's GVRO unit), look into best practices around California, and include what resources would be required for implementation.

This report starts with a brief overview of California's GVRO law and current research, followed by recommendations for each of the three areas in the motion, describing work that could be done with existing resources and additional work that could be implemented with funding.

Background

California's GVRO law (Penal Code section 18100, *et seq.*) was initially implemented in 2016 as a response to the Isla Vista, California mass shooting that took place on May 23, 2014. As of 2023, those eligible to request a GVRO include family members, household members/roommates, some employers, colleagues, teachers/school staff, people involved in a dating relationship, people who have a child together, and law enforcement. Members of these groups can petition a court to temporarily remove guns and ammunition from, and prohibit the purchase of guns and ammunition by, an individual who poses a significant risk of harm to themselves or others.

Either law enforcement or a designated member of the public can petition the court for an initial GVRO.¹ An initial GVRO is called either an emergency (law enforcement) or temporary (public) order, and if it is granted by the court, firearms and ammunition belonging to the subject of the order can immediately be removed.

Orders of this type, which are also known as extreme risk protection orders (ERPOs) or red-flag laws, have been implemented in 19 states and the District of Columbia, and have been shown to reduce gun violence, particularly firearm suicides. Despite the proven effectiveness of GVROs, they are drastically underutilized in California and Los Angeles County, particularly by members of the public.² During 2022, a total of 66 orders were granted countywide; and only one was requested by a non-law enforcement party.³

Directive 1: GVRO Public Awareness Campaign

A GVRO public awareness campaign is clearly needed. To maximize the value of the campaign, however, it must be designed to avoid unintended adverse consequences, notably exposure of Black and Brown individuals to increased criminal justice scrutiny or exposure of anyone requesting an order to retaliatory violence.

Research and community feedback reveal that GVROs can pose these risks, and that concern about these risks are barriers to use of GVROs by the general public, at present. Research shows that Black and Brown communities are particularly unlikely to be willing to petition for a GVRO.⁴ This is most likely due to structural and historical racism, over-policing, and distrust of police and other government systems of power, including the courts. Appendix A – Journal article on ERPOs, race/ethnicity, and equity.

¹ A law enforcement GVRO is a Temporary Emergency GVRO; a GVRO filed by a member of the public is an Ex Parte GVRO.

² Pear VA, Pallin R, Schleimer JP, et al. *Inj Prev* 2022;28:465–471.

³ California Department of Justice, OpenJustice data portal. Available online: <https://openjustice.doj.ca.gov/data>

⁴ Pear VA, Schleimer JP, Aubel AJ, Buggs S, Knoepke CE, Pallin R, Shev AB, Tomsich E, Wintemute GJ, Kravitz-Wirtz N. Extreme risk protection orders, race/ethnicity, and equity: Evidence from California. *Prev Med*. 2022 Dec;165(Pt A):107181. doi: 10.1016/j.ypmed.2022.107181. Epub 2022 Aug 6. PMID: 35940474.

Taking these concerns into account, and drawing on insight garnered from a review of materials from other states as well as consultation with local experts, the content that emerges as most critical for an effective public awareness campaign is:

- Elements of the California GVRO law;
- Who is eligible to request a GVRO under the law;
- How to request a GVRO; what the process looks like;
- Average time between submission of a request and implementation of an order;
- Other kinds of restraining orders and gun relinquishment options;
- Warning signs of suicide or mass shooting risk;
- Mental health action steps and resources.

More details about information provided by other states are available in Appendix B.

We would add to these recommendations the use of simple (non-legalistic) language and an approach that combines broad public education with targeted efforts to reach groups experiencing elevated rates of firearm suicide (for example, seniors and veterans), and locations that are commonly threatened by mass shootings, including schools and businesses.⁵

Public Awareness Campaign - Existing Resources

With current resources, OVP has the capacity to create a dedicated page on the OVP website that shares GVRO information as outlined above and can work with community and county partners to design and implement targeted outreach strategies.

Public Awareness Campaign – Additional Resources

Additional resources would permit a more robust public awareness campaign. The fact that approximately two-thirds of Californians have not heard of GVROs is undoubtedly related to the fact that from 2016-2018, fewer than 4% of petitions were filed by family or household members with 96% filed by law enforcement.⁶ It is important that information about what a GVRO is and how to get one is available to members of the public. The objectives for a better resourced campaign would include:

- An increase in GVRO awareness.
- Development of a system for accurate and timely documentation of GVRO petitions and orders.
- Development of a system to clarify barriers to accessing GVROs.
- Increased capacity to collect and analyze GVRO data by demographics and community of residence of both gun owner and petitioner and by the nature of their relationship (e.g., family member, neighbor, co-worker, etc.).

⁵ Zeoli, AM et.al. Extreme risk protection orders in response to threats of multiple victim/mass shooting in six U.S. states: A descriptive study. *Preventive Medicine* 165(2022) 107304.

⁶Pear VA, Pallin R, Schleimer JP, et al. Gun violence restraining orders in California, 2016-2018: case details and respondent mortality. *Inj Prev* 2022;28:465–471.

A relatively modest but effective campaign can be implemented with a budget of \$750,000. The budget would cover:

- Development of a compelling story, messaging and media pitches working with survivors of gun violence, to highlight the importance of GVROs to save lives.
- Funding for stipends to engage partners, including residents, in development of materials.
- Creation of materials including videos, photos, and marketing materials to help inform, educate, and engage internal and external stakeholders.
- Enhancement of the OVP website, making it a hub providing reproducible materials for county and community stakeholders.

Directive 2: Collecting GVRO Data

Currently, countywide data on GVROs can be obtained from two sources. The California Department of Justice's (CA DOJ) open data portal currently includes publicly available data on GVROs granted in California, including annual numbers of orders granted in each county by the type of order (emergency, temporary, order after hearing), and the type of petitioner (law enforcement, family, coworker, employer, schools). Additionally, the Los Angeles Superior Courts can provide the annual number of GVRO requests filed in the County.

Local law enforcement agencies also collect data on GVROs handled by their officers. The Los Angeles Sheriff Department (LASD) has a statistical code to identify the number of GVROs handled by their officers and is working to ensure that all staff are aware of the codes specific to GVROs. Once the code is used consistently, LASD will be able to provide information on the total number of GVROs handled by their officers. This will include both GVROs requested by LASD deputies, and GVROs requested by members of the public that are served by LASD. LASD will be able to provide the numbers by patrol station.

Even with these data sources, there is minimal data that is available related to GVROs in Los Angeles County. OVP would like to see an expanded list of data elements available for collection and sharing that includes all indicators developed by The Consortium for Risk-Based Firearms Policy.⁷ The Consortium has developed a broad list of data related to GVROs that could be used to measure the effectiveness of GVROs and the impact of GVROs among different populations. For example, additional elements include demographics of the petitioner and the respondent and the reason why the GVRO was requested. A full list of suggested data elements can be found in Appendix C.

We know, however, that GVROs are not the only type of restraining order that can be deployed to reduce firearm violence and will not be the most appropriate tool for every situation. It is important, therefore, to collect data about other protective orders that can result in relinquishment of firearms. These include orders related to domestic violence, workplace violence, school violence, civil harassment, and elder abuse.⁸ OVP recommends expanding the type of data

⁷ Consortium for Risk-Based Firearm Policy. Extreme Risk Protection Orders: New Recommendations. October 2020.

⁸ Giffords Law Center. Domestic Violence and Firearms in California. Available online: <https://giffords.org/lawcenter/state-laws/domestic-violence-and-firearms-in-california/>

collected to include data on the filing of other protective orders as well as data on understanding and reducing barriers to petitioning, incorporating non-law enforcement intervention professionals into the GVRO process, and investing in the social safety net.

GVRO Data Collection– Existing Resources

While current OVP resources for use in this area are limited, OVP could support immediate implementation of important steps. Given that, we propose that:

1. OVP collect existing GVRO data from CA DOJ and the LA Superior Courts.
2. OVP seek permission from CA DOJ to access de-identified data from the California Restraining and Protective Orders (CARPOS) system, which includes information on respondent demographics and location, and about which GRVOs are served.
3. LASD be instructed to provide regular information to their staff about the correct use of the statistical code used to identify GVROs.
4. Request that LASD ask that CA DOJ add a code to the Armed and Prohibited Persons System (APPS) to identify persons prohibited from owning a gun because of a GVRO. LASD could then provide data on how many guns are removed from individuals subject to a GVRO.
5. OVP make data from CA DOJ and the LA Superior Courts publicly available on the OVP website in an accessible, understandable format. OVP should update this information annually and add additional information as other sources of data become available.
6. OVP investigate ways to gather data on other types of protective orders both locally (LASD, LA Superior Courts) and from CA DOJ.

GVRO Data Collection– Additional Resources

As described above, only minimal countywide data related to GVROs are currently available. We recommend the following actions to improve access to data on restraining orders to ensure transparency by making de-identified data available to the public in an easily accessible format.

1. OVP should collaborate with the Los Angeles Police Department (LAPD) and the Los Angeles County Police Chief's Association to determine if other law enforcement agencies are able to share data related to GVROs that their agencies handle.
2. OVP should work with the LA Superior Courts to determine if they are able to share information beyond total numbers of GVROs filed, for example, breakdowns by court district or type of petitioner.
3. OVP should work in collaboration with partners to identify future opportunities for statewide legislation to increase the amount and type of publicly available data on GVROs.

Directive 3: Assigning Responsibility for Data Collection, Training, and Assistance

While both law enforcement and the public can request GVROs, these two groups do not require the same types of support. Accordingly, we recommend a hybrid model of collaboration with respect to data collection, training, and assistance in order to support both law enforcement and the public in filing and obtaining GVROs and other types of restraining orders.

Data Collection, Training and Assistance with GVROs – Existing Resources

1. We recommend that OVP be responsible for compiling countywide data related to GVROs and making this information publicly available on the OVP website.
2. We recommend a hybrid model to share responsibility for training and assistance related to GVROs to address the needs of both law enforcement and the public.
3. We recommend that LASD provide regular messages to staff about the appropriate statistical code to use when handling a GVRO versus a DVRO and designate a trained representative/liaison in each patrol station to serve as a station resource for deputies regarding GVROs. In addition, we recommend the LASD Chief, who has already been assigned, continue to coordinate, and oversee GVROs throughout LASD and serve as a liaison to OVP.
4. We recommend that County Counsel serve as a liaison to schedule GVRO training provided by the San Diego City Attorney. San Diego will provide the training in Los Angeles at no cost to the County. We recommend that designated representatives from County Counsel, LASD, OVP, and other relevant agencies be invited to attend.
5. We recommend OVP continue to work with existing county departments and community partners, including Hope and Heal Foundation, Speak for Safety, Everytown for Gun Safety, and UC Davis to coordinate efforts and share existing GVRO-related resources and materials as appropriate.
6. We recommend expanding support for self-help clinics within county courthouses and increasing access to legal self-help assistance that can be accessed remotely. This will ensure that individuals in need of a GVRO are able to get the support they need in a timely fashion.
7. We recommend support for legislation changes to expand access to GVROs. With a focus on suicide prevention, legislation allowing physicians and mental health professionals to request GVROs could increase the use of this tool for clients in crisis.

Data Collection, Training and Assistance with GVROs – Additional Resources

While there is much that can be done to improve access to GVROs using existing resources, non-funded efforts will be limited in scope and not provide the type of systems change needed to advance real transformation in terms of coordination, collaboration, and access to the right tool for the right situation to prevent firearm deaths. In order to implement a robust initiative that includes targeted public awareness, robust data collection, training, and technical assistance that

supports both law enforcement and the public, we recommend the following additional components and budget to increase access to GVROs in Los Angeles County.

System Navigators – A Key Component to Provide Support and Build Capacity

OVP recommends funding two permanent full-time positions within OVP to act as System Navigators. These positions would provide support to members of the public requesting GVROs and provide training and resources to agencies and organizations countywide. Specific activities for these positions would include the following:

- Provide direct one-to-one support to members of the public who are requesting a GVRO:
 - o Explaining the process, including how and when the courts/law enforcement need to be involved
 - o Helping to fill out court paperwork and providing connections to existing legal support services
 - o Providing in-person non-legal support during court appearances or during necessary interactions with law enforcement
 - o Helping to track court dates and understanding the process to request an extension of a long term GVRO.
- Work with county and community partners to develop and provide trainings to raise awareness of how GVROs can be used as a tool for suicide prevention/means reduction and for prevention of mass shootings. These trainings should be developed for groups who would be most likely to encounter individuals who might need a GVRO.
- Plan regular meetings to facilitate collaboration and coordination for GVRO activities across sectors, including law enforcement, health services, public health, mental health, legal aid agencies, the education system, and others.
- Build relationships with community and faith-based organizations to increase awareness and to encourage agencies to serve as trusted communicators about GVROs in communities.
- Develop an outreach plan for the gun-owning population, including working with gun dealers and shooting ranges, around roles and messaging.

Dedicated Senior Deputy County Counsel

Additional resources could be provided to County Counsel so that dedicated legal services can be provided to LASD in support of GVRO filings, including serving as counsel for hearings. For example, the San Francisco City Attorney has budgeted one full-time GVRO attorney position that is currently split among five attorneys.

Training and Technical Assistance

As OVP works with county and community partners to coordinate and synchronize efforts across law enforcement agencies, city and district attorneys, judicial officers, and community-based

agencies to improve efficiency in implementing GVROs, training and technical assistance will be critical to create a common framework and knowledge base. trainings should be developed for groups who would be most likely to encounter individuals who might need a GVRO. This could include physicians and mental health professionals, staff of senior centers and agencies serving veterans, school districts and teachers, human resource professionals and 211 and 988 staff.

Proposed Annual Budget – GVRO Awareness and Assistance

<u>Personnel (includes Benefits)</u>	
System Navigators (2 HPA II items at \$186,468 each)	\$425,000
County Counsel Senior Deputy dedicated to support GVROs	\$552,000
<u>Other Expenses</u>	
Contract for Public Awareness Campaign	\$750,000
Training and Technical Assistance	\$100,000
Printing and Materials	\$50,000
Computers/iPad/Mobile Phones/Software	\$10,000
Mileage	\$5,000
TOTAL	\$1,892,000

Summary

In this report, we have presented recommendations for GVRO work that can be done with existing County resources. This includes developing an OVP webpage that will: 1) share critical information about GVROs and other restraining orders with the public, 2) provide information about how to obtain a GVRO, 3) make county-level GVRO data publicly available, and 4) provide links to LA Superior Courts, legal aid agencies, and other county and community resources relevant to increasing access to GVROs. OVP will also request de-identified data from CARPOS, while LASD will provide staff with regular messaging about the statistical code to use for GVROs and will also request that APPS include an indicator for GVROs. We will also offer training and technical assistance to support community-based organizations who interface with those that might need assistance with GVROs. County Counsel will schedule a training to be provided by the San Diego City Attorney, while LASD will designate an individual from each patrol station who will be trained and will then be a GVRO contact/resource for local deputies.

These efforts, using existing resources, will help to increase awareness of GVROs, improve coordination and collaboration, and enhance data collection. However, a more impactful and robust initiative to increase access to GVROs as a tool to prevent gun violence will require resources. OVP recommends that the Board allocate funding in the amount of \$1,892,000 to support a public awareness campaign, two system navigators and a dedicated attorney to assist individuals and families in accessing GVROs and other restraining orders.

A GVRO in and of itself is not enough to prevent gun violence. Access to culturally appropriate and place-based healing services, safe storage education, and opportunities for community connection are all essential strategies to consider before a GVRO is even filed. If not, a GVRO can exacerbate a culture of punishment and isolation. Integrating two System Navigators within the Office of Violence Prevention will allow for the type of nuanced assessment and assistance that will result in more effective support for community members and petitioners as well as helping

Each Supervisor
July 7th, 2023
Page 9

to build capacity among county systems and community-based organizations to align and better coordinate efforts.

If you have any questions or would like additional information, please let me know.

BF:da:aw
Attachments

c: Chief Executive Office
County Counsel
Office of the District Attorney
Los Angeles County Superior Court
Los Angeles Sheriffs' Department
Executive Officer, Board of Supervisors

ATTACHMENT C
Current text of AB 733 (2023 Fong)

AMENDED IN SENATE JULY 3, 2023
AMENDED IN SENATE JUNE 29, 2023
AMENDED IN ASSEMBLY MAY 25, 2023
AMENDED IN ASSEMBLY APRIL 26, 2023
AMENDED IN ASSEMBLY MARCH 23, 2023
CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 733

Introduced by Assembly Member Mike Fong
(Principal coauthor: Assembly Member Hart)
(Coauthor: Senator Becker)

February 13, 2023

An act to amend Sections 16288, 16520, 29810, and 34000 of, and to add Chapter 3 (commencing with Section 29550) to Division 8 of Title 4 of Part 6 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 733, as amended, Mike Fong. Firearms: sale by government entity.

Previous law authorized a law enforcement agency to dispose of seized, surrendered, abandoned, and unclaimed firearms by sale at a public auction or by destruction. Existing law requires these firearms to be disposed of by destruction.

Existing law prohibits the sale of a firearm on any state property, as specified.

This bill would, except as specifically exempted, prohibit any state or local government agency or department, as specified, to sell any firearm, ammunition, or body armor.

The bill would also make other conforming changes and technical corrections.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16288 of the Penal Code is amended to
2 read:

3 16288. As used in Sections 29550 and 31360, “body armor”
4 means any bullet-resistant material intended to provide ballistic
5 and trauma protection for the person wearing the body armor.

6 SEC. 2. Section 16520 of the Penal Code is amended to read:

7 16520. (a) As used in this part, “firearm” means a device,
8 designed to be used as a weapon, from which is expelled through
9 a barrel, a projectile by the force of an explosion or other form of
10 combustion.

11 (b) As used in the following provisions, “firearm” includes the
12 frame or receiver of the weapon, including both a completed frame
13 or receiver, or a firearm precursor part:

- 14 (1) Section 136.2.
- 15 (2) Section 646.91.
- 16 (3) Sections 16515 and 16517.
- 17 (4) Section 16550.
- 18 (5) Section 16730.
- 19 (6) Section 16960.
- 20 (7) Section 16990.
- 21 (8) Section 17070.
- 22 (9) Section 17310.
- 23 (10) Sections 18100 to 18500, inclusive.
- 24 (11) Section 23690.
- 25 (12) Section 23900 to 23925, inclusive.
- 26 (13) Sections 26500 to 26590, inclusive.
- 27 (14) Sections 26600 to 27140, inclusive.

- 1 (15) Sections 27200 to 28490, inclusive.
- 2 (16) Sections 29010 to 29150, inclusive.
- 3 (17) Section 29185.
- 4 (18) Section 29550.
- 5 (19) Sections 29610 to 29750, inclusive.
- 6 (20) Sections 29800 to 29905, inclusive.
- 7 (21) Sections 30150 to 30165, inclusive.
- 8 (22) Section 31615.
- 9 (23) Sections 31700 to 31830, inclusive.
- 10 (24) Sections 34355 to 34370, inclusive.
- 11 (25) Sections 527.6 to 527.9, inclusive, of the Code of Civil
- 12 Procedure.
- 13 (26) Sections 8100 to 8108, inclusive, of the Welfare and
- 14 Institutions Code.
- 15 (27) Section 15657.03 of the Welfare and Institutions Code.
- 16 (c) As used in the following provisions, “firearm” also includes
- 17 a rocket, rocket propelled projectile launcher, or similar device
- 18 containing an explosive or incendiary material, whether or not the
- 19 device is designed for emergency or distress signaling purposes:
- 20 (1) Section 16750.
- 21 (2) Subdivision (b) of Section 16840.
- 22 (3) Section 25400.
- 23 (4) Sections 25850 to 26025, inclusive.
- 24 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 25 (6) Sections 26035 to 26055, inclusive.
- 26 (d) As used in the following provisions, “firearm” does not
- 27 include an unloaded antique firearm:
- 28 (1) Section 16730.
- 29 (2) Section 16550.
- 30 (3) Section 16960.
- 31 (4) Section 17310.
- 32 (5) Subdivision (b) of Section 23920.
- 33 (6) Section 25135.
- 34 (7) Chapter 6 (commencing with Section 26350) of Division 5
- 35 of Title 4.
- 36 (8) Chapter 7 (commencing with Section 26400) of Division 5
- 37 of Title 4.
- 38 (9) Sections 26500 to 26588, inclusive.
- 39 (10) Sections 26700 to 26915, inclusive.
- 40 (11) Section 27510.

1 (12) Section 27530.

2 (13) Section 27540.

3 (14) Section 27545.

4 (15) Sections 27555 to 27585, inclusive.

5 (16) Sections 29010 to 29150, inclusive.

6 (17) Section 29180.

7 (e) As used in Sections 34005 and 34010, “firearm” does not
8 include a destructive device.

9 (f) As used in Sections 17280 and 24680, “firearm” has the
10 same meaning as in Section 922 of Title 18 of the United States
11 Code.

12 (g) As used in Sections 29180 to 29184, inclusive, “firearm”
13 includes the completed frame or receiver of a weapon.

14 SEC. 3. Chapter 3 (commencing with Section 29550) is added
15 to Division 8 of Title 4 of Part 6 of the Penal Code, to read:

16
17 CHAPTER 3. SALE OF FIREARMS BY GOVERNMENTAL ENTITIES
18

19 29550. (a) No agency or department of the state or any political
20 subdivision thereof shall sell any firearm, ammunition, or body
21 armor.

22 (b) Subdivision (a) does not apply to either of the following:

23 (1) The sale of a firearm made pursuant to subdivision (b) or
24 (d) of Section 10334 of the Public Contract Code, or comparable
25 sale of a firearm by a local agency under the same circumstances.

26 (2) The sale of a firearm relinquished to an agency by a
27 prohibited person made to a third party on behalf of the owner of
28 the firearm.

29 (3) The sale of any firearm, body armor, or ammunition, to a
30 law enforcement agency, or to a licensed firearm dealer who
31 contractually agrees to resell the ~~firearm~~ *firearm, body armor, or*
32 *ammunition* only to a law enforcement agency. However, any
33 firearm .50 caliber or greater, excluding a shotgun, shall be subject
34 to the provisions of Chapter 12.8 (commencing with Section 7070)
35 of Division 7 of Title 1 of the Government Code.

36 (4) The sale of a curio or relic to a bona fide public or private
37 nonprofit historical society, museum, or institutional collection,
38 provided that the item will solely be used for educational, display,
39 or preservation purposes.

1 (5) The sale of a firearm or body armor by the public
2 administrator, public guardian, or public conservator in the
3 performance of their duties as personal representative of a
4 decedent's estate, or in the performance of the duties of a
5 conservator or guardian over a person or their estate, in order to
6 fulfill their obligations under state law.

7 (c) This section does not prohibit the return of any previously
8 purchased firearm, body armor, or ammunition to the original seller
9 pursuant to any warranty, return policy, or other contract term, for
10 a refund of the original purchase price.

11 SEC. 4. Section 29810 of the Penal Code is amended to read:

12 29810. (a) (1) Upon conviction of any offense that renders a
13 person subject to Section 29800 or Section 29805, the person shall
14 relinquish all firearms they own, possess, or have custody or control
15 of, in the manner provided in this section.

16 (2) The court shall, upon conviction of a defendant for an offense
17 described in subdivision (a), instruct the defendant that they are
18 prohibited from owning, purchasing, receiving, possessing, or
19 having custody or control of, any firearms, ammunition, and
20 ammunition feeding devices, including but not limited to
21 magazines, and shall order the defendant to relinquish all firearms
22 in the manner provided in this section. The court shall also provide
23 the defendant with a Prohibited Persons Relinquishment Form
24 developed by the Department of Justice.

25 (3) Using the Prohibited Persons Relinquishment Form, the
26 defendant shall name a designee and grant the designee power of
27 attorney for the purpose of transferring or disposing of any
28 firearms. The designee shall be either a local law enforcement
29 agency or a consenting third party who is not prohibited from
30 possessing firearms under state or federal law. The designee shall,
31 within the time periods specified in subdivisions (d) and (e),
32 surrender the firearms to the control of a local law enforcement
33 agency, sell the firearms to a licensed firearms dealer, or transfer
34 the firearms for storage to a firearms dealer pursuant to Section
35 29830.

36 (b) The Prohibited Persons Relinquishment Form shall do all
37 of the following:

38 (1) Inform the defendant that they are prohibited from owning,
39 purchasing, receiving, possessing, or having custody or control
40 of, any firearms, ammunition, and ammunition feeding devices,

1 including but not limited to magazines, and that they shall
2 relinquish all firearms through a designee within the time periods
3 set forth in subdivision (d) or (e) by surrendering the firearms to
4 the control of a local law enforcement agency, selling the firearms
5 to a licensed firearms dealer, or transferring the firearms for storage
6 to a firearms dealer pursuant to Section 29830.

7 (2) Inform the defendant that any cohabitant of the defendant
8 who owns firearms must store those firearms in accordance with
9 Section 25135.

10 (3) Require the defendant to declare any firearms that they
11 owned, possessed, or had custody or control of, at the time of
12 conviction, and require the defendant to describe the firearms and
13 provide all reasonably available information about the location of
14 the firearms to enable a designee or law enforcement officials to
15 locate the firearms.

16 (4) Require the defendant to name a designee, if the defendant
17 declares that they owned, possessed, or had custody or control of,
18 any firearms at the time of conviction, and grant the designee
19 power of attorney for the purpose of transferring or disposing of
20 all firearms.

21 (5) Require the designee to indicate consent to the designation
22 and, except a designee that is a law enforcement agency, to declare
23 under penalty of perjury that they are not prohibited from
24 possessing any firearms under state or federal law.

25 (6) Require the designee to state the date each firearm was
26 relinquished and the name of the party to whom it was relinquished,
27 and to attach receipts from the law enforcement officer or licensed
28 firearms dealer who took possession of the relinquished firearms.

29 (7) Inform the defendant and the designee of the obligation to
30 submit the completed Prohibited Persons Relinquishment Form
31 to the assigned probation officer within the time periods specified
32 in subdivisions (d) and (e).

33 (c) (1) When a defendant is convicted of an offense described
34 in subdivision (a), the court shall immediately assign the matter
35 to a probation officer to investigate whether the Automated
36 Firearms System or other credible information, such as a police
37 report, reveals that the defendant owns, possesses, or has custody
38 or control of, any firearms. The assigned probation officer shall
39 receive the Prohibited Persons Relinquishment Form from the
40 defendant or the defendant's designee, as applicable, and ensure

1 that the Automated Firearms System has been properly updated
2 to indicate that the defendant has relinquished those firearms.

3 (2) Prior to final disposition or sentencing in the case, the
4 assigned probation officer shall report to the court whether the
5 defendant has properly complied with the requirements of this
6 section by relinquishing all firearms identified by the probation
7 officer's investigation or declared by the defendant on the
8 Prohibited Persons Relinquishment Form, and by timely submitting
9 a completed Prohibited Persons Relinquishment Form. The
10 probation officer shall also report to the Department of Justice on
11 a form to be developed by the department whether the Automated
12 Firearms System has been updated to indicate which firearms have
13 been relinquished by the defendant.

14 (3) Prior to final disposition or sentencing in the case, the court
15 shall make findings concerning whether the probation officer's
16 report indicates that the defendant has relinquished all firearms as
17 required, and whether the court has received a completed Prohibited
18 Persons Relinquishment Form, along with the receipts described
19 in paragraph (1) of subdivision (d) or paragraph (1) of subdivision
20 (e). The court shall ensure that these findings are included in the
21 abstract of judgment. If necessary to avoid a delay in sentencing,
22 the court may make and enter these findings within 14 days of
23 sentencing.

24 (4) If the court finds probable cause that the defendant has failed
25 to relinquish any firearms as required, the court shall order the
26 search for and removal of any firearms at any location where the
27 judge has probable cause to believe the defendant's firearms are
28 located. The court shall state with specificity the reasons for and
29 scope of the search and seizure authorized by the order.

30 (5) Failure by a defendant to timely file the completed Prohibited
31 Persons Relinquishment Form with the assigned probation officer
32 shall constitute an infraction punishable by a fine not exceeding
33 one hundred dollars (\$100).

34 (d) The following procedures shall apply to any defendant who
35 is a prohibited person within the meaning of paragraph (1) of
36 subdivision (a) who does not remain in custody at any time within
37 the five-day period following conviction:

38 (1) The designee shall dispose of any firearms the defendant
39 owns, possesses, or has custody or control of, within five days of
40 the conviction by surrendering the firearms to the control of a local

1 law enforcement agency, selling the firearms to a licensed firearms
2 dealer, or transferring the firearms for storage to a firearms dealer
3 pursuant to Section 29830, in accordance with the wishes of the
4 defendant. Any proceeds from the sale of the firearms shall become
5 the property of the defendant. The law enforcement officer or
6 licensed dealer taking possession of any firearms pursuant to this
7 subdivision shall issue a receipt to the designee describing the
8 firearms and listing any serial number or other identification on
9 the firearms at the time of surrender.

10 (2) If the defendant owns, possesses, or has custody or control
11 of, any firearms to relinquish, the defendant's designee shall submit
12 the completed Prohibited Persons Relinquishment Form to the
13 assigned probation officer within five days following the
14 conviction, along with the receipts described in paragraph (1) of
15 subdivision (d) showing the defendant's firearms were surrendered
16 to a local law enforcement agency or sold or transferred to a
17 licensed firearms dealer.

18 (3) If the defendant does not own, possess, or have custody or
19 control of, any firearms to relinquish, the defendant shall, within
20 five days following conviction, submit the completed Prohibited
21 Persons Relinquishment Form to the assigned probation officer,
22 with a statement affirming that they have no firearms to be
23 relinquished.

24 (e) The following procedures shall apply to any defendant who
25 is a prohibited person within the meaning of paragraph (1) of
26 subdivision (a) who is in custody at any point within the five-day
27 period following conviction:

28 (1) The designee shall dispose of any firearms the defendant
29 owns, possesses, or has custody or control of, within 14 days of
30 the conviction by surrendering the firearms to the control of a local
31 law enforcement agency, selling the firearms to a licensed firearms
32 dealer, or transferring the firearms for storage to a firearms dealer
33 pursuant to Section 29830, in accordance with the wishes of the
34 defendant. Any proceeds from the sale of the firearms shall become
35 the property of the defendant. The law enforcement officer or
36 licensed dealer taking possession of any firearms pursuant to this
37 subdivision shall issue a receipt to the designee describing the
38 firearms and listing any serial number or other identification on
39 the firearms at the time of surrender.

1 (2) If the defendant owns, possesses, or has custody or control
2 of, any firearms to relinquish, the defendant's designee shall submit
3 the completed Prohibited Persons Relinquishment Form to the
4 assigned probation officer, within 14 days following conviction,
5 along with the receipts described in paragraph (1) of subdivision
6 (e) showing the defendant's firearms were surrendered to a local
7 law enforcement agency or sold or transferred to a licensed firearms
8 dealer.

9 (3) If the defendant does not own, possess, or have custody or
10 control of, any firearms to relinquish, the defendant shall, within
11 14 days following conviction, submit the completed Prohibited
12 Persons Relinquishment Form to the assigned probation officer,
13 with a statement affirming that they have no firearms to be
14 relinquished.

15 (4) If the defendant is released from custody during the 14 days
16 following conviction and a designee has not yet taken temporary
17 possession of each firearm to be relinquished as described above,
18 the defendant shall, within five days following release, relinquish
19 each firearm required to be relinquished pursuant to paragraph (1)
20 of subdivision (d).

21 (f) For good cause, the court may shorten or enlarge the time
22 periods specified in subdivisions (d) and (e), enlarge the time
23 period specified in paragraph (3) of subdivision (c), or allow an
24 alternative method of relinquishment.

25 (g) The defendant shall not be subject to prosecution for
26 unlawful possession of any firearms declared on the Prohibited
27 Persons Relinquishment Form if the firearms are relinquished as
28 required.

29 (h) Any firearms that would otherwise be subject to
30 relinquishment by a defendant under this section, but which are
31 lawfully owned by a cohabitant of the defendant, shall be exempt
32 from relinquishment, provided the defendant is notified that the
33 cohabitant must store the firearm in accordance with Section 25135.

34 (i) A law enforcement agency shall update the Automated
35 Firearms System to reflect any firearms that were relinquished to
36 the agency pursuant to this section. A law enforcement agency
37 shall retain a firearm that was relinquished to the agency pursuant
38 to this section for 30 days after the date the firearm was
39 relinquished. After the 30-day period has expired, the firearm is
40 subject to destruction, retention, or other transfer by the agency,

1 except upon the certificate of a judge of a court of record, or of
2 the district attorney of the county, that the retention of the firearm
3 is necessary or proper to the ends of justice, or if the defendant
4 provides written notice of an intent to appeal a conviction for an
5 offense described in subdivision (a), or if the Automated Firearms
6 System indicates that the firearm was reported lost or stolen by
7 the lawful owner. If the firearm was reported lost or stolen, the
8 firearm shall be restored to the lawful owner, as soon as its use as
9 evidence has been served, upon the lawful owner's identification
10 of the weapon and proof of ownership, and after the law
11 enforcement agency has complied with Chapter 2 (commencing
12 with Section 33850) of Division 11 of Title 4. The agency shall
13 notify the Department of Justice of the disposition of relinquished
14 firearms pursuant to Section 34010.

15 (j) A city, county, or city and county, or a state agency may
16 adopt a regulation, ordinance, or resolution imposing a charge
17 equal to its administrative costs relating to the seizure, impounding,
18 storage, or release of a firearm pursuant to Section 33880.

19 (k) This section shall become operative on January 1, 2018.

20 SEC. 5. Section 34000 of the Penal Code is amended to read:

21 34000. (a) Notwithstanding any provision of law or of any
22 local ordinance to the contrary, when any firearm is in the
23 possession of any officer of the state, or of a county, city, or city
24 and county, or of any campus of the University of California or
25 the California State University, and the firearm is an exhibit filed
26 in any criminal action or proceeding which is no longer needed or
27 is unclaimed or abandoned property, which has been in the
28 possession of the officer for at least 180 days, the firearm shall be
29 destroyed, as provided for in Section 18005.

30 (b) This section does not apply to any firearm in the possession
31 of the Department of Fish and Game, or which was used in the
32 violation of any provision in the Fish and Game Code, or any
33 regulation under that code.

34 SEC. 6. The Legislature finds and declares that the disposal of
35 firearms by government entities is a matter of statewide concern
36 and is not a municipal affair as that term is used in Section 5 of
37 Article XI of the California Constitution. Therefore, Section 3 of

- 1 this act adding Section 29550 to the Penal Code applies to all cities,
- 2 including charter cities.

O

ATTACHMENT D

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW CHAPTER 13.18 TO THE MONTEREY PARK MUNICIPAL CODE PROHIBITING THE PRESENCE OF FIREARMS ON CITY-OWNED PROPERTY.

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: Findings. The City Council finds and declares that:

- A. Article XI, section 7 of the California Constitution grants Monterey Park the power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.”
- B. This includes the power to enact regulations that “meet existing conditions of modern life and thereby keep pace with the social, economic, moral and intellectual evolution of the human race.” *Miller v. City of Los Angeles* (1925) 195 Cal. 477.
- C. California law preempts the City’s police powers in discrete areas but allows local government to govern other substantive areas. *Fiscal v City & County of San Francisco* (2008) 158 Cal.App. 4th 895.
- D. The City’s right to control its own property – in the same way as private property owners – is well-established. See, e.g., *District of Columbia v. Heller* (2008) 554 U.S. 570; *Cornelius v. NAACP Legal Defense and Education Fund* (1985) 473 U.S. 788 (quoting *Greer v. Spock* (1976) 424 U.S. 828); *Clark v. Burleigh* (1992) 4 Cal.4th 474; *Calguns Found., Inc. v. County of San Mateo* (2013) 218 Cal.App. 4th 661; Government Code § 37359; Penal Code § 171b(a)(1).
- E. City-owned property is intended to be used only for general governmental functions and service to the public. Except for law enforcement purposes, the presence of firearms on City-owned property serves neither a governmental function nor is it in the public interest. While the City Council recognizes the constitutional protections for individuals to possess weapons, such rights are not unlimited and do not supersede the City’s ability to control its own property.
- F. The City reviewed this Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). CEQA and the CEQA Guidelines are collectively referred to as “CEQA Regulations.”

SECTION 2: A new Chapter 13.18 entitled “Firearms Prohibited on Public Property” is added to the MPMC to read as follows:

“Chapter 13.18

Firearms Prohibited on Public Property

13.18.010. Purpose.

This chapter is adopted pursuant to Article XI, section 7 of the California Constitution for the purpose of prohibiting the possession of firearms on all City-owned property within the City of Monterey Park. The regulations set forth in this chapter are specifically intended to strike a reasonable balance between an individual’s Constitutional rights and the City’s obligations to protect public health and safety.

13.18.020. Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter:

- A. “Firearm” has the same meaning as Penal Code § 16520, as may be amended.
- B. “Locked Container” means a locked container as defined in Penal Code § 16850, as may be amended, and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.
- C. “Public Property” means all real property and facilities owned by the city in fee simple; all public ways as defined by Streets and Highways Code § 18609; all public service easements as defined in Streets and Highways Code § 8306; and all real property in which the City has a possessory interest. Public Property includes, without limitation, City Hall; the Bruggemeyer Library; the Corporation Yard; all parks and recreation facilities; all parking facilities; and all fire stations.
- D. “Unloaded” means that there is no ammunition in either the chamber or magazine of the firearm.

13.18.030. Prohibitions.

It is unlawful for any person to possess any firearm on public property. This prohibition includes, without limitation, persons who possess a concealed weapons permit issued in accordance with California law.

13.18.040. Exceptions. The prohibition in this chapter does not apply:

- A. Where the United States or California Constitutions allow possession of a firearm.
- B. To law enforcement officers authorized to carry a firearm.
- C. Persons issued a concealed weapons permit by the Monterey Park Police Chief in accordance with California law.
- D. Transportation of unloaded firearms in a locked container.”

SECTION 3: Environmental Assessment. This Ordinance was reviewed pursuant to CEQA. Adopting this Ordinance is exempt from further environmental review because it establishes rules and procedures for operation of existing facilities; minor temporary use of land; minor alterations in land use; new construction of small structures; and minor structures accessory to existing commercial facilities. The Ordinance, therefore, is categorically exempt from further CEQA review under CEQA Guidelines §§ 15301; 15303, 15304(e); 15305; and 15311. Further, the adopting the ordinance is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Individual projects utilizing these regulations will each be separately subject to an environmental assessment. Finally, this Ordinance is exempt from further review pursuant to CEQA Guidelines § 15269(a) because the protection of public and private property is necessary to maintain service essential to the public, health and welfare.

SECTION 4: Construction. This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 5: Enforceability. Repeal of any provision of the MPMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 6: Reliance on Record. Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 7: Limitations. The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are limitations on the City's ability to solve what are in effect regional, state, and National problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 8: Summaries of Information. All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 9: Severability. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 10: Recording. The City Clerk, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 11: Electronic Signatures. This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 12: Execution. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Ordinance signifying its adoption by the City Council of the City of Monterey Park, and the City Clerk, or duly appointed deputy, is directed to attest thereto.

SECTION 13: ***Effective Date.*** This Ordinance becomes effective on the 30th day following its passage and adoption.

PASSED AND ADOPTED this ____ day of _____, 2023.

Jose Sanchez, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

ATTACHMENT E

Proposed Resolution

RESOLUTION NO. ____

A RESOLUTION DECLARING THE CITY COUNCIL’S COMMITMENT TO LEND THE CITY’S SUPPORT TO ALL REASONABLE FEDERAL, STATE AND LOCAL LEGISLATION THAT IS INTENDED TO PROTECT PUBLIC HEALTH AND SAFETY WHILE MAINTAINING AN INDIVIDUAL’S CONSTITUTIONAL RIGHTS AS TO OWNING FIREARMS; APPROVING A PLEDGE FOR ALL ELECTED OFFICIALS REFLECTS THIS INTENT; APPROVING STANDARD CONDITIONS OF APPROVAL FOR CERTAIN CONDITIONAL USE PERMITS; AND AUTHORIZING THE CITY MANAGER TO IMPLEMENT THIS RESOLUTION.

The Council of the City of Monterey Park does resolve as follows:

SECTION 1: **Pledge**. The City Council encourages all Monterey Park elected officials to sign the Firearms Pledge (the “Pledge”) attached as Exhibit “A,” and incorporated by reference. Executing the Pledge declares the intent of an elected official to engage in collective action and demonstrates an unwavering commitment to public safety, while forging a path toward reduced gun violence and increased peace of mind for all citizens.

SECTION 2: **Legislative Change; Education**. As part of the Pledge and this Resolution, the City Council declares its intent to lend the City’s support to all reasonable federal, state and local legislation that is intended to preserve public health and safety, while maintaining an individual’s Constitutional protections. As part of the City Council’s intent, the City Manager is directed to help educate the public regarding firearms safety and usage.

SECTION 3: **Authorizations**. The City Manager is authorized to promulgate administrative policies and procedures (“AP&P”) to implement the Pledge in accordance with this Resolution.

SECTION 4: **Standard Conditions of Approval**. Pursuant to MPMC § 21.55.050, standard conditions of approval are set forth below and must be included in all conditional use permits issued for firearms dealers (“Standard Conditions”):

- A. The permittee must implement safety measures approved by the Police Chief, or designee, that restrict minors’ presence in gun and ammunition stores. Signage approved by the Police Chief, or designee must be posted at entrances to stores.
- B. The permittee must maintain annual sales reports for all firearms sold at the establishment and make them available to law enforcement officers upon request during regular business hours.
- C. The permittee must maintain a fingerprint log of persons purchasing

firearms and make it available to law enforcement officers upon request during regular business hours.

- D. The permittee must maintain and report inventory in real-time and make it available to law enforcement officers upon request during regular business hours.
- E. The permittee must install and maintain security cameras and make video available to law enforcement officers immediately upon request during regular business hours.
- F. The permittee must provide firearms purchasers with documentation in a form approved by the Police Chief, or designee, regarding firearm owner responsibilities and firearms laws.
- G. The permittee must submit a sign plan to be approved by the Police Chief, or designee, that warns customers about risks associated with access to firearms at any site where firearm sales or transfers are conducted within the City.

SECTION 5: Gun Violence Restraining Orders. The City Manager is directed to lend the City's resources, including exercising the authority delegated in this Resolution, to participate in the "Increasing Access to Gun Violence Restraining Orders" campaign initiated by the Los Angeles County Board of Supervisors on August 8, 2023. To the extent feasible, the LA County campaign should be replicated within the City's jurisdiction.

SECTION 6: Prohibitions on Sale of Firearms. The proposed prohibitions on selling any firearm, ammunition, or body armor in AB 733 (2023 Fong) are adopted by reference (see, draft Penal Code § 29550) as prohibitions within the City of Monterey Park. Any firearms acquired by the City must be destroyed in accordance with the City's surplus property regulations (see, Resolution No. 11791, adopted October 7, 2015, Sections 2(D) and 3(A)).

SECTION 7: Contracting Authority. To implement the Pledge, the City Manager is authorized to solicit bids, award contracts, and execute on-call contracts for amounts in accordance with the MPMC for the following services needed to implement the Program:

- A. Professional service agreements for lobbyists at the federal and state levels of government;
- B. Professional service agreements for disposal services and buy-pack programs intended to reduce the number of firearms within the City's jurisdiction; and

- C. Such additional professional or general services that may be required to implement this Resolution and in accordance with the Pledge.

SECTION 8: Environmental Review. This resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations (“CCR”) §§ 15000, *et seq.*) because it establishes rules and procedures to clarify existing policies and practices related to government organization; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Resolution does not constitute a “project” that requires environmental review (see specifically 14 CCR § 15378(b)(4-5)).

SECTION 9: Conflicts. In the event of a conflict between the provisions of this Resolution and the provisions the MPMC, any other resolution, or any resolution, the provisions of this Resolution govern. The City Manager is authorized to resolve any ambiguities. Any such determination must be forwarded to the City Council as an informational item when practicable.

SECTION 10: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 11: Construction. This Resolution must be broadly construed in order to achieve the purposes stated in this Resolution. It is the City Council’s intent that the provisions of this Resolution be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Resolution.

SECTION 21: Recordation. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 22: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this ____ day of August 2023.

Jose Sanchez, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM

Karl H. Berger, City Attorney

City of Monterey Park

Pride in the Past • Faith in the Future



Exhibit "A"

FIREARMS PLEDGE

As an elected official for the City of Monterey Park, I make a solemn pledge to take all legal actions within my authority to help reduce the incidents of gun violence.

In making this Pledge, I acknowledge the importance of preserving the Constitutional rights of responsible citizens to own firearms in harmony with my obligation to promote public safety.

I Pledge to seek federal and state solutions for helping prevent criminals, domestic abusers, and persons experiencing mental health or substance abuse crises from accessing firearms. Such measures should be implemented to reduce gun violence within our community.

I vow to promote responsible gun ownership and safe storage practices. Toward that end, I advocate for mandatory gun safety education for all prospective gun owners to ensure they are trained in the safe handling, storage, and usage of firearms. In this way, I hope to minimize accidental shootings and improper access to firearms.

With this Pledge, and my actions to implement it, I hope to create a more secure and harmonious community where Constitutional rights are preserved in balance with reasonable actions needed to protect the safety and welfare of every individual.

Signature

Name, Title

Date



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Old Business - 2B

TO: The Honorable Mayor and City Council
FROM: Justin A. Tamayo, Deputy City Attorney
SUBJECT: Consideration and possible action to introduce an Ordinance adding Section 9.58.050 entitled "Safe Storage" to the Monterey Park Municipal Code

RECOMMENDATION:

It is recommended that the City Council consider:

1. Introduce and waive first reading of Ordinance No. _____ adding § 9.58.050 entitled "Safe Storage" to the Monterey Park Municipal Code;
2. Taking such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

This Ordinance was drafted in accordance with Section 3(B)(8) of City Council Resolution No. 2023-R15, adopted March 1, 2023. That Section directed the City Manager and City Attorney to proposed amendments to the Monterey Park Municipal Code ("MPMC") that, to the extent legally feasible, require all firearms in a residence be securely stored in a locked container or disabled with a trigger lock. If adopted, this Ordinance would add a new section to the MPMC requiring that firearms maintained in a residence be locked in a container or disabled with a trigger lock.

TYPE OF ACTION (LEGISLATIVE; QUASI-JUDICIAL; OR ADVISORY)

Legislative: The recommended action involves a zoning code text amendment creating a Health Protection Zone. In considering such actions, the City Council acts in its discretionary legislative capacity (formulating rules that apply to all future uses).

ENVIRONMENTAL ASSESSMENT:

The City reviewed the environmental impacts of this Ordinance under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the "CEQA Guidelines"). This Ordinance is not subject to further review environmental review because: (1) it will not result in a direct or reasonably foreseeable indirect physical change in the environment (14 Cal. Code Regs. § 15060(c)(2); (2) there is no possibility that the Ordinance itself may have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)); and (3) the Ordinance, by itself, does not constitute a "project" as defined in the CEQA Guidelines (14 Cal. Code Regs. § 15378). The

Ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

BACKGROUND:

California law makes it a crime for a gun owner to store a loaded firearm in a home, or within an area of the owner's control, and do so when the owner knows, or should know, that a child could access it without a parent's permission.¹ This means if an owner knows that a child can access a stored gun, the owner should: (1) make certain that it is unloaded, and (2) store it in a place outside of the child's access (like a locked container with a combination lock or a key lock). A violation of the above law is a misdemeanor offense. The crime is punishable by up to one year in county jail. This punishment will increase if a child accesses the weapon and causes harm, great bodily injury, or death.²

California law also makes it a criminal offense for a firearm owner to: (1) store a loaded gun in a home, or within an area of the owner's control, and do so when the owner knows, or should know, that a person prohibited from possessing a firearm under state law or federal law could access it.³ This means if an owner knows that an adult who cannot possess a firearm can get to the stored weapon, the owner should: (1) make certain that it is unloaded, and (2) store it in a place outside of the adult's access (like in a locked container). A violation of the above law is charged as a misdemeanor. The crime is punishable by up to one year in county jail. This punishment increases if an adult accesses the weapon and causes harm, great bodily injury, or death.⁴ In such cases, the crime can be charged as a felony and lead to custody in state prison for up to three years. Several California jurisdictions have adopted "safe gun storage" ordinances to bolster firearm safety in the home.

The City Council reacted to the Mass Casualty Incident ("MCI") on January 21, 2023 by taking a number of actions intended to both mitigate the impact of the MCI in the community and reduce the likelihood of future incidents. Among other things, the City Council adopted Resolution No. 2023-R15 (Attachment 2) directing the City Manager and City Attorney to make recommendations regarding a number of gun-related matters.

The proposed Ordinance is one of several of items considered by the City Council on July 19, 2023. At that time, the City Council directed that this Ordinance be drafted for consideration. If adopted, the Ordinance would add a new section 9.58.050 to the MPMC entitled "Safe Storage." The proposed ordinance requires any person in a residence in within the City to store firearms in a locked container or disable them with an appropriate safety device in the home. Keeping a firearm locked when it is not being

¹ Penal Code § 25100.

² *Id.*

³ *Id.*

⁴ *Id.*

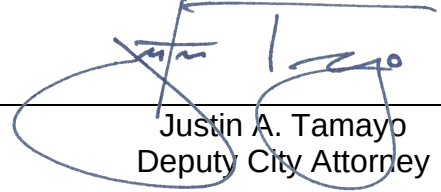
carried prevents unauthorized users, including children, from accessing and using firearms which can reduce unintentional discharges, firearm theft, and suicide.

The requirements of this ordinance do not apply when a firearm is legally carried on the person, or otherwise in his or her immediate possession and control, nor when the firearm is in the immediate possession and control of a peace officer. The ordinance as proposed does not create a substantial to burden to persons lawfully carrying and storing firearms in the home, but it requires safe firearm storage in an effort to decrease the risk of harm to children and the entire community.

FISCAL IMPACT:

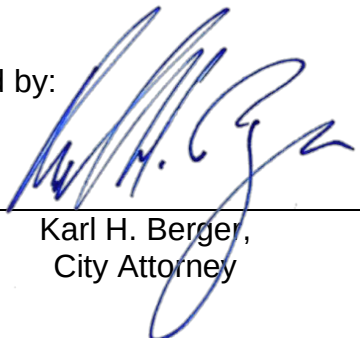
None.

Respectfully submitted by:



Justin A. Tamayo
Deputy City Attorney

Reviewed by:



Karl H. Berger,
City Attorney

ATTACHMENTS:

1. Ordinance No. _____ adding § 9.58.050 to the Monterey Park Municipal Code.;

ATTACHMENT 1

Ordinance

ORDINANCE NO.

AN ORDINANCE ADOPTING SAFE FIREARM STORAGE WITHIN THE CITY OF MONTEREY PARK.

The City Council for the City of Monterey Park does ordain as follows:

SECTION 1: *Findings.* The City Council finds as follows:

- A. On January 21, 2023, 11 people were murdered and nine were severely injured as the result of a shooting spree by an individual using a modified firearm that may be classified as an assault weapon.
- B. A review of the City's records shows that the City does not presently regulate firearm storage within residences.
- C. The City Council recognizes that the regulation of firearms is controversial. It cannot ignore, however, that the United States has less than 5% of the world's population but 46% of the world's civilian-owned guns (see, e.g., "U.S. Gun Policy: Global Comparisons," Masters, Jonathan, Council on Foreign Relations, June 10, 2022). It ranks number one in firearms per capita (*Id.*) The United States also has the highest homicide-by-firearm rate of the world's most-developed nations (*Id.*). Consequently, this matter is a national and regional health concern that requires immediate, realistic, and practical responses.
- D. Since the beginning of 2023, there have been more than 300 MCIs in the United States including the one in our community on January 21, 2023.
- E. According to the Centers for Disease Control and Prevention ("CDC"), there were 45,222 firearm-related deaths in the United States in 2020. That equates to approximately 124 people dying from a firearm-related injury each day. More than half of firearm-related deaths were suicides and more than 4 out of every 10 were firearm homicides (see "Fast Facts: Firearm Violence Prevention," Centers for Disease Control and Prevention, May 4, 2022).
- F. Studies demonstrate that child-access prevention ("CAP") laws reduce unintentional firearm injuries and deaths among children (see, e.g., www.rand.org/research/gun-policy/analysis/child-access-prevention/unintentional-injuries.html; updated January 10, 2023). Additionally, studies that examined effects on young adults or adults provide limited evidence that these laws may reduce unintentional firearm injuries and deaths among adults as well.

- G. It is vital that the City Council act to the greatest extent possible to protect this community from violence resulting from firearms. While the City of Monterey Park's ability to regulate firearms may be limited, it is empowered by the California Constitution to enact laws to protect public health and safety. Accordingly, this Ordinance is adopted in accordance with the City's police powers as enshrined in Article XI, § 7 of the California Constitution.
- H. Firearm injuries have a significant adverse public health and safety impact nationally, regionally, and locally.
- I. Improperly stored firearms may result in accidental firearm injuries and/or deaths, particularly in homes with children.
- J. Having a loaded or unlocked firearm in the home has been associated with an increased risk of firearm-related injury and death, as well as the theft of the firearm.

SECTION 4: *Environmental Assessment.* The City reviewed the environmental impacts of this Ordinance under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the "CEQA Guidelines"). This Ordinance is not subject to further review environmental review because: (1) it will not result in a direct or reasonably foreseeable indirect physical change in the environment (14 Cal. Code Regs. § 15060(c)(2); (2) there is no possibility that the Ordinance itself may have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)); and (3) the Ordinance, by itself, does not constitute a "project" as defined in the CEQA Guidelines (14 Cal. Code Regs. § 15378). The Ordinance is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

SECTION 5: *Amendment.* MPMC Chapter 9.84 (Weapons) is amended by adding a new section 9.84.050 (Safe Storage) to read as follows:

"9.85.050 Safe Storage

- A. No person may keep a firearm within any residence unless the firearm is either (1) stored in a locked container; or (2) disabled with a trigger lock.
 - 1. "Firearm" means any gun, rifle, pistol, or any other firearm as defined in Penal Code §16520, as may be amended from time to time.

2. “Locked Container” means a locked container as defined in Penal Code §16850, as may be amended from time to time, and is listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices.

3. “Trigger Lock” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearms safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code §23635.

4. “Residence” means any structure intended or used for human habitation, including, without limitation, houses, apartments, condominiums, rooms, in-law units, accessory dwelling units, motels, hotels, single-room occupancy units, time-shares, mobile homes, and recreational and other vehicles where human habitation occurs.

- B. This Section does not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of, an individual in accordance with applicable local, state, or federal laws.
- C. This Section does not apply when a firearm is carried on the person of, or is otherwise in the immediate control and possession of, a peace officer (as defined in Penal Code § 830, *et seq.*, as may be amended from time to time).
- D. It is not the intention of this Section to regulate any conduct if the regulation of such conduct has been preempted by state or federal law.
- E. Any person who owns or possesses a firearm must report the theft or loss of the firearm to the Police Chief, or designee, within 48 hours of the time the person suspected or knew that the firearm had been stolen or lost, if:
 - 1. the person who owns or possessed the stolen or lost firearm resides in the city; or
 - 2. the theft or loss of the firearm occurred in the City.”

SECTION 6: Construction. This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council’s intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7: Enforceability. Repeal of any provision of the Monterey Park Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance’s effective date. Any such repealed part will remain in full force and effect for

sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 8: *Reliance on Record.* Every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the matter. The determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 9: *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 10: *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 11: *Electronic Signatures.* This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 12: *Publications.* The City Clerk is directed to certify the passage and adoption of this Ordinance; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 13: *Recording.* The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the City of Monterey Park's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 14: *Effective Date.* This Ordinance becomes effective on the 30th day following its passage and adoption.

ORDINANCE NO. XX
PAGE 5 of 5

ORDINANCE NO. ____ HAD ITS FIRST READING ON XX, ITS SECOND READING ON ____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF ____.

Jose Sanchez, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM:
KARL H. BERGER, City Attorney

Justin A. Tamayo, Deputy City Attorney



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3A

TO: The Honorable Mayor and City Council
FROM: Amy Lee, City Treasurer
SUBJECT: Monthly Investment Report – July 2023

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing the monthly investment report; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

As of June 30, 2023, invested funds for the City of Monterey Park total \$78,417,445.03.

BACKGROUND:

In accordance with the City's Investment Policy, a monthly investment report is presented to the City Council showing the types of investments, dates and maturities, amounts of deposits, rates of interest, and the current market values for securities with maturity more than 12 months. The attached monthly investment report includes a summary investment report for the LA County Pooled Investment Fund, which displays the composition by type for the entire pooled investment fund.

Respectfully submitted by:

A handwritten signature in blue ink, appearing to be "Amy Lee", written over a horizontal line.

Amy Lee
City Treasurer

Prepared by:

A handwritten signature in blue ink, appearing to be "Martha Garcia", written over a horizontal line.

Martha Garcia
Finance Director

Approved by:

A handwritten signature in blue ink, appearing to be "Inez Alvarez", written over a horizontal line.

Inez Alvarez
Interim City Manager

ATTACHMENT:

1. Monthly Investment Report

ATTACHMENT 1

Monthly Investment Report

**CITY OF MONTEREY PARK
INVESTMENT REPORT
JULY 31, 2023**

INVESTMENTS PORTFOLIO PROFILE:

TOTAL BALANCE AT 06/30/2023

\$ 78,417,445.03

INVESTMENT COMPOSITION

(1) <u>LA COUNTY POOLED INVESTMENT FUND</u> (See Schedule A for LA County Pool Composition)	ON DEMAND	3.430%	<u>\$ 43,911,968.49</u>
(2) <u>LOCAL AGENCY INVESTMENT FUND</u>	ON DEMAND	2.870%	<u>\$ 26,660,476.54</u>

(3) <u>CERTIFICATES OF DEPOSIT</u>	Purchase Date	Maturity Date	Interest Rate	
1 PREFERRED BANK	09/03/22	09/03/23	2.51%	100,000
2 PREFERRED BANK	09/08/22	09/08/23	2.67%	150,000
3 SALLIE MAE BANK	08/11/21	08/12/24	0.70%	245,000
4 TOYOTA FINANCIAL SAVINGS BANK	09/16/21	09/16/24	0.65%	245,000
5 SYNCHRONY BANK	09/17/21	09/17/24	0.65%	245,000
6 UBS BANK USA	09/22/21	09/23/24	0.65%	245,000
7 STATE BANK OF INDIA	10/18/21	10/18/24	0.70%	245,000
8 MEDALLION BANK UTAH	01/28/22	01/28/25	1.25%	245,000
9 PENTAGON FEDERAL UNION	01/31/22	01/31/25	1.25%	245,000
10 BEAL BANK	02/02/22	01/29/25	1.15%	245,000
11 VALLIANCE BANK	03/18/22	03/18/25	1.40%	245,000
12 STATE BANK OF TEXAS	03/25/22	03/25/25	1.45%	245,000
13 FIRST FED SAVINGS & LOAN	03/30/22	03/31/25	2.00%	245,000
14 LAFAYETTE FEDERAL CREDIT UNION	03/30/22	03/31/25	2.20%	245,000
15 ALLY BANK	03/31/22	03/28/24	1.95%	245,000
16 COMENITY CAPITAL BANK	04/14/22	04/14/25	2.55%	245,000
17 AMERICU CREDIT UNION	04/21/22	04/21/25	2.30%	245,000
18 BALBOA THRIFT & LOAN	04/29/22	04/29/25	2.00%	245,000
19 CONNEXUS CREDIT UNION	05/26/22	05/28/24	2.65%	245,000
20 METRO CREDIT UNION	07/13/22	07/12/24	3.20%	245,000
21 FIRST TECHNOLOGY CREDIT UNION	08/05/22	08/05/24	3.25%	245,000
22 AUSTIN TELCO FEDERAL CREDIT UNION	12/16/22	12/16/24	5.00%	245,000
23 GREENWOOD MUNICIPAL FED CREDIT UNIK	01/27/23	01/27/25	4.80%	245,000
24 RAIZ CREDIT UNION	01/27/23	01/27/25	4.75%	245,000
25 WORKERS	01/27/23	01/27/25	4.70%	245,000
26 MANUF & TRADERS TRUST CO	01/31/23	01/31/26	4.25%	245,000
27 ALPINE BANK	01/31/23	01/31/25	4.55%	245,000
28 TECHNOLOGY FCU	02/10/23	02/24/25	5.00%	245,000
29 RED CROWN FCU	02/14/23	02/21/25	4.85%	245,000
30 UFIRST FEDERAL CREDIT UNION	02/15/23	02/25/25	4.85%	245,000
31 SEA COMM FEDERAL CREDIT UNION	02/23/23	03/03/25	4.90%	245,000
32 GLOBAL CREDIT UNION	05/02/23	05/12/25	4.85%	245,000
33 WESTERN ALLIANCE BANK	05/02/23	05/05/25	4.85%	245,000
<i>Total CDs (33)</i>			3.149%	<u>\$ 7,845,000.00</u>

OTHER INFORMATION:

BANK BALANCE: ⁽¹⁾

\$7,070,298.66

AVERAGE MATURITY DAYS

58

AVERAGE INTEREST RATE FOR THE MONTH

3.131%

THE CITY'S INVESTMENT HAS SUFFICIENT LIQUIDITY TO MEET THE CITY'S EXPENDITURE REQUIREMENTS FOR THE NEXT 180 DAYS. THE 180-DAY LIQUIDITY DISCLOSURE IS REQUIRED PER GOVERNMENT CODE 53646.

THERE HAVE BEEN NO VARIANCES TO THE INVESTMENT POLICY.

(1) Bank balance is maintained to cover outstanding warrants, payroll checks and on-going operating costs.

**POOLED SURPLUS AND SPECIFIC PURPOSE INVESTMENTS
AS OF JUNE 30, 2023**

SCHEDULE A

<u>PORTFOLIO PROFILE</u>	<u>Pooled Surplus Investments</u>	<u>Specific Purpose Investments</u>
Inventory Balance at 06/30/23		
At Cost	\$ 54,574,147,314	\$ 306,217,419
At Market	\$ 51,936,678,871	\$ 281,910,094
Repurchase Agreements	\$ -	\$ -
Reverse Repurchase Agreements	\$ -	\$ -
Composition by Security Type:		
Certificates of Deposit	5.41%	0.00%
United States Government and Agency Obligations	69.41%	85.72%
Bankers Acceptances	0.00%	0.00%
Commercial Paper	25.11%	0.00%
Municipal Obligations	0.05%	0.81%
Corporate and Deposit Notes	0.02%	0.00%
Repurchase Agreements	0.00%	0.00%
Asset-Backed	0.00%	0.00%
Other	0.00%	13.47%
1-60 days	36.84%	0.00%
61 days-1 year	24.66%	28.19%
Over 1 year	38.50%	71.81%
Weighted Average Days to Maturity	753	



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3B

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Interim City Manager
SUBJECT: Continue to extend the existence of an employment emergency for the City of Monterey Park

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receiving and filing this report;
2. Continuing to extend the existence of an employment emergency for the City of Monterey Park and authorizing the City Manager to take all practical actions needed to implement the efficient recruitment and retention of persons for employment; and
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

Through City Council's establishment of the employment emergency, to date the City has filled 83 full-time vacancies comprised of 35 promotional appointments, 8 part-time to full-time appointments, and 40 appointments. From June 2023 to date, the City has filled a hard to fill Water Production Supervisor, one IT Technician, two Senior Account Clerks, and 15 part-time staff for Recreation and Community Services for summer programs.

There are 26 full-time positions in the recruitment process along with 18 part-time recruitments. Staff recommends extending the employment emergency to allow the City to address these vacancies, which include 6 key positions in the Public Works Department; to address upcoming retirements in the Police and Fire Departments; and to continue working through the Personnel Rules and Regulations revision process.

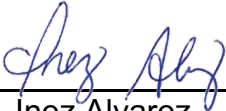
BACKGROUND:

As the City makes progress with the labor negotiations process, the Personnel Rules and Regulations revisions will move forward to incorporate various updates and revisions related to the recruitment process and Human Resources/Risk Management Department processes. The revision process requires the City to meet and confer with the associations before the Personnel Rules and Regulations can be implemented.

FISCAL IMPACT:

None.

Respectfully submitted by:



Inez Alvarez
Interim City Manager

Review by:



Karl H. Berger
City Attorney

Attachment(s):

1. Resolution No. 2022-R49

ATTACHMENT 1

Resolution 2022-R49

RESOLUTION NO. 2022-R49

A RESOLUTION ADOPTED BY THE CITY COUNCIL FOR THE CITY OF MONTEREY PARK DECLARING THE EXISTENCE OF A LOCAL EMERGENCY DUE TO LACK OF EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO TAKE ALL REASONABLE ACTIONS TO ACCELERATE RECRUITMENT AND RETENTION OF PUBLIC EMPLOYEES.

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. Since the City Council officially terminated the COVID-19 local emergency in April, the City took ambitious actions to restore pre-pandemic levels of municipal services;
- B. In reviewing personnel data from just the last six months, however, it is apparent that the City is seriously short-staffed.
- C. The City of Monterey Park has 325 full time staff positions of which nearly 70 are currently vacant. Of these positions, multiple are critical to protecting public health and safety including, without limitation, Water Production Supervisor; Senior Water Production System Operator; Water Utility Maintenance Worker; Director of Public Works; Facilities Maintenance Supervisor; Finance Manager; Firefighter; Police Officer; Senior Accountant; and Lifeguard;
- D. These are positions that directly respond to the public and/or essential to the smooth operation of municipal services including, for example, providing potable drinking water, and ensuring public safety;
- E. The City Council notes that multiple sources of publicly available information (see, e.g., “Quantifying the Nation’s Workforce Crisis – State of American Business 2022 Update” [January 10, 2022] published by the United States Chamber of Commerce [www.uschamber.com/workforce/quantifying-the-nations-workforce-crisis-2022-state-of-american-business-update] and “COVID-19 ends longest employment recovery and expansion in CES history, causing unprecedented job losses in 2020” June 2021 by the United States Bureau of Labor Statistics [www.bls.gov/opub/mlr/2021/article/covid-19-ends-longest-employment-expansion-in-ces-history.htm]) demonstrate that the challenges for recruiting qualified employees is nationwide;
- F. Because of the City’s personnel rules and policies, however, a typical time period for securing an outstanding candidate for an open employee position is taking four to six months of processing. This includes the initial recruitment; testing; interviewing; and background check;

G. In multiple instances, the City has lost interested candidates to the private sector or other public entities simply because the person did not want to continue waiting to be appointed;

H. Being able to accelerate the testing and interviewing will help make the City more attractive to individuals seeking public service. Additional work is needed regarding the titles of positions; compensation; and various fringe benefits. Moreover, a significant overhaul of the City's personnel rules is crucial to becoming more efficient in the future;

I. In the interim, however, it is in the public interest to cut through the proverbial "red tape" in order to fill positions that are critical to providing municipal services to the public. Under these circumstances, it is apparent that there is an imminent threat to public health and safety that may result from the City's inability to fill crucial positions in a timely and efficient manner;

J. Consequently, a local employment emergency is declared and the City Manager is authorized to take the actions set forth in this Resolution.

SECTION 2: Authorizations. The City Manager is authorized to take all reasonable and practicable actions to accelerate the process for recruiting, appointing, and retaining persons as City employees to fill all vacant positions. Such actions may include, without limitation, the following:

A. Suspend those portions of the City's personnel rules that are interfering with the City's ability to secure qualified candidates. For example, unnecessary testing and interview panels;

B. Temporarily appoint qualified persons to positions in accordance with Monterey Park Municipal Code ("MPMC") § 2.28.100;

C. Execute agreements, in a form approved by the City Attorney, for the services listed in MPMC § 2.28.190;

D. Consider amendments to titles and classifications of various positions to make them more attractive to qualified candidates;

E. Consider compensation and benefits that will attract qualified candidates to public services; and

F. Commence a substantial overhaul to the City's personnel rules.

SECTION 3: During the existence of this local emergency, the powers, functions, and duties of the City Manager and the emergency organization of this City will be those prescribed by California law, by ordinance, and resolutions of this City approved by the

City Council. To the extent that the actions authorized by this Resolution require a meet and confer with the City's bargaining units, those meetings will be held at the earliest practicable time pursuant to Government Code § 3504.5(b).

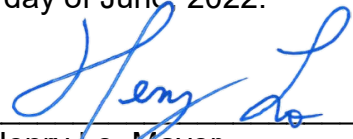
SECTION 4: The City Manager is designated as the authorized representative for public assistance and as the authorized representative for individual assistance of the City of Monterey Park for the purpose of receiving, processing, and coordinating all inquiries and requirements necessary to obtain available state and federal assistance.

SECTION 5: This local emergency will be reviewed by the City Council within 60 days in accordance with Government Code § 8630 to determine whether it should be extended by City Council Resolution.

SECTION 6: This Resolution may be executed with electronic signatures in accordance with Government Code § 16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

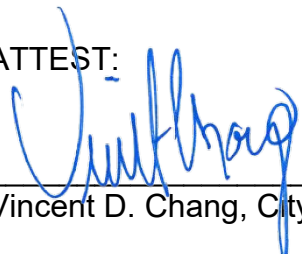
SECTION 7: This Resolution will take effect immediately upon adoption.

PASSED AND ADOPTED this 15th day of June, 2022.



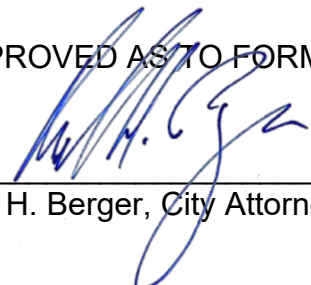
Henry Lo, Mayor

ATTEST:



Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



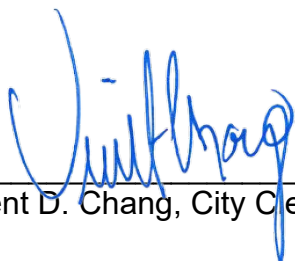
Karl H. Berger, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) §
CITY OF MONTEREY PARK)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 2022-R49 was duly adopted and passed at a regular meeting of the Monterey Park City Council on the 15th day of June, 2022 by the following vote:

Ayes:	Council Members: Yiu, Chan, Liang, Lo
Noes:	Council Members: None
Abstain:	Council Members: None
Absent:	Council Members: None

Dated this 15th day of June, 2022.



Vincent D. Chang, City Clerk



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3C

TO: The Honorable Mayor and City Council
FROM: Inez Alvarez, Interim City Manager
Karl H. Berger, City Attorney
SUBJECT: Consideration and direction regarding SB 1186 - Medicinal Cannabis Patients' Right of Access Act

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receive and file this report;
2. Direct the City Manager and City Attorney to draft proposed regulations for medical cannabis delivery facilities in accordance with SB 1186; and
3. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

At its meeting on August 2nd, the City Council posed questions regarding SB 1186 (2022 Wiener) which is attached for reference. In sum, SB 1186 prevents cities from prohibiting medicinal cannabis deliveries; it further requires cities to allow cannabis delivery facilities to be located within the local jurisdiction. SB 1186 does, however, allow the City to reasonably regulate the retail sale by delivery of medicinal cannabis including, without limitation: (1) zoning requirements that are consistent with California law; (2) security or public health and safety requirements; (3) licensing requirements; (4) tax collection; and (5) regulations consistent with requirements or restrictions imposed by California law. These restrictions take effect January 1, 2024.

BACKGROUND:

In 2016, the City Council adopted Ordinance No. 2126 that added Chapters 9.102 and 21.46 to the Monterey Park Municipal Code ("MPMC") prohibiting all commercial cannabis activity within the City – including delivery of medical cannabis.

Responding to changes in California law in 2018, the City Council clarified and strengthened its prohibitions on retail cannabis sales by adopting Ordinance No. 2158 (adopted February 20, 2019) which renumbered Chapter 21.46 to Chapter 6.35, and made substantive changes.

Ordinance No. 2158 anticipated future changes in federal and state law by adding this language to the MPMC: ***"[u]nless otherwise provided by California law,*** commercial

cannabis activity is prohibited within the City of Monterey Park” (emphasis added; MPMC § 6.35.030). A copy of the staff report and that Ordinance are attached for reference.

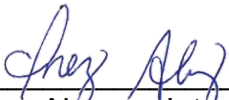
Based upon the emphasized language, the City Council may either (1) take no action – and still be compliant with SB 1186; or (2) adopt reasonable regulations as to zoning, security requirements, licensing, etc., as allowed by SB 1186. If the City Council does nothing, deliveries of medicinal cannabis, etc., would be allowed within the City’s jurisdiction in accordance with SB 1186. Additionally, applications for a delivery facility within the City would be processed in accordance with the MPMC’s existing zoning regulations.

Based upon the comments from the City Council on August 2nd, it seems more likely that the City Council prefers adopting reasonable regulations as allowed by SB 1186. Accordingly, unless the City Council directs otherwise, the City Manager and City Attorney will begin drafting such regulations. Those draft regulations will be processed through the Planning Commission and then presented to the City Council later in the Fall.

FISCAL IMPACT:

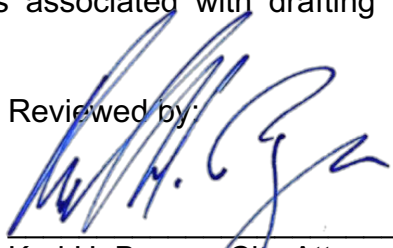
There will be additional staff and legal costs associated with drafting the SB 1186 regulations.

Respectfully submitted by:



Inez Alvarez, Interim City Manager

Reviewed by:



Karl H. Berger, City Attorney

ATTACHMENTS:

1. Various documents including SB 1186 and legislative analysis; February 2019 Staff Report; Ordinance No. 2158

ATTACHMENT 1

Various Documents

Senate Bill No. 1186

CHAPTER 395

An act to amend Section 26200 of, and to add Chapter 26 (commencing with Section 26320) to Division 10 of, the Business and Professions Code, relating to cannabis.

[Approved by Governor September 18, 2022. Filed with
Secretary of State September 18, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1186, Wiener. Medicinal Cannabis Patients' Right of Access Act.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by Proposition 215 at the November 6, 1996, statewide general election, declares that its purpose is, among other things, to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes, as specified, and exempts from state criminal liability certain patients and their primary caregivers who possess or cultivate marijuana for the personal medical purposes of the patient. Existing law, known as the Medical Marijuana Program, establishes a voluntary registration program for qualified medicinal cannabis patients and their primary caregivers through a statewide identification card system maintained by the State Department of Public Health and sets forth guidelines for the possession of medicinal cannabis.

The Control, Regulate and Tax Adult-Use of Marijuana Act of 2016 (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana. AUMA reserved to a local jurisdiction specified powers regarding commercial adult-use cannabis activity, including adopting and enforcing local ordinances regulating commercial adult-use cannabis activity. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities, including the retail sale of medicinal cannabis.

This bill would enact the Medicinal Cannabis Patients' Right of Access Act, which, on and after January 1, 2024, would prohibit a local jurisdiction from adopting or enforcing any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by medicinal cannabis businesses, as defined, or that has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers in a timely and readily

accessible manner and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction, as specified. The bill, on and after January 1, 2024, would provide that the act may be enforced by an action for writ of mandate brought by a medicinal cannabis patient or their primary caregiver, a medicinal cannabis business, the Attorney General, or any other party otherwise authorized by law.

This bill would incorporate additional changes to Section 26200 of the Business and Professions Code proposed by AB 2210 to be operative only if this bill and AB 2210 are enacted and this bill is enacted last.

To the extent this bill would impose additional duties on local jurisdictions, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require the department to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the department upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 60 days of being so informed, the department shall begin the process to determine

whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the department, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) (1) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities, at a minimum, comply with all the following:

(A) The requirements of paragraphs (1) to (3), inclusive, of subdivision (g).

(B) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed under this division to engage in that activity.

(C) The activities are otherwise consistent with regulations promulgated and adopted by the department governing state temporary event licenses.

(D) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

(E) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. If any changes occur in that list, the licensee shall provide the department with a final updated list to reflect those changes. A person shall not engage in the onsite retail sale of cannabis or cannabis products, or in any way participate in the event, who is not included in the list, including any updates, provided to the department.

(2) The department may impose a civil penalty on any person who violates this subdivision, or any regulations adopted by the department governing state temporary event licenses, in an amount up to three times the amount of the license fee for each violation, consistent with Sections 26018 and 26038.

(3) The department may require the event and all participants to cease operations without delay if in the opinion of the department or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The department may also require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the department that

authorizes the participant to sell cannabis or cannabis products. If the unlicensed participant does not leave the event, the department may require the event and all participants to cease operations immediately.

(4) The order by the department for the event to cease operations pursuant to paragraph (3) does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision. Chapter 3 (commencing with Section 490) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to the order by the department for the event to cease operations pursuant to paragraph (3).

(5) The smoking of cannabis or cannabis products at temporary events authorized pursuant to this subdivision is prohibited in locations where smoking is prohibited. For purposes of this section, “smoking” has the same meaning as defined in subdivision (c) of Section 22950.5.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

(1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.

(2) Cannabis consumption is not visible from any public place or nonage-restricted area.

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(h) This division shall not be interpreted to supersede Section 6404.5 of the Labor Code.

SEC. 1.5. Section 26200 of the Business and Professions Code is amended to read:

26200. (a) (1) Except as set forth in the Medicinal Cannabis Patients’ Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) Except as set forth in the Medicinal Cannabis Patients’ Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require the department to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the department upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 60 days of being so informed, the department shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the department, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) (1) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities, at a minimum, comply with all the following:

(A) The requirements of paragraphs (1) to (3), inclusive, of subdivision (g).

(B) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed under this division to engage in that activity.

(C) The activities are otherwise consistent with regulations promulgated and adopted by the department governing state temporary event licenses, except as otherwise provided in paragraphs (6), (7), and (8).

(D) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

(E) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. If any changes occur in that list, the licensee shall provide the department with a final updated list to reflect those changes. A person shall not engage in the onsite retail sale of cannabis or cannabis products, or in any way participate in the event, who is not included in the list, including any updates, provided to the department.

(2) The department may impose a civil penalty on any person who violates this subdivision, or any regulations adopted by the department governing

state temporary event licenses, in an amount up to three times the amount of the license fee for each violation, consistent with Sections 26018 and 26038.

(3) The department may require the event and all participants to cease operations without delay if in the opinion of the department or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The department may also require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the department that authorizes the participant to sell cannabis or cannabis products. If the unlicensed participant does not leave the event, the department may require the event and all participants to cease operations immediately.

(4) The order by the department for the event to cease operations pursuant to paragraph (3) does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision. Chapter 3 (commencing with Section 490) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to the order by the department for the event to cease operations pursuant to paragraph (3).

(5) The smoking of cannabis or cannabis products at temporary events authorized pursuant to this subdivision is prohibited in locations where smoking is prohibited. For purposes of this section, “smoking” has the same meaning as defined in subdivision (c) of Section 22950.5.

(6) (A) All licensees who are issued a state temporary event license allowed pursuant to this subdivision may, upon completion or cessation of the temporary event, reconcile unsold inventory of cannabis or cannabis products and return it to the licensee’s retail premises.

(B) All unsold inventory of cannabis or cannabis products from the temporary event shall be noted in track and trace prior to transport.

(C) All unsold inventory of cannabis or cannabis products from the temporary event shall be in its original packaging in which it was placed pursuant to Chapter 12 (commencing with Section 26120).

(7) The inventory of cannabis or cannabis products authorized to be sold by a state temporary event license pursuant to this subdivision shall only be transported to and from the temporary event by a licensed distributor or licensed microbusiness.

(8) The department shall not deny an application for a state temporary event license pursuant to this subdivision solely on the basis that there is a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000)) for the proposed premises of the event. Furthermore, the Department of Alcoholic Beverage Control shall not take any disciplinary action against a person licensed pursuant to the Alcoholic Beverage Control Act on the basis of a state temporary event license issued by the department to a licensee pursuant to this subdivision that utilizes the same premises as the person licensed pursuant to the Alcoholic Beverage Control Act.

(A) All on- and off-sale privileges of alcoholic beverages at the venue shall be suspended for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(B) Alcohol consumption on the venue premises shall be strictly prohibited for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

(1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.

(2) Cannabis consumption is not visible from any public place or nonage-restricted area.

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(h) This division shall not be interpreted to supersede Section 6404.5 of the Labor Code.

(i) This section does not alter or affect the prohibition on the sale of alcoholic beverages by a licensee, as provided in Section 26054, on or at a venue premises licensed under this division.

SEC. 2. Chapter 26 (commencing with Section 26320) is added to Division 10 of the Business and Professions Code, to read:

CHAPTER 26. MEDICINAL CANNABIS PATIENTS' RIGHT OF ACCESS ACT

26320. The Legislature finds and declares as follows:

(a) Access to medicinal cannabis is an integral aspect of access to health care, and eliminating barriers to medicinal cannabis access is essential to promoting and preserving the health of Californians for whom physicians have recommended the use of cannabis or cannabis products.

(b) It is the policy of the state and the intent of the Legislature to ensure that Californians throughout the state have timely and convenient access to safe, effective, and affordable medicinal cannabis.

26321. (a) This act shall be known, and may be cited, as the Medicinal Cannabis Patients' Right of Access Act.

(b) For purposes of this chapter:

(1) "Medicinal cannabis" means medicinal cannabis or medicinal cannabis products, as those terms are defined in paragraph (1) of subdivision (ai) of Section 26001.

(2) “Medicinal cannabis business” means a retailer authorized to engage in the retail sale by delivery of medicinal cannabis to medicinal cannabis patients pursuant to an M-license.

(3) “Medicinal cannabis patient” means a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician’s recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

(4) “Regulation” means a local ordinance, regulation, policy, or practice.

26322. (a) A local jurisdiction shall not adopt or enforce any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers, or that otherwise has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction, including, but not limited to, regulation of any of the following that has the effect of prohibiting the retail sale by delivery of medicinal cannabis:

(1) The number of medicinal cannabis businesses authorized to deliver medicinal cannabis in the local jurisdiction.

(2) The operating hours of medicinal cannabis businesses.

(3) The number or frequency of sales by delivery of medicinal cannabis.

(4) The types or quantities of medicinal cannabis authorized to be sold by delivery.

(5) The establishment of physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted by a licensed nonstorefront retailer, except that this paragraph shall not be construed to require the establishment of additional physical premises in a local jurisdiction that allowed medicinal cannabis retail as of January 1, 2022, and in which at least one physical premises engaged in the retail sale of medicinal cannabis, whether storefront or delivery, is already established.

(b) Nothing in this chapter shall be construed to prohibit the adoption or enforcement of reasonable regulations on retail sale by delivery of medicinal cannabis, including, but not limited to, reasonable regulations related to:

(1) Zoning requirements that are not inconsistent with subdivision (a). If compliance with subdivision (a) would otherwise require a local jurisdiction to authorize a physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted, this paragraph shall not be construed to alter that requirement.

(2) Security or public health and safety requirements.

(3) Licensing requirements.

(4) The imposition, collection, and remittance of any applicable state or local taxes upon retail sales occurring within the local jurisdiction.

(5) Regulations consistent with requirements or restrictions imposed on cannabis businesses by this division or regulations issued under this division.

(c) Nothing in this chapter shall be construed to limit or otherwise affect the ability of a local jurisdiction to adopt or enforce any regulations on commercial cannabis operations other than retail sale by delivery of medicinal cannabis in the local jurisdiction.

(d) This section shall become operative on January 1, 2024.

26323. (a) This chapter may be enforced by an action brought pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure by any of the following parties, who shall be beneficially interested within the meaning of Section 1086 of the Code of Civil Procedure:

(1) A medicinal cannabis patient or their primary caregiver who seeks to purchase medicinal cannabis or medicinal cannabis products within the local jurisdiction.

(2) A medicinal cannabis business that seeks to offer medicinal cannabis for sale within the local jurisdiction.

(3) The Attorney General.

(4) Any other party otherwise authorized by law.

(b) This section shall not be construed to limit the availability of any other remedy otherwise available to enforce this chapter. The existence of any other remedy shall not restrict the availability of relief to enforce this chapter under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

(c) This section shall become operative on January 1, 2024.

26324. Nothing in this chapter shall be construed to limit or otherwise affect the ability or right of a local jurisdiction to regulate adult-use cannabis pursuant to Section 26200.

26325. This chapter addresses a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 26200 of the Business and Professions Code proposed by both this bill and Assembly Bill 2210. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 26200 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2210, in which case Section 1 of this bill shall not become operative.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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SENATE THIRD READING
SB 1186 (Wiener)
As Amended August 22, 2022
Majority vote

SUMMARY

Prohibits local governments from banning, or effectively banning, the delivery of medicinal cannabis to patients or primary caregivers within their jurisdictions, enforceable through an action for writ of mandate.

Major Provisions

- 1) Prohibits a local jurisdiction from adopting or enforcing any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers.
- 2) Additionally prohibits a local jurisdiction from adopting or enforcing any regulation that has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities sufficient to meet demand from medicinal cannabis patients within the local jurisdiction.
- 3) Expressly prohibits regulation of any of the following, to the extent that regulation has the effect of prohibiting the retail sale by delivery of medicinal cannabis:
 - a) The number of medicinal cannabis businesses authorized to deliver medical cannabis in the local jurisdiction.
 - b) The operating hours of medicinal cannabis businesses.
 - c) The number or frequency of sales by delivery of medicinal cannabis.
 - d) The types or quantities of medicinal cannabis authorized to be sold by delivery.
 - e) The establishment of physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted by a licensed nonstorefront retailer, except in a local jurisdiction that allowed medicinal cannabis retail as of January 1, 2022, and in which at least one physical premises engaged in the retail sale of medicinal cannabis, whether storefront or delivery, is already established.
- 4) Clarifies that the bill does not prohibit the adoption or enforcement of reasonable regulations on retail sale by delivery of medicinal cannabis, including, but not limited to, reasonable regulations related to:
 - a) Zoning requirements that are not inconsistent with the prohibition against banning medicinal cannabis delivery; if compliance with that prohibition would otherwise require a local jurisdiction to authorize a physical premises from which delivery of medicinal cannabis within the jurisdiction is conducted, that requirement wouldn't be altered.
 - b) Security or public health and safety requirements.

- c) Licensing requirements.
 - d) The imposition, collection, and remittance of any applicable state or local taxes upon retail sales occurring within the local jurisdiction.
 - e) Regulations consistent with requirements or restrictions imposed on cannabis businesses under current law and regulations.
- 5) Clarifies that the bill does not limit or otherwise affect the ability of a local jurisdiction to adopt or enforce any regulations on commercial cannabis operations other than retail sale by delivery of medicinal cannabis in the local jurisdiction.
- 6) Delays the effective date of the bill's provisions relating to the prohibition against bans on medicinal cannabis delivery until January 1, 2024.
- 7) Beginning January 1, 2024, provides that this bill's provisions may be enforced by an action for writ of mandate by any of the following beneficially interested parties:
- a) A medicinal cannabis patient or their primary caregiver who seeks to purchase medicinal cannabis or medicinal cannabis products within the local jurisdiction.
 - b) A medicinal cannabis business that seeks to offer medicinal cannabis for sale within the local jurisdiction.
 - c) The Attorney General.
 - d) Any other party otherwise authorized by law.
- 8) Clarifies that the bill's provisions authorizing enforcement by an action for writ of mandate does not limit the availability of any other remedy otherwise available to enforce the law, and that the existence of any other remedy does not restrict the availability of relief.
- 9) Explicitly provides that the bill does not limit or otherwise affect the ability or right of a local jurisdiction to regulate adult-use cannabis.

COMMENTS

While the federal illegality of cannabis has historically limited clinical research, cannabis has long been believed to have therapeutic value and has been used as medicine by numerous cultures. Cannabinoids contained within the plant, including tetrahydrocannabinol (THC), have been demonstrated to be effective at treating chemotherapy-induced nausea, chronic pain, anorexia, and other conditions. During the height of the AIDS crisis in San Francisco in the 1980s, cannabis was commonly ingested to help alleviate the effects of wasting syndrome, with activists like "Brownie Mary" Rathbun and Dennis Peron championing access to the plant for patients. In 1995, the Legislature passed AB 1529 (Vasconcellos) to establish a medical necessity defense for patients using cannabis with a physician's recommendation; this bill was vetoed by Governor Pete Wilson.

Subsequently, in 1995, California became the first state to make the consumption of cannabis lawful when voters approved Proposition 215, the Compassionate Use Act, in 1996. Proposition 215 protected patients and caregivers from prosecution relating to the possession and cultivation

of cannabis for medicinal purposes, if recommended by a physician. The initiative prohibited physicians from being punished or denied any right or privilege for making a medicinal cannabis recommendation to a patient. Proposition 215 also included findings and declarations encouraging the federal and state governments to implement a plan to provide for the safe and affordable distribution of cannabis to patients with medical needs.

After several attempts to improve the state's regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act – subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA) – in 2015. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state's cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), allowing for sales of cannabis for recreational use. In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by this bill – known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) – created a unified series of cannabis laws.

As of January 9, 2019, the collective and cooperative model for medical marijuana dispensaries, as authorized under Proposition 215, was formally sunset, and any dispensary that was in place under the Compassionate Use Act was required to obtain a license under MAUCRSA. In the months following that transition date, many expressed concern that the state's new regulatory framework insufficiently accommodated existing patients who use cannabis for medicinal purposes. Because the MAUCRSA allows localities to completely ban cannabis sales within their jurisdictions, many patients arguably have less access to cannabis than they did under the old Proposition 215 system.

According to data recently provided by the Department of Cannabis Control (DCC), 62% of local governments currently ban all forms of cannabis retail. While a handful of jurisdictions have specifically authorized only sales of medicinal cannabis goods, most local governments have taken an "all or nothing" approach to regulation, either allowing both adult use and medicinal cannabis activity or neither. This bill is intended to prevent local governments from making medicinal cannabis impossible to procure within their jurisdictions without in any way impacting their ability to ban adult use.

Further, this bill would only require medicinal cannabis to be made available through delivery. No local government would be required to license or permit storefront retail, allowing cities and counties that have resisted the presence of cannabis businesses as contrary to the character and culture of their communities to continue banning brick and mortar establishments where cannabis may be purchased onsite. Instead, cannabis would be available, at a minimum, through either delivery from a non-storefront retailer located within the jurisdiction, or from a retailer located outside the jurisdiction, depending on how the local government chooses to comply with the law.

While this bill enumerates several general types of regulation that could be restricted, any ordinances would only be disallowed to the extent that they "have the effect of prohibiting the

retail sale by delivery of medicinal cannabis." For example, this bill's reference to local regulations of "the operating hours of medicinal cannabis businesses" would not prohibit a local government from placing reasonable restrictions on what hours a business can operate, and the DCC's existing regulations prohibiting retail activity between 10 p.m. and 6 a.m. would still apply. What a local government would not be authorized to do is, as an example, allow medicinal cannabis delivery to only occur for twenty minutes at 7 a.m. every fourth Tuesday.

Determination of what local regulations would "have the effect of prohibiting the retail sale by delivery of medicinal cannabis" would ultimately be the responsibility of the courts. Because the bill's primary enforcement mechanism would be actions for writ of mandate by private parties and the Attorney General, the petitioners would have to argue that while a local regulation does not expressly ban medicinal cannabis delivery, it contains restrictions that diminish access to the extent where obtaining medicinal cannabis through delivery is excessively impractical. This language would give local governments flexibility to determine precisely how they desire to meet the bill's requirements while safeguarding against the passage of draconian ordinances intended to circumvent the intent of the bill.

According to the Author

"Senate Bill 1186 provides Californians with access to safe and tested medical cannabis by requiring local jurisdictions to allow the sale of medical cannabis products by delivery. The bill only applies to delivery and only applies to medical cannabis. Moreover, this bill does not amend or in any way change Prop 64 and does not in any way subvert the will of the voters who supported Prop 64. Under SB 1186, jurisdictions may not prohibit the sale of medical cannabis and can remain in compliance with this bill by limiting the sale of medical cannabis to delivery only. SB 1186 also prohibits local jurisdictions from enacting restrictions on businesses providing medical cannabis products to patients and caregivers that have effect of prohibiting sales. SB 1186 respects the voters' intent, fixes a mistake made by the Legislature when consolidating medical and adult-use cannabis under one regulatory framework, and ensures that Californians have timely and convenient access to safe, effective, and affordable medicinal cannabis and cannabis products."

Arguments in Support

The *California Cannabis Industry Association* (CCIA) is sponsoring this bill. CCIA writes: "Cancer patients looking for relief from painful symptoms and treatment; veterans looking for a nonpharmaceutical alternative for PTSD-related sleep issues and stress, and chronic pain sufferers looking for a safe, long-term alternative to opioids - these are the people for whom California wrote the Compassionate Care Act of 1996, and the people to whom we owe a duty of loyalty today. SB 1186 seeks to right this wrong and prioritize patient health by prohibiting local jurisdictions from adopting or enforcing any regulation that blocks the legal sale by delivery of legal cannabis products to qualified medicinal cannabis patients."

Arguments in Opposition

The *Public Health Institute* opposes this bill, writing: "We are particularly concerned by the proposal to restrict the authority of local government to limit sale of certain more harmful products marketed by the cannabis industry, for example ones that imitate candies and food products, use flavors in the same way that Juul sold fruit-flavored vapes to attract youth, or imitate "alcopops" known to be used to initiate youth drinking. The Department of Cannabis Control has consistently failed to address these pressing problems, and Attorney General Bonta

has called attention to the problem of cannabis products imitating candies and food brands marketed to children."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, minor and absorbable costs to the DCC; cost pressure possibly in the low hundreds of thousands of dollars in increased staff workload to the trial courts to hear and adjudicate Medicinal Cannabis Patients' Right of Access Act case; and costs to local governments of an unknown amount to meet the bill's requirements.

VOTES

SENATE FLOOR: 22-9-9

YES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hueso, Kamlager, Laird, Leyva, McGuire, Min, Pan, Portantino, Roth, Skinner, Stern, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Archuleta, Caballero, Glazer, Hertzberg, Hurtado, Limón, Newman, Rubio, Umberg

ASM BUSINESS AND PROFESSIONS: 13-2-4

YES: Berman, Mia Bonta, Gipson, Grayson, Irwin, Lee, McCarty, Medina, Calderon, Ting, Akilah Weber, Friedman, Wicks

NO: Megan Dahle, Fong

ABS, ABST OR NV: Flora, Chen, Cunningham, Cristina Garcia

ASM JUDICIARY: 9-2-0

YES: Stone, Cunningham, Bloom, Haney, Kalra, Maienschein, Reyes, Mia Bonta, Wicks

NO: Davies, Kiley

ASM APPROPRIATIONS: 12-4-0

YES: Holden, Bryan, Calderon, Arambula, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, McCarty

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: August 22, 2022

CONSULTANT: Robert Sumner / B. & P. / (916) 319-3301

FN: 0003799



City Council Staff Report

DATE: February 6, 2019

AGENDA ITEM NO: Old Business
Agenda Item 2-A

TO: The Honorable Mayor and City Council
FROM: Natalie C. Karpeles, Deputy City Attorney
SUBJECT: Consideration and possible action to introduce Ordinance No. _____ -
An Ordinance to amend the MPMC by enacting various provisions to
enforce the City-Wide Prohibition upon cannabis activities not
otherwise allowed by California law.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Introducing and waiving first reading of an ordinance establishing various enforcement tools against unlicensed cannabis facilities. Second reading and adoption would be scheduled for February 20, 2019;
2. Alternatively, discuss and take other action related to this item.

EXECUTIVE SUMMARY:

If adopted, the draft ordinance declares unlicensed cannabis facilities to be public nuisances and authorizes the City Manager, City Attorney, and Building Official to abate such nuisances. Among other things, the ordinance would establish a maximum \$5,000 daily fine for the continued operation of an unlicensed cannabis facility. Separately, effective January 1, 2019, Government Code § 53069.4 the City to enact an ordinance providing for the *immediate* imposition of administrative fines or penalties for violations of building, plumbing, electrical or other similar structural, health, safety or zoning regulations, where these violations exist as a result of, or to facilitate, illegal cannabis activities.

DISCUSSION:

While the MPMC prohibits commercial cannabis activities throughout the City, scofflaws often engage in illegal cannabis operations. To avoid detection, illegal cannabis cultivation operations often take place in homes, strip malls and warehouses and almost always include unlawful diverting or tampering with electricity and/or water; and the creation of health and safety hazards (such as risk of fire; unpermitted construction/alterations; inadequate ventilation; and mold growth).

To help combat such illegal activity, the draft ordinance would implement the following:

- It authorizes the Building Official to shut off utilities to unlicensed cannabis facilities;
- It authorizes a maximum daily penalty of \$5,000 for failure to remove an unlicensed cannabis facility;
- It makes the person or persons creating, causing, committing or maintaining any an unlicensed cannabis facility including, without limitation, any person owning, leasing, occupying or having charge or possession of real property, responsible for removing the facility and paying the penalty;
- Authorizes the City Attorney's office to enforce the regulations without further direction from the City Council and recover attorney's fees for such enforcement; and
- (Per Government Code § 53069.4 as effective January 1, 2019) allows the City immediately impose administrative fines or penalties for health and safety violations attributable to illegal cultivation of cannabis when all of the following are true:
 - A tenant possesses the property that is subject to administrative action;
 - The rental property owner or agent provides evidence that the rental or lease agreement prohibits cannabis cultivation; and
 - The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

Nothing in the draft ordinance precludes the City from undertaking other enforcement efforts including, without limitation, criminal prosecution.

FISCAL IMPACT:

There are no identifiable fiscal impacts associated with the recommended action.

Respectfully submitted by:



for Natalie C. Karpeles,
Deputy City Attorney

ATTACHMENT 1: Draft Ordinance

CITY OF MONTEREY PARK

ORDINANCE NO. 2158

AN ORDINANCE ADOPTED PURSUANT TO THE CITY'S POLICE POWERS AND GOVERNMENT CODE § 53069.4 TO AMEND THE MONTEREY PARK MUNICIPAL CODE BY ENACTING VARIOUS PROVISIONS TO ENFORCE THE CITY-WIDE PROHIBITION UPON CANNABIS ACTIVITIES NOT OTHERWISE ALLOWED BY CALIFORNIA LAW.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds and determines as follows:

- A. Article XI, § 7 of the California Constitution empowers the City to enact and enforce ordinances regulating conditions that may be public nuisances or health hazards, or that promote social, economic, or aesthetic considerations.
- B. Government Code § 38771 permits general law cities to identify public nuisances by ordinance.
- C. Code of Civil Procedure § 731 permits civil actions to be brought in the name of the people of the state of California to abate public nuisances.
- D. Government Code § 53069.4 authorizes the City Council to subject violations of the MPMC to administrative fines or penalties. To impose such penalties, the Government Code generally requires that the City provide a reasonable time to remedy a violation before the fines can be imposed; especially where the violation pertains to building, plumbing, electrical or other similar issues (collectively, "uniform code violations").
- E. Effective January 1, 2019, the City may also enact an ordinance providing for the immediate imposition of administrative fines or penalties for uniform code violations where these violations resulted from illegal cannabis cultivation.
- F. The Federal Controlled Substances Act, 21 U.S.C. § 801, et seq., classifies cannabis as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, cannabis.
- G. The penalties for violating federal law include fines between \$10,000 and \$50,000 (21 U.S.C. § 841) for first time offenders. California law

has similar provisions (see, e.g., Health and Safety Code §§ 11372 and 11379.6).

- H. As of the effective date of this Ordinance, the City has not authorized any commercial cannabis activity within its jurisdiction. To the contrary, Monterey Park Municipal Code ("MPMC") § 21.46.020 explicitly prohibits such activity.
- I. The City's ability to abate public nuisances through its police powers is well-established (see, e.g., Civil Code §§ 3479, 3480; *People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090; *People v. Greene* (1968) 264 Cal.App.2d 774).
- J. City's ability to recover its nuisance abatement costs through local regulations, including, without limitation, reasonable attorney's fees, is also recognized (see *City of Santa Paula v. Narula* (2003) 114 Cal.App.4th 485, *reh'g. den.* 2004; *City of Flagstaff v. Atchison, Topeka and Santa Fe Railway Co.* (9th Cir. 1983) 719 F.2d 322).
- K. A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") was approved by voters on the November 2016 ballot. AUMA does not, and cannot, affect federal regulations as to cannabis or its derivatives.
- L. AUMA expressly preserves local control over the regulation of cannabis-related businesses and cannabis-related land uses (Business & Professions Code § 26200, *et seq.*).
- M. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . ." Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . ." The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of cannabis under its land use authority.
- N. It is in the public interest for the City to take appropriate actions to protect citizens and their property from conditions that threaten public health, safety, and welfare including, without limitation, matters that devalue real property.
- O. A review of the Monterey Park Municipal Code ("MPMC") shows that it

is desirable to update nuisance regulations including, without limitation, provisions prohibiting and abating unlicensed cannabis facilities.

SECTION 2: MPMC § 4.20.100 is amended as follows:

“4.20.100 Notice of violation/compliance order.

- A. Before issuing an administrative citation for a violation of a building, plumbing, electrical, mechanical or zoning regulation that does not present an immediate danger to health or safety, the enforcement officer must first issue a written notice of violation/compliance order to the responsible person. The notice of violation/compliance order must contain all of the following:
 - 1. The date on which, and geographic location where, the violation was observed;
 - 2. The code section violated;
 - 3. A description of the conditions causing the code violation;
 - 4. A description of the action required to correct the violation;
 - 5. A reasonable time period for the correction of the violation;
 - 6. Notice that if the violation is not corrected by the date specified in the notice of violation/compliance order, that an administrative citation may be issued and administrative fines imposed for failure to correct violations by the date specified.
- B. Notwithstanding the foregoing, if the responsible person is violating building, plumbing, electrical, or other similar structural or zoning regulations as a result of, or to facilitate, the prohibited cultivation of cannabis, the enforcement officer may immediately issue a citation unless all of the following are true:
 - 1. A tenant is in possession of the property;
 - 2. The property owner provides evidence that the rental or lease agreement prohibits cultivation of cannabis; and
 - 3. The property owner could not have known of the illegal cannabis cultivation.
- C. This section does not apply for a second or subsequent violation of the

same regulation within one year of the first violation.”

SECTION 3: California Building Code § 110.11, as adopted by Monterey Park Municipal Code (“MPMC”) § 16.05.010, is amended to read as follows:

“110.11 Authority to Disconnect Utilities. The Building Official or Fire Marshal is authorized and empowered to cause or order the disconnection or discontinuance of utility service to a building, structure, premises, system, equipment, fixture, or device that is regulated by this Code or by the referenced codes and standards set forth in Section 101.4, or elsewhere in the Bellflower Municipal Code (“MPMC”) (i) when necessary to eliminate or mitigate an immediate hazard to life, health, safety, or property; or (ii) when such building, structure, system, equipment, fixture, or device, or any utility service thereto, has been installed, equipped, altered, or used without requisite approvals, permits, or inspections; or (iii) when such building, structure, premises, system, equipment, fixture or device is found to be an unlicensed cannabis facility as provided by MPMC Chapter 6.35.

The Building Official or Fire Marshal must attempt to notify the serving utility, and wherever possible the owner and occupant of the building, structure, premises, system, equipment, fixture, or device, of the decision to disconnect before taking such action; provided that the Building Official or Fire Marshal may dispense with any attempt at prior notification if, in the sole discretion of the Building Official or Fire Marshal, the nature or severity of the hazard justifies such inaction. If not notified before disconnecting, the Building Official or Fire Marshal must notify the owner or occupant of the building, structure, premises, system, equipment, fixture, or device in writing of the disconnection as soon as practical thereafter.

The utility service must remain disconnected or discontinued until the Building Official or Fire Marshal releases the utility service. The Building Official or Fire Marshal cannot ~~must not~~ release the utility service until (i) the imminent hazard has been abated or eliminated; or (ii) all requisite approvals, permits, and inspections have been obtained for the building, structure, system, equipment, fixture, or device, or any utility service thereto.”

SECTION 4: MPMC Chapter 21.46 is renumbered to Chapter 6.35 in Title 6 and amended in its entirety to read as follows:

“Chapter 6.35 COMMERCIAL CANNABIS ACTIVITIES

6.35.010 *Purpose.*

This Chapter is adopted pursuant to the city's police powers; Government Code §§ 38771-38773.7, 53069.3, and 53069.4, including any successor statutes; and Civil Procedure Code § 731, including any successor statutes, for the purposes of designating unlicensed cannabis facilities as public nuisances; authorizing abatement of such nuisances; and imposing criminal and civil penalties upon persons for causing or permitting such public nuisances. Nothing contained in this chapter is intended to, nor will it, preclude the City from pursuing any other available civil or criminal remedies concurrently or in addition to the proceedings established by this chapter to enforce this Code.

6.35.020 *Findings.* The City Council finds as follows:

- A. Unlicensed cannabis facilities result in blight, decrease property values and deprives surrounding residents and owners of the right to comfortable enjoyment of life and property.
- B. Unlicensed cannabis facilities are obnoxious, constitute a public nuisance, and are in an immediate threat to public safety which must be abated to prevent their proliferation.
- C. Unlicensed cannabis facilities must be removed as quickly as possible to minimize harm to persons and property in the community.

6.35.030 *Prohibition.*

Unless otherwise provided by California law, commercial cannabis activity is prohibited within the City of Monterey Park. No use permit, variance, building permit, or any other entitlement, license, or permit, whether ministerial or discretionary, may be issued or approved for any commercial cannabis activity in the City, and it is unlawful for any person to establish or conduct such activities in the City.

6.35.040 *Definitions.*

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter. Words and phrases undefined in this Code have the same meaning as set forth in the Compassionate Use Act; the Medical Cannabis Program Act; the Control, Regulate and Tax Adult Use of Cannabis Act; or the Medicinal and Adult-Use Cannabis Regulation and Safety Act:

- A. "Commercial cannabis activity" includes cultivation, possession,

manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product.

- B. "Facility" means a building or other structure at which commercial cannabis activity occurs including, without limitation, a medical marijuana collective.
- C. "Incidental expenses" include, without limitation, actual expenses, city administrative costs and other costs of the city of all previous code enforcement efforts, the preparation of the abatement work specifications, contracts, and staff time in inspecting the work, as well as the costs of printing, posting and mailings required by this chapter.
- D. "Responsible person" means any person or persons creating, causing, committing or maintaining any public nuisance as defined by this chapter including, without limitation, any person owning, leasing, occupying or having charge or possession of real property.
- E. "Unlicensed cannabis facility" means any facility engaging in commercial cannabis activity within the City.

6.35.050 *Nuisances – Designated.*

It is unlawful and it is declared to be a public nuisance for any responsible person to allow an unlicensed cannabis facility to operate on real property. This section is not the exclusive definition or designation of what constitutes a nuisance within this city. It supplements and is in addition to other regulatory codes, statutes, and ordinances enacted by the city, state, or any other legal entity or agency having jurisdiction.

6.35.060 *Abatement Authority.*

The city manager, city attorney, building official, and fire chief are authorized to abate public nuisances summarily or otherwise in the manner provided by this chapter.

6.35.070 *Abatement of Nuisance.*

Except as specifically provided otherwise by this chapter, the procedural requirements set forth in Chapter 4.30 apply to abating unlicensed cannabis facilities.

6.35.080 *Recovery of Costs from Responsible Person.*

The costs of abatement may be recovered as set forth in this chapter or other applicable law

6.35.090 *Failure to Remove Unlicensed Cannabis Facility.*

In addition to any abatement costs incurred by the city for closing or removing unlicensed cannabis facilities from private property, failure to voluntarily abate an unlicensed cannabis facility after notification will result in the penalties set forth in this chapter.

6.35.100 *Penalty.*

- A. Any person who violates any provision of this chapter for which no other penalty is otherwise provided is guilty of a misdemeanor.
- B. Any responsible person failing to cease operating an unlicensed cannabis facility or removing it upon direction by the city manager, or designee, within the prescribed time period may be liable to the city for a maximum civil penalty of \$5,000 per violation per day.
- C. Filing a suit for civil penalties is not a bar against, or a prerequisite for, taking other enforcement action, whether criminal, civil or administrative, against a responsible person.

6.35.110 *Additional Recovery.*

Nothing in this chapter is intended to limit the city's additional remedies for recovering taxes or damages in accordance with any applicable law including, without limitation:

- A. Failure to pay business license taxes as required by this code
- B. Damages owed to the city pursuant for engaging in unlawful business practices in accordance with Business and Professions Code § 17200, et seq.

6.35.120 *City Attorney Enforcement.*

- A. The City Attorney is authorized, without further direction from the City Council, to undertake any or all of the following as to unlicensed cannabis facilities:
 - 1. Commencing a civil action in the superior court to enforce all or any of the provisions of any abatement order;

2. Commencing a civil action to abate a public nuisance as an alternative to or in conjunction with an administrative proceeding pursuant to this chapter;
 3. Filing a civil action to recover the amount of a confirmed accounting from a responsible person;
 4. Filing a criminal action to enforce this Code;
 5. Enjoining unlicensed cannabis facilities as unfair business practices that are presumed to nominally damage each and every resident of the community in which the unlicensed cannabis facility operates.
- B. Any person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future violations or to recover actual damages.
- C. The remedies provided by this chapter are cumulative and in addition to any other criminal or civil remedies.
- D. Where a civil action is filed, the prevailing party is entitled to reasonable attorneys' fees, but is limited by the amount of attorneys' fees claimed by the city pursuant to Government Code § 38773.5. If the court issues an order or a judgment which finds a public nuisance to exist, and orders or approves the abatement of the public nuisance, or where the court validates an accounting, the court will also award the city its actual costs of abatement, including, without limitation, reasonable attorneys' fees incurred by the city in such judicial proceeding."

SECTION 5: Environmental Assessment. The City Council finds that the Ordinance is not subject to review under the California Environmental Quality Act ("CEQA") under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment. Adopting this Ordinance will not have the effect of deleting or substantially changing any regulatory standards or required findings. This Ordinance would not result in any development or changes to the physical environment. Following an evaluation of possible adverse impacts, it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment.

SECTION 6: Validity of Previous Code Sections. If the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the MPMC or other regulation by this Ordinance will be rendered void and cause such MPMC provision or other regulation to remain in full force and effect for all purposes.

SECTION 7: *Reliance on Record.* Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 8: *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are limitations on the City's ability to solve what are in effect regional, state, and National problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 9: *Preservation.* Repeal or amendment of any previous Code Sections does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

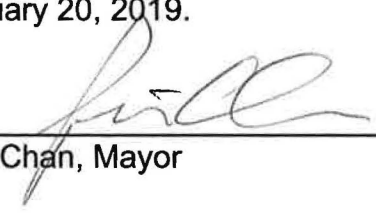
SECTION 10: *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Ordinance are severable.

SECTION 11: *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

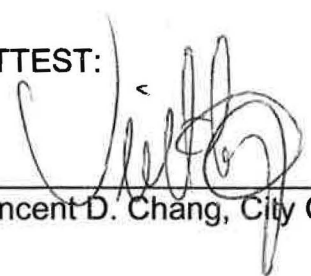
SECTION 12: The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within ten (10) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 13: This Ordinance will take effect on the 30th day following its final passage and adoption.

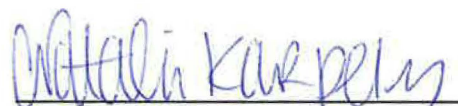
PASSED, APPROVED, AND ADOPTED February 20, 2019.


Peter Chan, Mayor

ATTEST:


Vincent D. Chang, City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

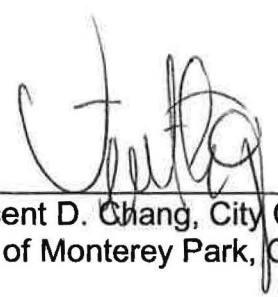
By: 
Natalie C. Karpeles, Deputy City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF MONTEREY PARK)

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Ordinance No. 2158 was introduced, and placed upon its first reading at a regular meeting of the City Council of the City of Monterey Park, held on the 6th day of February, 2019. That thereafter on the 20th day of February, 2019, said Ordinance was duly passed, approved and adopted by the following vote:

Ayes:	Council Members: Lam, Ing, Liang, Chan
Noes:	Council Members: Real Sebastian
Absent:	Council Members: None
Abstain:	Council Members: None

Dated this 20th day of February, 2019.


Vincent D. Chang, City Clerk
City of Monterey Park, California



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3D

TO: The Honorable Mayor and City Council
FROM: Matthew Hallock, Fire Chief
SUBJECT: State Homeland Security Program – Award of Contract to Nappi Fabrications, for the Purchase of a Customized Trailer

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the Interim City Manager to execute an agreement with Nappi Fabrications, in a form approved by the City Attorney, to purchase a customized trailer, for the amount of \$172,640.77;
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

The County of Los Angeles is a Subgrantee of the State Homeland Security Program (SHSP) that is provided by the U.S. Department of Homeland Security. Per the subrecipient agreement, the County of Los Angeles is authorized to enter into a subrecipient agreement with the City of Monterey Park. A portion (\$112,000) of the grant funds awarded to the City of Monterey Park for the 2021 SHSP grant year is earmarked for a customized trailer, Base of Operations.

In accordance with MPMC Chapter 3.20, staff completed a bidding process to identify a qualified vendor. The Request for Bids was advertised on the city's website as well as disseminated to potential vendors. One bid was received, Nappi Fabrications. Nappi Fabrications has extensive experience in the field. Most notably, the vendor customized a trailer for the City of San Marino's Police Department, as well as the Southern California Gas Company.

Staff recommends the City Council authorize the Interim City Manager to execute an agreement, in a form approved by the City Attorney, with Nappi Fabrications for an amount not to exceed \$172,640.77. The trailer will be used by Monterey Park's Fire Department, Urban Search and Rescue crew during large-scale disasters, such as, but not limited to earthquakes, floods, and or search and rescue operations. The equipment will benefit both the residents of Monterey Park as well as Regional Task Force Four (4), which encompasses Glendale, Arcadia, Pasadena, Monrovia, San Gabriel and Alhambra.

BACKGROUND:

Monterey Park Fire Department must keep pace with public safety needs in the city and region. Per the subrecipient agreement, “this financial assistance is being provided to the Subrecipient in order to address the unique equipment, training, organization, exercise and planning needs of the Subrecipient, and to assist the Subrecipient in building effective prevention and protection capabilities to prevent, response to, and recover from threats or acts of terrorism.” Monterey Park Fire Department has been awarded SHSP grants in the past and seeks City Council approval for the purchase of a customized trailer, to deploy for emergency management operations.

FISCAL IMPACT:

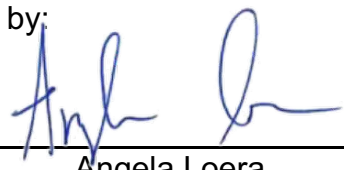
The City of Monterey Park received \$112,000 for the 2021 SHSP grant year. Grant funds of \$112,000 and General Funds have been budgeted in Fiscal Year 2023-2024 budget. No additional funds are requested to cover the total cost of the purchase, \$172,640.77.

Respectfully submitted by:



Matthew Hallock
Fire Chief

Prepared by:



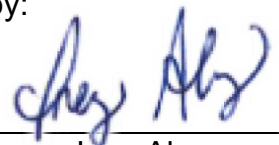
Angela Loera
Principal Management Analyst

Reviewed by:



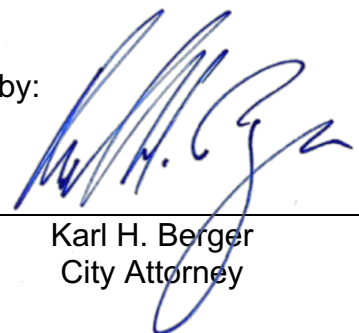
Martha Garcia
Director of Finance

Approved by:



Inez Alvarez
Interim City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Bid – Nappi Fabrications

ATTACHMENT 1

Bid – Nappi Fabrications

C.BID

The following:

Company Name:	Nappi Fabrications
Address:	1291 N. Patt St., Anaheim, CA 92801

Build in Submits its Price Quote for Project Name: Base of Operation, in compliance with the attached requirements as follows:

Total Price Quote "LUMP SUM":	\$ 156,590.27
The prices must include any and all costs, including labor, materials, appurtenant expenses, taxes, royalties and any and all other incidental costs to complete the project, in compliance with this Bid and all applicable law and standards. All other work items not specifically listed in the above items and/or not shown on the Bid, but are necessary to complete the work per all applicable law and standards are assumed to be included in the bid prices.	

Authorized Signature:

Name and Title:

Tel:

Date:



Jason Nappi, Owner

714-261-7433

E-mail:

ultrahaulers@gmail.com

6/28/23

Nappt Fabrication Designs

1291 N. Patt Street
 Anaheim, CA 92801
 UltraHaulers@Gmail.Com
 www.UltraHaulers.om



Estimate

ADDRESS

City of Monterey Park
 320 West Newmark Avenue
 Monterey Park, CA 91754-
 2896

SHIP TO

City of Monterey Park
 320 West Newmark Avenue
 Monterey Park, CA 91754-
 2896

ESTIMATE # 3848**DATE 06/29/2023**

ACTIVITY	QTY	RATE	AMOUNT
Enclosed Trailer	1	156,590.27	156,590.27T
Fifth wheel 36' 28+8 triple 7000# axles with hydraulic drum brakes on slipper springs and electric over hydraulic brake unit. (Lifetime warranty) on chassis to original owner as long as it's used for the original purpose for the life of the unit)			
Standard Features	1	0.00	0.00T
Standard features include: Minimum 6'6" headroom in the front room over the fifthwheel (ALL TUBE CHASSIS) Main rails to be minimum 2 x 8 x .188 Floor joist to be 2 x 2 x .083 minimum 16" on center Roof and wall beams to be 1.5 x 1.5 x .065 x minimum 24" on center Ramp door 3000Lb. Cap. with spring assist and stainless twist lock latches and triple grease hinges 32 x 80 side entry door 1 Pc. seamless roof coil 3/4 plywood floor Tandem axles with leaf spring suspension 1 with brakes 235/80/16 Commercial truck trailer tires 2" king pin box Dual safety chains with big hooks and spring latch Dual leg landing gear with individual leg control switches Foam core insulated 3M bonded smooth side .040 full hard white exterior New 3" trim with radius bottom and fender drop			

ACTIVITY	QTY	RATE	AMOUNT
Parts (2) 110V LED lights 1 ceiling light 12v AC heat pump as listed in above body. Trailer will have 2 AC heat pump units	1		0.00T
Parts U shape at desk height counter top 32" height and 24" deep	1		0.00T
Cabinet Upper Overhead cabinet Will mirror the U desk above (3) 24 x 18 x 18 (2) 48 x 18 x 18 (2) 24 x 18 x 18 All cabinets will have slam latches for security while in transit.	7		0.00T
Parts Under cabinet lighting (6) 110v or single LED strip under each section withy dedicated switch per section	1		0.00T
Parts Windows to be 1/2 slider with screens approximately 16" tall and 24" wide in specific locations above desk or work bench height	2		0.00T
Parts (6) 110v outlets all around the desk area	6		0.00T
Parts Cabinet on the back wall approximately 72" wide 24" deep locker style for teams personal gear	1		0.00T
Parts Mount customers TV and TV mount bracket including all necessary wiring and 2 CAT 5 cables	1		0.00T
Parts Install customers Radios electronics and antennas and test	1		0.00T
~~Services~~ Exterior passenger side			
Parts Awning 20' passenger side starting from the entry door back	1		0.00T
Pit lights (4) LED 12V 11" light bar in a custom powder coated recessed pan. Mount at entry door height under the awning height	1		0.00T
Parts (2) exterior outlets with weather resistant cover 20 Amp	2		0.00T
Parts Exterior TV provision with lift up door install customers supplied TV and mount bracket	1		0.00T
~~Services~~ Outside cabinet under fifth wheel			
Parts Inside t he cabinet will house the generator inverter (2) deep cycle batteries breaker and	1		0.00T

ACTIVITY	QTY	RATE	AMOUNT
outs			
Parts Walk on roof includes 3/4 plywood underlayment	13		0.00T
Parts Stabilizer Rear scissor jacks	1		0.00T
Hydraulic Jack 12k (tox) Dual Hydraulic Jack, 12k	2		0.00T
A/C Demotic Brisk 15k Brisk 15k Heating/Cooling Unit, White	2		0.00T
A/C Ceiling Assembly 15k, Single Zone, White Air Distribution Box, Ceiling Assembly, White	2		0.00T
Pit lights LED 12V 11" light bar in a custom powder coated recessed pan 4 on the pit side 2 DS and 2 over the ramp door	8		0.00T
Parts Exterior TV prevision recessed in the wall with a flip up door on gas struts	1		0.00T
Coin Flooring Coin Flooring, Black (Use 2 part epoxy) per Ft. Installed complete floor and ramp	44		0.00T
Paneling White .040 aluminum panels (laminated) includes carpeted upper corners and fenders per Pc. (Foam core insulated)	20		0.00T
Paneling Inside driver side wall to be White (Dry Erase) panels 1/8 (laminated)	10		0.00T
Parts Fold up work bench Approximately 18" x 96"	2		0.00T
Cabinet Upper Overhead cabinet approximately 16" tall face 12" deep and 8' long melamine doors and slam latches	3		0.00T
Parts Desk height counter front room 12'	12		0.00T
Parts 40" height counter back room 14'	14		0.00T
Parts stair case to upper deck	1		0.00T
Parts Devider wall with sliding door	1		0.00T
Parts Cubby style locker in front room	1		0.00T
110V System 110V System includes (6) LED ceiling lights individually switched and labeled. Also includes all necessary outlets, panel and power inlet, power to AC units refrigerator TV's Etc. minimum 2 exterior outlets per side	1		0.00T

ACTIVITY	QTY	RATE	AMOUNT
6V Battery (T-105 Plus) 6V Battery, FLD, 225AH, 447RC, ELPT, FLIP	4		0.00T
Battery Box, 6V Single Battery Box	4		0.00T
Parts Inverter minimum 2000 watts with charging included	1		0.00T
Parts Install customers solar charging kit	1		0.00T
Parts Install customers Starlink satellite dish	1		0.00T
Parts Install customers TV and bracket includes all necessary electrical connections	1		0.00T
Generator 7K Gas, EVAP Gasoline Generator 7K Onan	1		0.00T
Generator compartment Sealed and insulated compartment with access door	1		0.00T
Fuel System 40 gallon ECI tank with the fill on the driver side and the station on the pit side just in front of the axle set includes Fill feed gauge pump and station	1		0.00T
Parts Awning 20' electric push button	1		0.00T
Water System Water System includes (2) 40 gallon fresh water tank with gravity fill drain and water outlet to hose bib or sink. Demand pump 45 PSI 3.0 GPM	1		0.00T
Services (Interior Main body of trailer)			
Services 28' box L shape work station at the front of trailer left side of steps to the 5th wheel Approximately 72" across the front and 72" down the driver side approximate depth to be 24" height to be 40" to the top.	1		0.00T
Cabinet Base Cabinet Base approximately with toe kick 40" tall x 72" long 24 deep with melamine doors and slam latches	2		0.00T
Cabinet Upper Overhead cabinet approximately 20" tall face 12" deep and 8' long melamine doors and slam latches Approximately 72" across the front and 72" down the driver side approximate depth to be 16" Include provision for customer supplied microwave	2		0.00T
Parts	4		0.00T

ACTIVITY	QTY	RATE	AMOUNT
Under cabinet lighting (2) 110v under each 72" section withy dedicated switch per section			
Parts	1		0.00T
Mount customers TV and TV mount bracket including all necessary wiring and 2 CAT 5 cables			
Tie Down 6000# (896ZN)	8		0.00T
(8) Tie Down 6000# in the floor in specific locations			
Parts	1		0.00T
Install customers antenna wires and run all electronics wiring			
~~Services~~	1		
(Interior driver side)			
Parts	1		T
Driver side wall to be dry erase as stated above			
Parts	2		0.00T
(2) folding work stations 18" x 72" long to fold down and latch in place. metal tube frame with aluminum work top.			
Parts	1		T
Note; (4) outlets above work stations included in 110V system 2 on their own circuit equally spaced and elevated above work station.			
~~Services~~			
(Interior passenger side)			
Parts	2		0.00T
(2) folding work stations 18" x 72" long to fold down and latch in place. metal tube frame with aluminum work top.			
Parts	1		T
Note; (4) outlets above work stations included in 110V system 2 on their own circuit equally spaced and elevated above work station.			
Cabinet Upper	2		0.00T
Overhead cabinet approximately 24" tall face 18" deep and 48" long melamine doors and slam latches.			
Cabinet Upper	1		0.00T
Overhead cabinet approximately 24" tall face 18" deep and 144" long melamine doors and slam latches.			
Parts	1		0.00T
Under cabinet lighting (6) 110v or single LED strip under each section withy dedicated switch per section			
Parts	1		0.00T
Mount customers TV and TV mount bracket including all necessary wiring and 2 CAT 5 cables			
~~Services~~			
Fifth wheel upper deck minimum 6'6" headroom			

ACTIVITY	QTY	RATE	AMOUNT
fuse panels with main 12v power shut off			
~~Services~~	1		0.00
Main switch panel consists of Pass cab, desk lights, 12v main, 12v office, office LED, office cab, Ext DRV, EXT PAS, EXT REAR			
Main switch panel will also include Remote gen start switch fuel gauge battery status gauge solar controls and monitoring inverter controls and monitoring			
~~Services~~			
Exterior driver side			
~~Pit lights~~	2		0.00T
LED 12V 11" light bar in a custom powder coated recessed pan			
~~Parts~~	1		0.00T
Wash station service cabinet close to the front of the trailer vertical lift up door cabinet approximately 36 x 36"			
~~Parts~~	2		0.00T
(2) exterior weather resistant outlets 1 by wash station (1) towards the rear			
~~Parts~~	1		T
Ramp door will be 8' tall and full width with spring assist			
~~Pit lights~~	2		0.00T
LED 12V 11" light bar in a custom powder coated recessed pan over ramp door			
~~Parts~~	1		0.00T
Fold up screen rail to enclose patio area approximately 36" tall or per industry standard			
SUBTOTAL			156,590.27
TAX (0%)			0.00
TOTAL			\$156,590.27

Accepted By

Accepted Date

ATTACHMENT I:

CITY OF MONTEREY PARK

REQUEST FOR BIDS
#MPKFD001

PROPOSALS ARE DUE: NOT LATER THAN 10:00 A.M. on July 3, 2023.

The City of Monterey Park invites sealed proposals for: Base of Build Operation.

The City of Monterey Park is seeking proposals from qualified firms to provide firefighter uniforms.

1. Return original of Proposal to:

City of Monterey Park
City Clerk Attn: Fire Dept.
320 W. Newmark Ave.
Monterey Park, CA 91754

2. Proposer must honor proposal prices for sixty (60) days.
3. Proposals must include this Proposal form and be signed by the vendor's authorized representative.
5. Award of a contract will be made by the City Council based upon the criteria set forth in this RFP and will be made based upon the best qualified proposer rather than lowest price.

PROPOSER TO READ

I have, read, understood, and agree to the terms and conditions on all pages of this proposal. The undersigned agrees to furnish the commodity or service stipulated on this proposal as stated above.

Nappi Fabrications
Company

Jaison Nappi
Name (Print)

714. 261. 7433
Company Phone No.

1291 N. Patt St. Ana. CA 92801
Address

[Signature]
Signature

Owner
Title of Person Signing Bid

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



AMENDMENT NUMBER 1 TO THE BID DOCUMENTS

Amendment Date: **June 27, 2023**

BID DOCUMENT NUMBER #MPKFD001 BASE OF OPERATION BUILD

A. This Amendment shall be considered part of the bid documents for the above-mentioned project as though it had been issued at the same time and shall be incorporated integrally therewith. Where provisions of the following supplementary data differ from those of the original bid documents, this Amendment shall govern and take precedence. BIDDERS MUST SIGN THE AMENDMENT AND SUBMIT IT WITH THEIR BIDS.

B. Bidders are hereby notified that they shall make any necessary adjustments in their estimates as a result of this Amendment. It will be construed that each bidder's proposal is submitted with full knowledge of all modifications and supplemental data specified herein.

Except as described below, the original bid document remains unchanged. The bid documents are modified and/or clarified, as follows:

1. **Project Funding Update:** The Base of Operation Build will be funded in whole or in part with federal funds from the Department of Homeland Security. The awarded contractor is required to follow applicable federal, state, and local policies and requirements, including the OMB Uniform Guidance (2 CFR 200).
2. **ATTACHMENTS:** The bid packet is amended to include the following documents, to be included in bid packet; Attachment (I) acknowledgement of requirements; Attachment (II) Bidder's Statement of Past Contract Disqualification.

If you need further directions regarding the location of this pre-bid conference, please contact Angela Loera at aloera@montereypark.ca.gov.

BIDDER MUST ACKNOWLEDGE THIS AMENDMENT BY SIGNING BELOW
AND ATTACHING THE SIGNED AMENDMENT TO THE BID FORM:

Company Name Nappi Fabrications
Contact Person Jason Nappi
Signature [Signature]
Date 6/28/23

CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896
www.montereypark.ca.gov



AMENDMENT NUMBER 2 TO THE BID DOCUMENTS

Amendment Date: **June 28, 2023**

BID DOCUMENT NUMBER #MPKFD001 BASE OF OPERATION BUILD

A. This Amendment shall be considered part of the bid documents for the above-mentioned project as though it had been issued at the same time and shall be incorporated integrally therewith. Where provisions of the following supplementary data differ from those of the original bid documents, this Amendment shall govern and take precedence. BIDDERS MUST SIGN THE AMENDMENT AND SUBMIT IT WITH THEIR BIDS.

B. Bidders are hereby notified that they shall make any necessary adjustments in their estimates as a result of this Amendment. It will be construed that each bidder's proposal is submitted with full knowledge of all modifications and supplemental data specified herein.

Except as described below, the original bid document remains unchanged. The bid documents are modified and/or clarified, as follows:

- 1. PERFORMANCE BOND:** A Performance Bond will be required upon award of project. The Performance Bond amount will be 10% of the total cost to build the project. The cost of the Performance Bond should be included in the Bid Total Cost.

If you need further directions regarding the location of this pre-bid conference, please contact Angela Loera at aloera@montereypark.ca.gov.

**BIDDER MUST ACKNOWLEDGE THIS AMENDMENT BY SIGNING BELOW
AND ATTACHING THE SIGNED AMENDMENT TO THE BID FORM:**

Company Name Nappi Fabrications
Contact Person Jason Nappi
Signature [Signature]
Date 6/28/23

ATTACHEMENT II:

BIDDER'S STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

Please state all instances of being disqualified, removed, or otherwise prevented from bidding on, or completing, a federal, state, or local government project due to a violation of a law or safety regulation.

1. Have you ever been disqualified from any government contract?

Yes ☐

No



2. If yes, explain the circumstances:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Bidder's Signature

Lic. No. 93420

VEHICLE MANUFACTURER

Date Issued: MAY 1, 2021

Expiration Date: APR 30, 2023

This license is valid for the period indicated above. This license shall be signed and displayed in the office at the address shown below, pursuant to the California Vehicle Code.

ISSUED TO VALID ONLY AT
NAPPI FABRICATION DESIGN
1291 N PATT ST
ANAHEIM CA 92801

TLR

License must be renewed prior to expiration date pursuant to California Vehicle Code Sections 11105, 11105.6, 11204, 11410, 11508, 11620 or 11717.

FORM CONTROL NO. 1506735

SIGNATURE OF LICENSEE

DISPLAY CONSPICUOUSLY AT PLACE OF BUSINESS FOR WHICH ISSUED

CALIFORNIA STATE BOARD OF EQUALIZATION

SELLER'S PERMIT



ACCOUNT NUMBER

3/10/2016 SR EA 102-977709

NAPPI FABRICATION DESIGNS
JAISON V NAPPI
1291 N PATT ST
ANAHEIM, CA 92801-2550

NOTICE TO PERMITTEE:
You are required to obey all Federal and State laws that regulate or control your business. This permit does not allow you to do otherwise.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID ONLY AT THE ABOVE ADDRESS.

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED AND IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS.

Not valid at any other address

**For general tax questions, please call our Customer Service Center at 1-800-400-7115 (TTY:711).
For information on your rights, contact the Taxpayers' Rights Advocate office at 1-888-324-2798 or 1-916-324-2798.**

REFERENCES

Provide 3 references regarding your company's past performance in similar type of work.

Reference Contact Information	Reference Project Name	Contract Value	Date Completed
Client Name: SOCAL GAS CO.	SOCAL GAS Emergency Mobile Command Trailer	\$ 450K	7/2020
Contact Name and Title: John Slykhuis			
Tel No: 626-407-9271			
E-mail: jslykhuis@socalgas.com			
Reference Contact Information	Reference Project Name	Contract Value	Date Completed
Client Name: City of San Marino	DUI Command Post.	\$ 90K	5/2023
Contact Name and Title: Timothy Tebbetts			
Tel No: 626-300-0732			
E-mail: Ttebbetts@smpd.us			
Reference Contact Information	Reference Project Name	Contract Value	Date Completed
Client Name: Lee Jackson	5th wheel	\$ 200K	5/2023
Contact Name and Title: Jason Jackson			
Tel No: 626-825-3665-lee			
E-mail: 626-825-3372-jason			

BID PRICE TAX ADJUSTMENT FROM 0% TO 10.25%			
ITEM	DESCRIPTION	QUANTITY	UNIT PRICE
1	Customized Fifth Wheel	1	\$ 156,590.27
1	Tax Base Adjustment Rate of 10.25%		\$ 16,050.50
TOTAL:			\$ 172,640.77



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3E

TO: The Honorable Mayor and City Council
FROM: Shawn Igoe, Director of Public Works
SUBJECT: City Parks Playground Replacement Project – Award of Contract

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the Interim City Manager to execute a public works contract, in a form approved by the City Attorney, with R.E. Schultz Construction, Inc. in the amount of \$986,149 for City Parks Replacement Project, Specification No. 2023-007;
2. Authorizing the Director of Public Works to approve change orders and contingency up to \$25,000 and the Interim City Manager up to \$60,000;
3. Authorizing the appropriation of an additional \$286,700 from Development Impact Fund – 231 for this project; and
4. Taking such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The Project results in minor alterations to existing public facilities involving no significant expansion of the existing use. The Project is not anticipated to have any significant impacts with regard to traffic, noise, air quality, or water quality.

EXECUTIVE SUMMARY:

Per Resolution No. 2022-R52, the Public Works Director solicited bids for the City Parks Playground Replacement Project, Capital Improvement Project Nos. 95018, 95019, 95020, 95021, 95022, and 95024. The public bid opening for this project was held on July 27, 2023. One bid was received from R.E. Schultz Construction, Inc.

Staff recommends that the City Council authorize the Interim City Manager to execute a Public Works contract with R.E. Schultz Construction, Inc for the City Parks Playground Replacement Project in the amount of \$986,149 plus \$60,000 contingency. Additionally, staff recommends the City Council approve an additional appropriation of \$286,700 from Development Impact Fund – 231 to execute the proposed contract.

BACKGROUND:

On May 17, 2023, City Council approved the designs for playgrounds located at Bella Vista, Garvey Ranch, Highlands, and Sequoia Parks and approved a purchase order to procure playground equipment from Superior Recreation Products. Staff prepared a bid package for the installation of six playgrounds at the different parks. The City Parks Playground Replacement project was then advertised on July 13, 2023. The scope of this project includes the following work at each park:

Sequoia Park

The design of the concrete improvements includes the installation of approximately 134 square feet of 4" sidewalk repair; 2,680 square feet of poured-in-place surfacing; demolition and installation of new playground equipment at Sequoia Park. This project will replace old playground equipment with new playground equipment.

Garvey Ranch Park

The design of the concrete improvements includes the installation of approximately 1,449 square feet of 4" sidewalk repair; 5,320 square feet of poured-in-place surfacing for the larger playground; 970 square feet of poured-in-place surfacing for a smaller playground; and demolition and installation of new playground equipment at Garvey Ranch Park. This project will replace old playground equipment with new playground equipment.

Bella Vista Park

The design of the concrete improvements includes the installation of approximately 830 square feet of 4" sidewalk repair; 2,390 square feet of poured-in-place surfacing for a playground; and demolition and installation of new playground equipment at Bella Vista Park. This project will replace old playground equipment with new playground equipment.

Highlands Park

The design of the concrete improvements includes the installation of approximately 227 square feet of 4" sidewalk repair; 4,820 square feet of poured-in-place surfacing for a larger playground; 1,000 sq demolition and installation of new playground equipment at Highlands Park. This project will replace old playground equipment with new playground equipment.

Staff opened bids on July 27, 2023, for the City Parks Playground Replacement Project, Specification 2023-007, and completed the review of the only bid submitted. The review resulted in the identification of a mathematical error when totaling all the individual bid schedules, showing the total bid to be \$1,119,841.50 while it should be \$980,173. The updated bid amount and the recommended addition of Alternate Bid #1 for \$5,976 results in a total contract amount of \$986,149. Because only one bid was received, the City may directly negotiate with the apparent successful bidder; the total bid price is, therefore, \$986,149 (with the Alternative Bid #1). R.E. Schultz Construction, Inc. contractor's license was verified with the California State Contractor's License Board to be current, active, and in good standing. Registration with the California Department of Industrial Relations

(DIR) was verified. Staff also contacted contractor's references and received positive feedback.

2023-2024 STRATEGIC PLAN GOAL:

The proposed contract supports the City's goal to encourage the use of public parks and facilities by preserving existing park space and improving park amenities. The replacement of six playgrounds will provide the community access to new, safe, and modern playground improvements.

FISCAL IMPACT:

Funds for this project have been budgeted in Capital Improvement Project (CIP) No. 95018, 95019, 95020, 95021, 95022, and 95024. The estimated costs for this project are over the project's budget. Therefore, it is recommended that an additional \$286,700 from Development Impact Fund-231 be appropriated to the project budget.

CIP 95018, 95019, 95020, 95021, 95022, 95024 – CITY PARKS PLAYGROUND REPLACEMENT PROJECT	
Design & Playground Equipment	\$869,551.00
Base Bid Amount	\$980,173.00
Alternate Bid #1 Amount	\$5,976.00
Contingency	\$60,000.00
Project/Construction Management/Inspection	\$71,000.00
Total Estimated Project Cost	\$1,986,700.00
Project Budget	\$1,700,000.00
Additional Funding Request	\$286,700.00
New Proposed Budget	\$1,986,700.00

Respectfully submitted by:



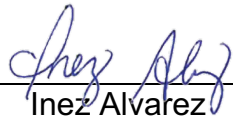
Shawn Igoe
Director of Public Works

Reviewed by:



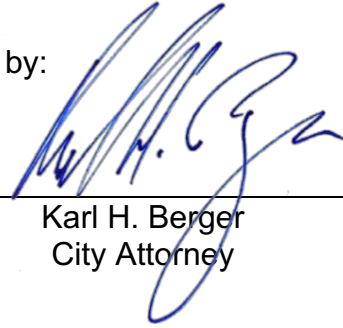
Martha Garcia
Director of Finance

Approved by:



Inez Alvarez
Interim City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. R.E. Schultz Construction, Inc. Bid Proposal

ATTACHMENT 1
R.E. Schultz Construction, Inc Bid Proposal

BID SCHEDULE A Sequoia Park For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
A1	Demolish and dispose of all existing playground equipment on site to a legal site. Work shall include the disposal of demolished playgrounds including foundations and all related materials.	1	LS	\$ 9,500.00	\$ 9,500.00
A2	Remove and install 4" PCC pathway within Sequoia Park, as detailed on construction documents. Water meter boxes in concrete to be reset to surrounding grade. Work shall include tree root pruning for uplifted existing asphalt pathway, and regrading the subgrade (up to 12" depth) prior to installation of new pathway. Contractor shall relocate, repair or replace irrigation line as needed	134	SF	\$ 42.50	\$ 5,695.00
A3	PIP - Install approximately 2,680 sq. ft. of 3" SpectraPour System (6'CFH) or approved equal product at Sequoia Park per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	2,680	SF	\$ 20.97	\$ 56,199.60
A4	Install new City furnished playground equipment at Sequoia Park as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$ 83,410.00	\$ 83,410.00
A5	Install temporary fencing throughout construction site until site is accepted by City.	1	LS	\$ 5,000.00	\$ 5,000.00
SUBTOTAL BASE BID AMOUNT IN NUMBERS					\$ 159,804.60
SUBTOTAL BASE BID AMOUNT IN WORDS: One Hundred and Fifty Nine Thousand Eight Hundred and Four Dollars and Sixty Cents.					

BID SCHEDULE B Garvey Ranch Park For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
B1	Demolish and dispose of all existing playground equipment on site to a legal site. Work shall include the disposal of demolished playgrounds including foundations and all related materials.	1	LS	\$18,500.00	\$18,500.00
B2	Remove and install 4" PCC pathway within Garvey Ranch Park, as detailed on construction documents. Work shall include tree root pruning for uplifted existing asphalt pathway, and regrading the subgrade (up to 12" depth) prior to installation of new pathway. Contractor shall relocate, repair or replace irrigation line as needed.	1,449	SF	\$28.00	\$40,572.00
B3	PIP - Install approximately 5,320 sq. ft. of 3 1/2" SpectraPour System (8'CFH) or approved equal product at Garvey Ranch Park (larger playground #1) per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	5,320	SF	\$22.63	\$120,391.60
B4	PIP - Install approximately 970 sq. ft. of 2 1/2" SpectraPour System (5'CFH) or approved equal product at Garvey Ranch Park (smaller playground #2) per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	970	SF	\$22.63	\$21,951.10
B5	Install new City furnished playground equipment at Garvey Ranch Park (larger playground #1) as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$126,000.00	\$126,000.00
B6	Install new City furnished playground equipment at Garvey Ranch Park (smaller playground #2) as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$19,800.00	\$19,800.00
B7	Install 4" new PCC pathway within Garvey Ranch Park, as detailed on construction documents. Work shall include tree root pruning for uplifted existing asphalt pathway, and re-grading the subgrade (up to 12" depth) prior to installation of new pathway.	250	SF	\$29.00	\$7,250.00

BID SCHEDULE B Garvey Ranch Park For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
	Contractor shall relocate, repair or replace irrigation line as needed. (THIS LINE ITEM WAS NOT ON QUEST);	1	LS	2,500.00	2,500.00
B8	Install temporary fencing throughout construction site until site is accepted by City.	1	LS	\$7,000.00	\$ 7,000.00
SUBTOTAL BASE BID AMOUNT IN NUMBERS					\$363,964.70
SUBTOTAL BASE BID AMOUNT IN WORDS: Three Hundred and Sixty Three Thousand Nine Hundred and Sixty Four Dollars and Seventy Cents.					

BID SCHEDULE C Bella Vista Park For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
C1	Demolish and dispose of all existing playground equipment on site to a legal site. Work shall include the disposal of demolished playgrounds including foundations and all related materials.	1	LS	\$ 7,500.00	\$ 7,500.00
C2	Remove and install 4" PCC pathway within Bella Vista Park, as detailed on construction documents. Work shall include tree root pruning for uplifted existing asphalt pathway, and regrading the subgrade (up to 12" depth) prior to installation of new pathway. Contractor shall relocate, repair or replace irrigation line as needed.	830	SF	\$ 29.50	\$24,485.00
C3	PIP - Install approximately 2,390 sq. ft. of 3" SpectraPour System (6'CFH) or approved equal product at Bella Vista Park per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	2,390	SF	\$ 18.78	\$44,884.20
C4	Install new City furnished playground equipment at Bella Vista Park as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$ 58,800.00	\$58,800.00
C5	Install temporary fencing throughout construction site until site is accepted by City.	1	LS	\$ 4,000.00	\$ 4,000.00
SUBTOTAL BASE BID AMOUNT IN NUMBERS					\$139,669.20
SUBTOTAL BASE BID AMOUNT IN WORDS: One Hundred and Thirty Nine Thousand Six Hundred and Sixty Nine Dollars and Twenty Cents.					

BID SCHEDULE D Highlands Park For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
D1	Demolish and dispose of all existing playground equipment on site to a legal site. Work shall include the disposal of demolished playgrounds including foundations and all related materials.	1	LS	\$18,000.00	\$18,000.00
D2	Remove and install 4" PCC pathway within Highlands Park, as detailed on construction documents. Work shall include tree root pruning for uplifted existing asphalt pathway, and regrading the subgrade (up to 12" depth) prior to installation of new pathway. Contractor shall relocate, repair or replace irrigation line as needed.	227	SF	\$32.00	\$ 7,264.00
D3	PIP - Install approximately 4,820 sq. ft. of 4 1/2" SpectraPour System (10'CFH) or approved equal product at Highlands Park (Larger playground #1) per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	4,820	SF	\$25.39	\$122,379.80
D4	PIP - Install approximately 1,000 sq. ft. of 2" SpectraPour System (4'CFH) or approved equal product at Highlands Park (Smaller playground #2) per surfacing manufacturer specifications. This includes removal of existing playground surfacing and subgrade to 7" minimum and install 4" of 3/4" MAB subbase compacted to 95% minimum relative compaction in 2" lifts at playground area.	1,000	SF	\$22.59	\$ 22,590.00
D5	Install new City furnished playground equipment at Highlands Park (larger playground #1) as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$98,500.00	\$98,500.00
D6	Install new City furnished playground equipment at Highlands Park (smaller playground #2) as detailed on construction documents. Work shall include the contractor to coordinate with manufacturer for delivery to the site.	1	LS	\$23,500.00	\$ 23,500.00
D7	Remove existing and construct new PCC curb per SPPWC, Std. Plan No: 120-3, A2-8, complete and in place.	20	LF	\$125.00	\$ 2,500.00

BID SCHEDULE D					
Highlands Park					
For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
D8	Construct PCC ADA ramps Case A Type 3 per APWA Standard Plan No. 111-5. Location as detailed on construction documents.	2	EA	\$ 8,000.00	\$ 16,000.00
D9	Install temporary fencing throughout construction site until site is accepted by City.	1	LS	\$ 6,000.00	\$ 6,000.00
SUBTOTAL BASE BID AMOUNT IN NUMBERS					\$ 316,733.80
SUBTOTAL BASE BID AMOUNT IN WORDS:					
Three Hundred and Sixteen Thousand Seven Hundred and Thirty Three Dollars and Eight Cents.					

BID SCHEDULE		
For City Parks Playground Replacements Specification No. 2023-007		
No.	Park	Subtotal Bid
A	Sequoia Park	\$ 159,804.60
B	Garvey Ranch Park	\$ 363,964.70
C	Bella Vista Park	\$ 139,669.20
D	Highlands Park	\$ 316,733.80
TOTAL BASE BID AMOUNT IN NUMBERS		\$ 1,119,841.50
TOTAL BASE BID AMOUNT IN WORDS:		
One Million One Hundred and Nineteen Eight Hundred and Forty One Dollars and Fifty Cents.		

ADD ALTERNATE #1					
High Traffic Wear Circle for all slides exits, swings, and spinners					
For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
AA1	Substitute standard PIP with High Traffic Wear Circles for all slide exits, swings, and spinners. Please quote the premium product with smaller rubber granules for the following: (21) 5' diameter circles for slide exits, (3) 6' diameter circles for swing bays, 90 square feet for inclusive orbit spinner at Garvey Ranch Park (3' wide circumference), 45 square feet for space spin at	747	SF	\$ 8.00	\$ 5,976.00

ADD ALTERNATE #1 High Traffic Wear Circle for all slides exits, swings, and spinners For City Parks Playground Replacements Specification No. 2023-007					
No.	Bid Item Description	Quantity	Unit	Unit Bid	Total Bid
	Garvey Ranch Park, and 115 square feet for inclusive atom spinner at Bella Vista Park.				0.00
SUBTOTAL ADD ALTERNATE BID AMOUNT IN NUMBERS					\$ 5,976.00
SUBTOTAL ADD ALTERNATE BID AMOUNT IN WORDS: Five Thousand Nine Hundred and Seven Six Dollars.					

The award of Contract shall be based on the TOTAL BASE BID AMOUNT.	
In the case of discrepancies in the amount of bid, unit prices shall govern over extended amounts, and words shall govern over figures.	
Full compensation for the items listed to the right as Items A, B, C, D and E are considered as inclusive in each Bid Item listed above in the Bid Schedule as applicable, and no additional and/or separate compensation will be allowed.	A. Mobilization / Demobilization
	B. Traffic Control
	C. NPDES, WVECP, and Best Management Practices (BMPs), Public Convenience and Safety
	D. Construction Staking by Land Surveyor
	E. Clearing and Grubbing
The bid prices shall include any and all costs, including labor, materials, appurtenant expenses, taxes, royalties and any and all other incidental costs to complete the project, in compliance with the Bid and Contract Documents and all applicable codes and standards.	
The City reserves the right to add, delete, increase or decrease the amount of any quantity shown and to delete any item from the contract and pay the contractor at the bid unit prices so long as the total amount of change does not exceed 25% (plus or minus) of the total bid amount for the entire project. If the change exceeds 25%, a change order may be negotiated to adjust unit bid prices.	
All other work items not specifically listed in the bid schedule, but necessary to complete the work per bid and contract documents and all applicable codes and standards are assumed to be included in the bid prices.	
A bid is required for the entire work, that the quantities set forth in the Bid Schedule are to calculate total bid amount, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed.	

DESIGNATION OF SUBCONTRACTORS

BIDDER proposes to subcontract certain portions of the work which are in excess of one-half of one percent of the bid and to procure materials and equipment from suppliers and vendors as follows:

Subcontractor Information	Work to be Performed	Dollar Amount
Name: Robertson Industries, Inc.	PIP Surfacing	\$ <u>295,054.86</u>
Address:2140 E. Cedar Street, Tempe, AZ 85281		
Tel: 800-858-0519		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Total Subcontract Amount (shall not exceed 49% of Total Bid Amount)		\$ <u>295,054.86</u>



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3F

TO: The Honorable Mayor and City Council
FROM: Shawn Igoe, Director of Public Works
SUBJECT: Southern California Edison 5-year Revocable Secondary Land Use License for Edison Trails Park

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the Interim City Manager to execute a 5-year Revocable Secondary Land Use License, in a form approved by the City Attorney, with Southern California Edison (SCE) for the City's use of Edison Trails for park and public recreation purposes in the amount of \$12,805.05; and
2. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is Class 1 Categorically Exempt pursuant to the California Environmental Quality Act (CEQA) (Existing Facilities). The Lease Agreement will not result in any change in operation or use of the existing park.

EXECUTIVE SUMMARY:

Edison Trails Park is owned by SCE and licensed to the City of Monterey Park for the purposes of providing a public park. A new 5-year Revocable Secondary Land Use License is needed to allow the City to continue to provide a park for public recreation purposes. Staff is recommending approval of the License in the amount of \$12,805.05.

BACKGROUND:

In 1965, The City and SCE reached an agreement to allow the City to develop land at Edison Trails into a City park. The City park portion encompasses 2.25 acres and has picnic areas, a small playground, and a restroom facility. The public uses the park for recreational activities. The existing License was for a term of five years and allows for extensions. With the current 5-year license coming to an end, it is recommended that the City renew the license to continue to use Edison Trails as a public park.

2023-2024 STRATEGIC PLAN GOAL:

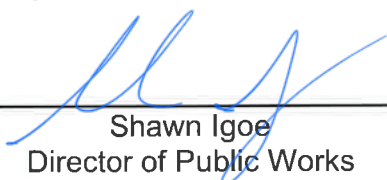
The proposed license agreement supports the City's goal to encourage the use of public parks and facilities by preserving existing park space. Renewing the license agreement with SCE will allow the continued public use of the Edison Trails land for the park and recreational activities.

FISCAL IMPACT:

The total cost of the 5-year Revocable Secondary Land Use License is \$12,805.05 per the payment breakdown below. Funding for this License is available in the General fund (101).

Payment Schedule:		
Year 1	FY 23-24	\$2,317.05
Year 2	FY 24-25	\$2,433.00
Year 3	FY 25-26	\$2,555.00
Year 4	FY 26-27	\$2,683.00
Year 5	FY 27-28	\$2,817.00

Respectfully submitted by:


Shawn Igoe
Director of Public Works

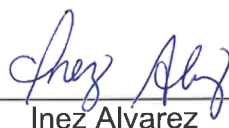
Prepared by:


Beverly Garcia
Public Works Management Analyst

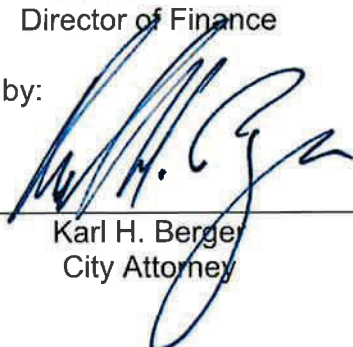
Reviewed by:


Martha Garcia
Director of Finance

Approved by:


Inez Alvarez
Interim City Manager

Reviewed by:


Karl H. Berger
City Attorney

ATTACHMENT:

1. License Agreement for Edison Trails Park

ATTACHMENT 1

License Agreement for Edison Trails Park

CITY OF MONTEREY PARK

L I C E N S E A G R E E M E N T
I N D E X O F A R T I C L E S

1. USE
2. TERM
3. CONSIDERATION
4. INSURANCE
5. LICENSOR'S USE OF THE PROPERTY
6. LICENSEE'S IMPROVEMENTS
7. LICENSEE'S PERSONAL PROPERTY
8. HEIGHT LIMITATIONS AND VERTICAL CLEARANCES
9. ACCESS AND CLEARANCES
10. PARKING
11. WEEDS, BRUSH, RUBBISH AND DEBRIS (WEED ABATEMENT)
12. FLAMMABLES, WASTE AND NUISANCES
13. PESTICIDES AND HERBICIDES
14. HAZARDOUS MATERIALS AND WASTE
15. SIGNS
16. FENCING AND EXISTING FIXTURES
17. PARKWAYS AND LANDSCAPING
18. IRRIGATION EQUIPMENT
19. UNDERGROUND TANKS
20. UNDERGROUND FACILITIES
21. UTILITIES
22. TAXES, ASSESSMENTS AND LIENS
23. EXPENSE
24. ASSIGNMENTS
25. COMPLIANCE WITH LAWS AND REGULATIONS
26. GOVERNING LAW
27. INDEMNIFICATION; ASSUMPTION OF RISK; RELEASE
28. TERMINATION
29. EVENTS OF DEFAULT
30. REMEDIES
31. LICENSEE'S PERSONAL PROPERTY UPON TERMINATION OR EXPIRATION
32. LIMITATION OF LIABILITY
33. NON-POSSESSORY INTEREST
34. WAIVER
35. AUTHORITY
36. ELECTRIC AND MAGNETIC FIELDS

Initial (____)/(____/____)
Licensor/Licensee

37. INDUCED VOLTAGES

38. NOTICES

39. RECORDING

40. COMPLETE AGREEMENT

41. SIGNATURE AUTHORITY

42. SURVIVAL

APPENDIX: GUIDELINES FOR STANDARD LICENSEE IMPROVEMENTS

ADDENDUM(S)

PARKING

PARK USE

NON-MOTORIZED BIKING AND HIKING TRAILS

TREES/LANDSCAPING

Initial (____)/(____/____)
Licensor/Licensee

LICENSE AGREEMENT

THIS AGREEMENT between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized under the laws of the State of California, called "Licensor", and CITY OF MONTEREY PARK, A MUNICIPAL CORPORATION, called "Licensee";

WITNESSETH: That Licensor, for and in consideration of the faithful performance by Licensee of the terms, covenants and agreements hereinafter set forth to be kept and performed by Licensee, does hereby give to Licensee the license to use that certain real property solely for the purpose hereinafter specified, upon and subject to the terms, reservations, covenants and conditions hereinafter set forth, hereinafter designated as "Property" on the Exhibit "A" attached hereto and made a part hereof, being all of Assessor's Parcel Numbers 5274-001-800 and 5274-001-801, situated in the City of Monterey Park, County of Los Angeles, State of California, subject to any and all covenants, restrictions, reservations, exceptions, rights and easements, whether or not of record.

Acknowledgment of License and Disclaimer of Tenancy

Licensee acknowledges and agrees that the License constitutes a limited, revocable, non-possessory, personal and non-assignable privilege to use the Property solely for those permitted uses and activities expressly identified in the Agreement (the "License Privilege"). Licensee further acknowledges and agrees that:

- The consideration paid by Licensee pursuant to Article 3 of the Agreement is consistent with the value of the rights comprising the License Privilege; the consideration is *not* consistent with the higher market value for a greater right, privilege or interest (such as a lease) in the Property or similarly situated parcels.
- Licensee is not a tenant or lessee of Licensor and holds no rights of tenancy or leasehold in relation to the Property.
- The Agreement and/or any prior and/or future acts or omissions of Licensor shall not create (or be construed as creating) a leasehold, tenancy or any other interest in the Property.
- Licensor may terminate the License and revoke the License Privilege at any time, subject, if applicable, to a notice period agreed upon by the parties, as more particularly set forth in the Agreement.
- In consideration of Licensor's grant of the License, Licensee specifically and expressly waives, releases and relinquishes any and all right(s) to assert any claim of right, privilege or interest in the Property other than the License.
- Licensee further acknowledges and agrees that without the representations and agreements set forth herein, Licensor would not enter into the Agreement.

Initial (____)/(____/____)
Licensor/Licensee

1. Use: Licensee will use the Property for park and public recreation purposes only. Licensor makes no representation, covenant, warranty or promise that the Property, and any fixtures thereon, are fit or suitable for any particular use, including the use for which this Agreement is made and Licensee is not relying on any such representation, covenant, warranty or promise. Licensee's use of the property for any other purpose and/or failure to utilize the Property in accordance with this License as determined by the Licensor in its sole discretion will be deemed a material default and grounds for immediate termination of this Agreement in accordance with Articles 28 and/or 30.

2. Term: Unless otherwise terminated as provided herein, this Agreement will be in effect for a term of five (5) years commencing on the first day of December, 2023 and ending on the last day of November, 2028. Licensee acknowledges that this Agreement does not entitle Licensee to any subsequent agreement, for any reason whatsoever, regardless of the use Licensee makes of the Property, the improvements Licensee places on or makes to the Property, or for any other reason.

3. Consideration: Licensee will pay to Licensor the sum of Five Hundred Seventy Nine and 26/100 Dollars (\$579.26) upon the execution and delivery of this Agreement with subsequent quarterly payments as specified below. Payment to Licensor must be in the form of a check or money order payable to Southern California Edison Company. No cash payments will be accepted by Licensor. Payment schedule:

Year	Term	Yearly Amount	Quarterly Amount	Payment Due First Day Of
First Year	Dec. 1, 2023-Nov. 30, 2024	\$2,317.05	\$579.26	2023 Dec. 2024 March/June/ Sept.
Second Year	Dec. 1, 2024-Nov. 30, 2025	\$2,433.00	\$608.25	2024 Dec. 2025 March/June/ Sept.
Third Year	Dec. 1, 2025-Nov. 30, 2026	\$2,555.00	\$638.75	2025 Dec. 2026 March/June/ Sept.
Fourth Year	Dec. 1, 2026-Nov. 30, 2027	\$2,683.00	\$670.75	2026 Dec. 2027 March/June/ Sept.
Fifth Year	Dec. 1, 2027-Nov. 30, 2028	\$2,817.00	\$704.25	2027 Dec. 2028 March/June/ Sept.

All accounts not paid by the agreed upon due date may be subject to a late fee of up to 20% of the amount that was due on the date.

Initial (____)/(____/____)
Licensor/Licensee

All payments subsequent to the initial payment will be paid to the Southern California Edison Company, Post Office Box 800 Rosemead, California, 91770, and Attention: Corporate Accounting Department – Accounts Receivable.

4. Insurance: During the term of this Agreement, Licensee shall maintain the following insurance:

- (a) Workers' Compensation with statutory limits, under the laws of the State of California and Employer's Liability with limits of not less than \$1,000,000.00 each accident, disease/each employee, and disease/policy limit. Licensee shall require its insurer to waive all rights of subrogation against Licensor, its officers, agents and employees, except for any liability resulting from the willful or grossly negligent acts of the Licensor.
- (b) Commercial General Liability Insurance, including contractual liability and products liability, with limits not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate. Such insurance shall: (i) name Licensor, its officers, agents and employees as additional insureds, but only for Licensee's negligent acts or omissions; (ii) be primary for all purposes and (iii) contain separation of insureds or cross-liability clause, and (iv) require its insurer to waive all rights of subrogation against Licensor, its officers, agents and employees, except for any liability resulting from the willful or grossly negligent acts of the Licensor.
- (c) Commercial Automobile Liability insurance with a combined single limit of \$1,000,000.00. Such insurance shall cover the use of owned, non-owned and hired vehicles on the Property.

The failure to maintain such insurance may be deemed by Licensor a material default of this Agreement and grounds for immediate termination pursuant to Articles 28 and/or 30. Licensee shall provide Licensor with proof of such insurance by submission of certificates of insurance, pursuant to Article 38 "Notices", at least ten days prior to the effective date of this Agreement, and thereafter at least ten days prior to each insurance renewal date. Licensee must provide Licensor at least thirty (30) days notice before any such insurance will be canceled, allowed to expire, or materially reduced. However, in the event insurance is canceled for the non-payment of a premium, Licensee must provide to Licensor at least ten (10) days' prior written notice before the effective date of cancellation. The required insurance policies shall be maintained with insurers reasonably satisfactory to Licensor and shall be primary and non-contributory with any insurance or self-insurance maintained by Licensor.

5. Licensor's Use of the Property: Licensee agrees that Licensor, its successors and assigns, have the right to enter the Property, at all times, for any purpose, and the right to conduct any activity on the Property. Exercise of these rights by Licensor, its successors and assigns, will not result in compensation to Licensee for any damages whatsoever to personal property, structures, and/or crops located on the Property, nor shall Licensee be entitled to any compensation for any loss of use of the Property or a portion thereof, and/or any related damages, as a result of Licensor's activities under this Article.

6. Licensee's Improvements: Licensee must submit, for Licensor's prior written approval, complete improvement plans, including, but not limited to, grading, lighting, landscaping, grounding, and irrigation plans, - identifying all existing and proposed improvements, a minimum of sixty (60) days prior to making any use of the Property. Licensee's conceptual plans for proposed improvements shall

Initial (____)/(____/____)
Licensor/Licensee

be developed in accordance with the guidelines contained in the Appendix to this License. It is understood and agreed that the general guidelines contained in the Appendix are intended to provide a framework for the development of conceptual plans only; and that Licensor may modify or add to the conditions contained in the Appendix hereto, based on individual site characteristics, Licensor's existing or potential operating needs or Licensee's proposed use(s). Licensee must submit, for Licensor's prior written approval plans for any modifications to such improvements. Written approval may be modified and/or rescinded by Licensor for any reason whatsoever.

To the extent Licensor reviews and/or approves any improvement plans, Licensor is doing so only for purposes of determining whether said improvements are compatible with Licensor's use of the Property. Under no circumstances shall such review and/or approval be construed as a warranty, representation, or promise that the Property is fit for the proposed improvements, or that said improvements comply with any applicable city, state, or county building requirements, other legal requirements, or the generally accepted standard of care.

At any time, Licensor may require Licensee to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without compensation from Licensor. Licensor is not required, at any time, to make any repairs, improvements, alterations, changes or additions of any nature whatsoever to the Property and/or any fixtures thereon. Licensee expressly acknowledges that any expenditures or improvements will in no way alter Licensor's right to terminate in accordance with Articles 28, and/or 30.

7. Licensee's Personal Property: (i) Licensor grants Licensee permission to place Licensee's personal property on the Property consistent with the use identified in Article 1 and other terms of this Agreement. Such permission granted by Licensor shall be revoked upon the earlier of the termination or expiration of this Agreement. All equipment and other property brought, placed or erected on the Property by Licensee shall be and remain the property of Licensee, except as otherwise set forth herein. Licensee shall be responsible for any damage to the Property and/or Licensor's personal property arising out of Licensee's activities on the Property, including its use and/or removal of Licensee's personal property. Licensee further acknowledges and agrees that Licensor is not responsible for Licensee's personal property during the effectiveness of this Agreement, or upon termination or expiration. Licensor further assumes no duty or obligation to maintain or secure Licensee's personal property at any time.

(ii) Unless as specifically provided for in an Addendum to this Agreement, Licensee shall not store on the Property, for a period longer than twenty-four (24) consecutive hours, any personal property owned by a non-party to this Agreement.

Licensee will defend and indemnify Licensor, its directors, officers, agents, subcontractors, and employees, and its successors and assigns, from any and all claims, loss, damage, actions, causes of action, expenses and/or liability arising from the storage of, damage to, and/or loss of use of such non-party's personal property.

Initial (____)/(____/____)
Licensor/Licensee

8. Height Limitations and Vertical Clearances: Any equipment used by Licensee or its agents, employees or contractors, on and/or adjacent to the Property, will be used and operated so as to maintain minimum clearances from all overhead electrical conductors as designated in the table below:

Vehicle/ Equipment Vertical Clearance	
500 kV	35 feet
220 kV – 66kV	30 feet
<66kV (Distribution facilities)	25 feet
Telecom	18 feet

All trees and plants on the Property will be maintained by Licensee at a maximum height of fifteen (15) feet. If requested by Licensor, Licensee will remove or relocate at Licensee's expense, any tree and/or other planting.

9. Access and Horizontal Clearances: Licensee will provide Licensor with adequate access to all of Licensor's facilities on the Property and at no time will there be any interference with the free movement of Licensor's equipment, personnel, and materials over the Property. Licensor may require Licensee to provide and maintain access roads within the Property, at a minimum usable width of sixteen (16) feet, with commercial driveway aprons and curb depressions capable of supporting a gross load of forty (40) tons on a three-axle vehicle. The minimum width of all roads shall be increased on curves by a distance equal to 400/inside radius of curvature. All curves shall have a radius of not less than 50 feet measured at the inside edge of the usable road surface. Unless otherwise specified in writing by Licensor, Licensee will make no use of the area directly underneath Licensor's towers and will maintain the following minimum clearances:

- a. A 50-foot-radius around suspension tower legs, H-Frames and poles and 100-foot radius around dead-end tower legs, H-Frames and poles.
- b. A 25-foot-radius around all other poles.

NOTE: Additional clearance may be required by Licensor for structures.

10. Parking: Licensee will not park, store, repair or refuel any motor vehicles or allow parking, storage, repairing or refueling of any motor vehicles on the Property unless specifically approved in a writing executed by Licensor.

11. Weeds, Brush, Rubbish and Debris (Weed Abatement): Licensee will keep the Property clean, free from weeds, brush, rubbish and debris and in a condition satisfactory to Licensor.

12. Flammables, Waste and Nuisances: Unless permitted by Licensor in writing, Licensee will not, or allow others, to place, use, or store any flammable or combustible materials or waste materials on the Property or commit any waste or damage to the Property or allow any to be done. Licensee will be responsible for the control of and will be liable for any damage or disturbance, caused by any trespasser, dust, odor, flammable or waste materials, noise or other nuisance disturbances. Licensee will not permit dogs on the Property.

13. Pesticides and Herbicides: Any pesticide or herbicide applications and disposals will be made in accordance with all Federal, State, County and local laws. Licensee will dispose of all pesticides,

Initial (____)/(____/____)
Licensor/Licensee

herbicides and any other toxic substances declared to be either a health or environmental hazard, and all materials contaminated by such substances, including but not limited to, containers, clothing and equipment, in the manner prescribed by law.

14. Hazardous Material and Waste: Licensee will not engage in, or permit any other party to engage in, any activity on the Property that violates federal, state or local laws, rules or regulations pertaining to the use, management, storage, or disposal of waste, including, but not limited to hazardous, toxic or infectious materials. Unless permitted by Licensor in writing, Licensee will not, or allow others to, place, use, or store any hazardous, toxic or infectious materials and/or waste on the Property. Licensee will indemnify and hold Licensor, its directors, officers, agents and employees, and its successors and assigns, harmless from all claims, loss, damage, actions, causes of action, expenses and/or liability arising from leaks of, spills of, and/or contamination by or from hazardous materials as defined by applicable laws or regulations, which may occur during and after the Agreement term, and are attributable to the actions of, or failure to act by, Licensee or any person claiming under Licensee.

15. Signs: Licensee must obtain written approval from Licensor prior to the construction or placement of any sign, signboard or other form of outdoor advertising. Licensee shall within three (3) days from the date on which the Licensee learns of the graffiti remove any signs containing graffiti or shall otherwise remove such graffiti from the signs in a manner reasonably acceptable to Licensor. Notwithstanding any other language in this Article, Licensee shall not advertise on any sign any product, service, or good which is (i) not directly related to Licensee's use of the Property, (ii) offensive to the public, or (iii) which Licensor, in its reasonable discretion, deems objectionable.

16. Fencing and Existing Fixtures: Licensor disclaims any and all express or implied warranties for any fencing and/or other fixtures affixed to the Property, and further disclaims any liability arising from any disrepair of the same. Licensee may install fencing on the Property with prior written approval from Licensor. Such fencing will include double drive gates, in locations specified by Licensor, a minimum of twenty (20) feet in width and designed to accommodate separate Licensor and Licensee locks. Licensee will maintain and repair all fencing and other fixtures affixed to the Property, including any grounding of the same as deemed necessary by Licensor, in a manner acceptable to Licensor. Grounding plans must be prepared and stamped by a licensed electrical engineer and submitted to Licensor.

17. Parkways and Landscaping: Licensee will keep parkway and sidewalk areas adjacent to the Property free of weeds, brush, rubbish and debris. Licensee will maintain parkways on the Property and provide landscaping that is compatible with adjoining properties and that is satisfactory to Licensor.

18. Irrigation Equipment: Any irrigation equipment located on the Property prior to the commencement of this Agreement, including but not limited to pipelines, well pumping equipment and other structures, is the property of Licensor and will remain on and be surrendered with the Property upon termination of this Agreement. Should Licensee desire to use the irrigation equipment, Licensee will maintain, operate, repair and replace, if necessary, all irrigation equipment at its own expense.

19. Underground and Above-Ground Tanks: Licensee will not install underground or above-ground storage tanks, as defined by any and all applicable laws or regulations, without Licensor's prior written approval in accordance with Article 6.

20. Underground Facilities: Any underground facilities must be approved by Licensor pursuant to Article 6. Licensee must contact Dig Alert and comply with the applicable processes, policies

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and/or procedures of Dig Alert, prior to any underground installation. Any underground facilities installed or maintained by Licensee on the Property must have a minimum cover of three feet from the top of the facility and be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle. Licensee will compact any earth excavated to a compaction of ninety percent (90%). Licensee will relocate its facilities at its own expense so as not to interfere with Licensor's proposed facilities.

21. Utilities: Licensee will pay all charges and assessments for, or in connection with, water, electric current or other utilities which may be furnished to or used on the Property.

22. Taxes, Assessments and Liens: Licensee will pay all taxes and assessments which may be levied upon any crops, personal property, and improvements, including but not limited to, buildings, structures, and fixtures on the Property. Licensee will keep the Property free from all liens, including but not limited to, mechanics liens and encumbrances by use or occupancy by Licensee, or any person claiming under Licensee. If Licensee fails to pay the above-mentioned taxes, assessments or liens when due, Licensor may pay the same and charge the amount to the Licensee. All accounts not paid within thirty (30) days of the agreed upon due date will be charged a "late fee" on all amounts outstanding up to the maximum rate allowed by law.

23. Expense: Licensee will perform and pay all obligations of Licensee under this Agreement. All matters or things required by Licensee will be performed and paid for at the sole cost and expense of Licensee, without obligation by Licensor to make payment or incur cost or expense for any such matters or things.

24. Assignments: This Agreement is personal to Licensee, and Licensee will not assign, transfer or sell this Agreement or any privilege hereunder in whole or in part, and any attempt to do so will be void and confer no right on any third party.

25. Compliance with Laws and Regulations: Licensee will comply with all applicable federal, state, county and local laws, all covenants, conditions and restrictions of record and all applicable ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter in any manner affecting the Property or the streets and ways adjacent thereto. Licensee will obtain all permits and other governmental approvals required in connection with Licensee's activities hereunder. Licensee shall also comply with the requirements of every addendum attached hereto. Licensee shall hold harmless, defend and indemnify Licensor, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or resulting from any violation of this provision.

26. Governing Law: The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions will be determined in accordance with the laws of the State of California.

27. Indemnification; Assumption of Risk; Release: Licensee shall hold harmless, defend and indemnify Licensor, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or growing out of loss or damage to property, including that of Licensor, or injury to or death of persons, including employees of Licensor resulting in any manner whatsoever, directly or indirectly, by reason of this Agreement or the use or occupancy of the Property by Licensee or any person claiming under Licensee. Licensee agrees to assume all risk of loss by fire, flood, earthquake, theft, accident, or casualty of any kind, which may affect the Property, any improvements constructed or installed thereon by Licensee,

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Licensee's use of the Property, or exercise of the rights granted herein. Licensee releases and waives all claims against Licensor and each of the indemnified parties for loss or damage caused by, arising out of, or in any way connected with Licensor's or Licensee's use of the Property or the exercise of the rights granted herein.

28. Termination: Licensor or Licensee may terminate this Agreement, at any time, for any reason, upon thirty (30) days notice in writing. Additionally, Licensor may immediately terminate this Agreement pursuant to Article 30. Termination does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Upon termination, Licensor may immediately recover from Licensee all amounts due and owing hereunder, plus interest at the maximum rate permitted by law on such amounts until paid, as well as any other amount necessary to compensate Licensor for all the detriment proximately caused by Licensee's failure to perform its obligations under this Agreement. Licensee's continued presence after termination shall be deemed a trespass. In the event of a termination for any reason other than non-payment of the License fee, Licensor shall refund any previously collected/pre-paid License fees covering the unused portion of the remaining term, to the extent such fees exceed any offset claimed by Licensor under the Agreement

29. Events of Default: In addition to material defaults otherwise described herein, the occurrence of any of the following shall constitute a material default and breach of this Agreement by Licensee:

- (a) Any failure by Licensee to pay the consideration due under Article 3, or to make any other payment required to be made by Licensee when due.
- (b) The abandonment or vacating of the Property by Licensee.
- (c) Any attempted assignment or subletting of this Agreement by Licensee in violation of Article 24.
- (d) The violation by Licensee of any resolution, ordinance, statute, code, regulation or other rule of any governmental agency applicable to Licensee's activities under this Agreement.
- (d) Any attempt to exclude Licensor from the licensed premises.
- (f) The making by Licensee of any general assignment for the benefit of creditors; the appointment of a receiver to take possession of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder where possession is not restored to Licensee within five (5) days; the attachment, execution or other judicial seizure of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder, where such seizure is not discharged within five (5) days.
- (g) Any case, proceeding or other action brought against Licensee seeking any of the relief mentioned in "clause f" of this Article which has not been stayed or dismissed within thirty (30) days after the commencement thereof.
- (h) Any claim by Licensee that it has a possessory interest and/or irrevocable license in the Property.

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- (i) With respect to items not otherwise listed in Article 29.a-h, the failure by Licensee to observe and perform any other provision of this Agreement to be observed or performed by Licensee. Licensors shall provide written notice of such failure and Licensee shall be considered in material default where such failure continues for a total of ten (10) or more consecutive days from the date of the notice. Further, with respect to items not otherwise listed in Article 29.a-h, Licensee shall be considered in material default should Licensee fail to observe or perform any other provision of this Agreement for more than fifteen (15) days during the entire Term of the Agreement in the aggregate, after Licensors provides an initial written notice of such failure. After providing initial notice under this provision, Licensors will not be required to provide any subsequent notice of breach of this Agreement.

30. Remedies: Notwithstanding the notice requirement in Article 28, in the event of any material default by Licensee, then in addition to any other remedies available to Licensors at law or in equity, Licensors shall have the option to immediately terminate this Agreement and all rights of Licensee hereunder by giving written notice of such immediate termination to Licensee.

31. Licensee's Personal Property Upon Termination or Expiration: In the event that this Agreement is terminated, whether termination is effected pursuant to Article 28 and/or 30, or in the event this Agreement expires pursuant to Article 2, Licensee shall, at Licensee's sole cost and expense and prior to the earlier of the effective termination date or expiration date, remove all weeds, debris, and waste from the Property and peaceably quit, surrender and restore the licensed Property to the condition it was in prior to the Licensee's use of the Property, in a manner satisfactory to Licensors.

If Licensee fails or refuses to remove any of Licensee's personal property, building(s), fixture(s) or structure(s) from the Property prior to the earlier of the termination date or expiration date, said personal property, building(s), fixture(s) or structure(s) shall be deemed abandoned by the Licensee, and the Licensors shall have the right, but not the obligation, to remove, destroy, sell or otherwise dispose of them with no further notice to Licensee. Licensors shall not be required to seek and/or obtain judicial relief (including, but not limited to, the filing of an unlawful detainer action), nor shall Licensors be responsible for the value of Licensee's personal property.

Licensors shall have the right to charge and recover from Licensee all costs and expenses incurred by Licensors related to (i) the removal, disposal or sale of Licensee's personal property, building(s), fixture(s) or structure(s), (ii) the removal of any waste, weeds, or debris on the Property, (iii) environmental studies and environmental remediation and/or cleanup attributable to Licensee's use of the Property, and (iv) the restoration of the Property to the condition it was in prior to Licensors' initial use of the Property. Licensee agrees to pay such expenses to Licensors upon demand.

32. Limitation of Liability:

IN ORDER FOR LICENSEE TO OBTAIN THE BENEFIT OF THE FEE IDENTIFIED IN ARTICLE 3, WHICH INCLUDES A LESSER ALLOWANCE FOR RISK FUNDING FOR LICENSOR, LICENSEE AGREES TO LIMIT LICENSOR'S LIABILITY PURSUANT TO THIS AGREEMENT. AS SUCH, IF LICENSEE IS ENTITLED TO ANY RELIEF FOR LICENSOR'S NEGLIGENCE, INCLUDING GROSS NEGLIGENCE, FOR DAMAGE OR DESTRUCTION OF LICENSEE'S PERSONAL PROPERTY, BUILDING(S), STRUCTURE(S) OR FIXTURE(S), THE TOTAL LIABILITY OF LICENSOR SHALL NOT EXCEED THE TOTAL FEES ACTUALLY PAID BY LICENSEE TO LICENSOR DURING THE TERM OF THIS AGREEMENT.

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FURTHER, IN NO EVENT SHALL LICENSOR BE LIABLE UNDER ANY CIRCUMSTANCES FOR INJURY OR DAMAGE TO LICENSEE'S BUSINESS, IF ANY, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF RENTS OR OTHER EVENTS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF GOODWILL OR LOSS OF USE, IN EACH CASE, HOWEVER OCCURRING, RELATED TO THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 32 SHALL EXPRESSLY SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

33. Non-Possessory Interest: Licensor retains full possession of the Property and Licensee will not acquire any possessory interest, whether temporary, permanent, or otherwise by reason of this Agreement, or by the exercise of the permission given herein. Licensee will make no claim to any such interest and Licensee will not claim that it has or ever had an irrevocable license in the Property.

34. Waiver: Licensor shall not be deemed to waive any provision of this Agreement orally or by conduct. Any waiver by Licensor of any provision of this Agreement must be in a writing signed by Licensor. No waiver by Licensor of any provision shall be deemed a waiver of any other provision or of any subsequent breach by Licensee of the same or any other provision. Licensor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to or approval of any subsequent act by Licensee. Licensor's acceptance of payment after providing notice of termination to Licensee shall not constitute a waiver of Licensor's termination of the Agreement.

35. Authority: This Agreement is executed subject to General Order No. 69-C of the Public Utilities Commission of the State of California dated and effective July 10, 1985, incorporated by this reference. As set forth in General Order 69-C, this License is made conditional upon the right of the Licensor either on order of the Public Utilities Commission or on Grantor's own motion to resume the use of that property (including, but not limited to the removal of any obstructions) whenever, in the interest of Licensor's service to its patrons or consumers, it shall appear necessary or desirable to do so. Licensee agrees to comply with all federal, state and local laws and regulations. This Agreement should not be construed as a subordination of Licensor's rights, title and interest in and to its fee ownership, nor should this Agreement be construed as a waiver of any of the provisions contained in said License or a waiver of any costs of relocation of affected Licensor facilities.

36. Electric and Magnetic Fields ("EMF"): There are numerous sources of power frequency electric and magnetic field ("EMF"), including household or building wiring, electrical appliances and electric power transmission and distribution facilities. There have been numerous scientific studies about the potential health effects of EMF. Interest in a potential link between long-term exposures to EMF and certain diseases is based on this scientific research and public concerns.

While some 40 years of research have not established EMF as a health hazard, some health authorities have identified magnetic field exposures as a possible human carcinogen. Many of the questions about diseases have been successfully resolved due to an aggressive international research program. However, potentially important public health questions remain about whether there is a link between EMF exposures in homes or work and some diseases including childhood leukemia and a variety of other adult diseases (e.g. adult cancers and miscarriages). While scientific research is continuing on a wide range of questions relating to exposures at both work and in our communities, a quick resolution of the remaining scientific uncertainties is not expected.

Since Licensee plans to license or otherwise enter Licensor property that is in close proximity to Licensor electric facilities, Licensor wants to share with Licensee and those who may enter the property under

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this agreement, the information available about EMF. Accordingly, Licensors has attached to this document a brochure that explains some basic facts about EMF and that describes Licensors policy on EMF. Licensors also encourages Licensee to obtain other information as needed to assist in understanding the EMF regarding the planned use of this property.

37. Induced Voltages: Licensee hereby acknowledges that any structures (including, but not limited to, buildings, fences, light poles) that exist or may be constructed on the Property licensed herein, (hereinafter, the "Structures") in close proximity to one or more high voltage (66 kilovolt or above) electric transmission lines and/or substation facilities may be susceptible to induced voltages, static voltages and/or related electric fault conditions (hereinafter collectively referred to as "Induced Voltages") unless appropriate grounding or other mitigation measures are incorporated into the Structures. If not properly mitigated, Induced Voltages can cause a variety of safety and/or nuisance conditions including, but not limited to, electric shocks or other injuries to individuals contacting the Structures or other utilities connected to the Structures (including, but not limited to, natural gas lines, water lines or cable television lines), or interference with or damage to sensitive electronic equipment in or around the Structures. Measures to mitigate Induced Voltages, if required, will vary from case to case because of factors such as electric facility configuration and voltage, other utilities involved, or sensitivity of electronic equipment. Licensee will be responsible to determine what Induced Voltages mitigation measures should be undertaken regarding the Structures and to implement such mitigation measures at its sole cost and expense.

Licensee agrees for itself and for its contractors, agents, licensees, invitees, and employees, to save harmless and indemnify Licensors, its parent, subsidiaries and affiliated entities and their respective officers and employees against all claims, loss, damage, actions, causes of action, expenses and/or liability arising from or growing out of loss or damage to property, including Licensors's own personal property, or injury to or death of persons, including employees of Licensors caused by or resulting from or connected to Induced Voltages on or related to the Structures.

38. Notices: All notices required to be given by either party shall be made in writing and shall be deemed to have been given and received (a) when personally delivered, or delivered by same-day courier; or (b) on the third business day after mailing by registered or certified mail, postage prepaid, return receipt requested; or (c) upon delivery when sent by prepaid overnight express delivery service (e.g., FedEx, UPS); or (d) when sent by email and upon the receipt by the sending party of written confirmation by the receiving party. Notices shall be addressed as follows:

To Licensors: Southern California Edison Company
Vegetation & Land Management
Land Management – Metro Region East
2 Innovation Way
Pomona, CA 91768
Email: landuse@sce.com

To Licensee: City of Monterey Park
320 West Newmark Avenue
Monterey Park, CA 91754
Email: creyes@montereypark.ca.gov

Business Telephone No. (626) 307-2506

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Notice will be deemed effective on the third calendar day after mailing. A party will immediately notify the other party in writing of any address change.

39. Recording: Licensee will not record this Agreement.

40. Complete Agreement: Licensor and Licensee acknowledge that the foregoing provisions and any appendix, addenda and exhibits attached hereto constitute the entire Agreement between the parties. Any appendices, addenda and exhibits attached hereto are incorporated herein and made an integral part hereof. This Agreement may not be modified, amended, contradicted, supplemented or altered in any way by any previous written or oral agreements or any subsequent oral agreements or unsigned written agreements. This Agreement may be modified or amended only by way of a writing executed by both parties. In case any provision in this Agreement shall be deemed invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

41. Signature Authority: Each of the persons executing this Agreement warrants and represents that he or she has the full and complete authority to enter into this Agreement on behalf of the Party for which he or she is signing, and to bind said party to the agreements, covenants and terms contained herein.

42. Survival: Any provision of this Agreement that imposes an obligation after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate.

LICENSOR:

SOUTHERN CALIFORNIA EDISON COMPANY

By _____

LILY DIEP
Real Estate Senior Specialist
Land Management – Metro Region East
Vegetation & Land Managment

Date

LICENSEE:

CITY OF MONTEREY PARK,
A MUNICIPAL CORPORATION

By _____

INEZ ALVAREZ, Interim City Manager

Date

APPROVED AS TO FORM:

BY _____

KARL BERGER, CITY ATTORNEY

Date

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APPENDIX

Guidelines for Standard Licensee Improvements

The following criteria are provided to aid in developing a conceptual plot plan to be submitted to Southern California Edison Company herein after referred to as “Licensor” for consideration and approval prior to the start of any construction on “Licensor” property.

Plans should be developed indicating the size and location of all planned improvements. The plan should specify the dimensions of all planned improvements and the distance of all planned improvements from property lines and all adjacent “Licensor” towers, poles, guy wires or other “Licensor” facilities.

The plan must show the locations of all “Licensor” towers and poles, 16-foot-wide access roads, main water lines and water shut-off valves, electrical service lines and parking areas. All plans must indicate adjacent streets and include a “north arrow” and the Licensee’s name.

SHADE STRUCTURES

(Definition: A non-flammable frame covered on the top with a material designed to provide shade to aid in growing plants)

1. Shade structures must maintain minimum spacing of 50 feet between shade structure locations, should be placed perpendicular to Licensor’s overhead electrical conductors (wires) unless otherwise approved in writing by Licensor, and should not exceed maximum dimensions of:
 - a. 100 feet in length
 - b. 50 feet in width
 - c. 15 feet in height
2. Shade structures will not be permitted within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames, and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames, and poles
 - d. 25-foot radius around anchors/guy wires, poles, and wood poles
3. Shade structures must utilize the following design:
 - a. Temporary/slip joint construction only
 - b. Non-flammable frame only
 - c. Adequately grounded in accordance with plans approved and stamped by a California electrical engineer
 - d. Shade covering must be non-flammable and manufactured with non-hydrocarbon materials.

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SHADEHOUSES/HOTHOUSES

*(Definition: A simple, non-flammable, enclosed structure designed to control temperature **without** the benefit of heating and/or air conditioning units to aid in propagating and/or growing plants)*

1. Shadehouses/hothouses must maintain minimum spacing of 50 feet between shadehouse/hothouse locations, should be placed in perpendicular to Licensor's overhead electrical conductors (wires) unless otherwise approved in writing by Licensor, and should not exceed maximum dimensions of:
 - a. 100 feet in length
 - b. 50 feet in width
 - c. 15 feet in height
2. Shadehouses/hothouses will not be permitted within the following areas reserved for Licensor's access:
 - a. Within 2 feet from edge of 16-foot-wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames, and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames, and poles
 - d. 25-foot radius around anchors/guy wires, poles, and wood poles
3. Shadehouses/hothouses must utilize the following design:
 - a. Temporary/slip joint construction only
 - b. Non-flammable frame only
 - c. Adequately grounded in accordance with plans approved and stamped by a California electrical engineer
 - d. Covering must be non-flammable and manufactured with non-hydrocarbon materials

GREENHOUSES

(Definition: An enclosed structure designed to control temperature and/or humidity by the use of heating and/or air conditioning units to aid in propagating and/or growing plants)

Greenhouses will be considered on a case-by-case basis.

IRRIGATION SYSTEMS / WELLS

1. Maximum diameter of pipe: 3 inches
2. All pipes must be plastic Schedule 40 or better
3. No irrigation system will be permitted within the following areas reserved for Licensor's access:
 - a. Within 2 feet from edge of 16-foot-wide access roads
 - b. 50 -foot radius around suspension tower legs, H-Frames, and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames, and poles
4. Sprinkler and drip irrigation controllers must be located at the edge of the right of way

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5. Suitable identification markers will be required on main controllers and valves
6. Locations of main shut off valve will be provided and shown on a plot plan
7. Underground facilities must have a minimum cover of three feet
8. Earth disturbed must be compacted to ninety percent (90%)

LANDSCAPING

1. No trees will be permitted under the overhead electrical conductors or within 20 feet of the area directly located under the outer circumference of the overhead conductors, which is commonly known as the "drip line."
2. Trees must have slow to moderate growth, and must be of a variety that grows to a maximum height of only 40 feet and must be maintained by the Licensee at a height not to exceed 15 feet
3. Placement of large rocks (boulders) must be approved in writing by Licensor
4. Any mounds or change of grade must be approved in writing by Licensor
5. No cactus or thorny shrubs will be permitted
6. Retaining walls, planters, etc. may be considered on a case-by-case basis and must be approved in writing by Licensor
7. No crushed or freshly laid asphalt will be permitted

TRAILERS *(Definition: Removable / portable office modules are not permitted without Licensor's prior permission. Trailers must meet the following criteria to be considered:* Trailers must meet the following criteria:

- a. Must have axles and wheel and be able to be moved
- b. Maximum length: 40 feet
- c. Maximum height: 15 feet
- d. Maximum width: 12 feet
2. No trailers will be permitted within the following areas reserved for Licensor's access:
 - a. Within 2 feet from edge of 16-foot-wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames, and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames, and poles
 - d. 25-foot radius around anchors/guy wires, poles, and wood poles
 - e. Under or within 10 feet of the conductor "drip lines"
3. Sewer or gas lines to trailers must be approved in writing by Licensor
4. Location of all electrical and telephone lines must be approved in writing by Licensor
5. Electrical lines must be installed by a licensed -general contractor.

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6. Trailers shall not be used for residential purposes
7. Toxic or flammable materials will not be permitted in trailers
8. Adequately grounded in accordance with plans approved and stamped by a California electrical engineer

PARKING AREAS

Parking areas should not be designed under the overhead electrical conductors or within 10 feet of the “drip lines” without Licensor’s prior written approval. Parking spaces to be identified under the approved site plan. “No Parking” striping may be required in areas where additional clearance is required.

MATERIAL STORAGE

1. If an emergency occurs, Licensee must immediately relocate all materials specified by Licensor to provide Licensor clear access to its facilities.
2. Licensee must provide Licensor with a list of material stored on the right of way
3. No toxic or flammable materials will be permitted
4. No materials shall be stored within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot-wide access roads
 - b. 50 - foot radius around suspension tower legs, H-Frames, and poles
 - c. 100 - foot radius around dead-end tower legs, H-Frames, and poles
 - d. 25 feet from anchors/guy wires, poles and wood poles
5. Storage of materials not to exceed a maximum height of 15 feet
6. No storage of gasoline, diesel or any other type of fuel will be permitted
7. Any fencing around the storage areas must have Licensor’s prior written approval.

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ADDENDUM

PARKING

- A. Vehicles parked on the Property are limited to those owned by Licensee and its employees, invitees, customers and visitors. Licensee will not allow the storage, repairing or refueling of any vehicles on the property.
- B. Licensor only allows overflow parking. No portion of the Property will be used to satisfy the minimum parking requirements of any government agency.
- C. Licensee must obtain prior written approval from Licensor for any vehicle parking improvements and/or subsequent modification. Licensee will maintain parking improvements at all times in a safe condition satisfactory to Licensor.
- D. At any time, Licensor may require removal, modification, or relocation of any portion of the parking improvements. At Licensee's sole expense, Licensee will remove, modify, or relocate same to a location satisfactory to Licensor, within sixty (60) days after receiving notice to remove, modify, or relocate from Licensor.
- E. Parking will be permitted in designated areas only. Unless prior written approval is received from Licensor, no parking will be permitted under or within ten (10) feet of the "drip line" of Licensor's overhead electrical conductors.
- F. All parking spaces and parking improvements are to be identified on a site plan and submitted to Licensor to obtain prior written approval from Licensor.
- G. Bollards, K-rails, or "No Parking" striping may be required to protect Licensor's structures or in areas where additional clearance is required.
- H. The Licensee's parking area shall not interfere with the Licensor's minimum access road requirements.

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ADDENDUM

PARK USE

- A. Licensee must obtain the prior written approval from Licensor for the installation of any improvements, including any subsequent modifications. Licensee will maintain all improvements in a safe condition satisfactory to Licensor.
- B. At any time, Licensor may require the removal, modification, or relocation of any portion of the improvements. Licensee will remove, modify, or relocate same, at its expense, to a location satisfactory to Licensor within sixty (60) days after receiving notice to remove, modify, or relocate from Licensor.
- C. Licensee must submit, for Licensor's prior written approval, complete improvement plans, including, but not limited to, grading, lighting, landscaping, grounding, and irrigation plans, that identify all existing and proposed improvements.
- D. At Licensee's expense, Licensee will post signs at all access points to the Property that read: "No Kite Flying, Model Airplanes, unmanned aerial vehicles (UAV's or Drones), or Metallic Balloons Permitted, High Voltage Wires Overhead."
- E. At Licensee's expense, Licensee will post signs at all access points of the Property that read: "No Motorcycles, Motorbikes, Horseback Riding or Hunting Permitted."
- F. At Licensee's expense, Licensee will post signs at all access points of the Property that read: "Dogs are required to be on leash at all times."
- G. Licensee must close the park at any time Licensor deems it necessary for the safety of the general public or for maintenance of Licensor's facilities. If it is necessary to close the park for a period of more than three days, Licensee will notify the general public of the closure by posting at all access points to the property.
- H. At Licensee's expense, Licensee will install removable post-type barriers designed to accommodate Licensor's locks, to prevent unauthorized vehicular use or parking, including but not limited to, motorcycles, off-road vehicles, and "all-terrain" vehicles.
- I. Trespass discouragers shall be installed on Licensor's towers. The discourager installation will be performed by Licensor. Licensee shall pay Licensor in advance, for all Licensor's direct and indirect costs associated with the engineering, purchase, and installation of the discouragers. All towers shall be equipped with signs so worded as to warn the public of the danger of climbing the towers. Such signs shall be placed and arranged so that they may be read from the four corners of the structure. Such signs shall be neither less than 8 feet nor more than 20 feet above the ground except where the lowest horizontal member of the tower or structure is more than 20 feet above the ground in which case the sign shall be not more than 30 feet above the ground.
- J. Licensee must design and construct all walkways, underground sprinkler systems, lighting facilities, and drains to be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle.

Initial (____)/(____)
Licensor/Licensee

ADDENDUM

NON-MOTORIZED BIKING & HIKING TRAILS

- A. Licensee must obtain the prior written approval from Licensor for the installation of any non-motorized biking and hiking trails, including any subsequent modifications. Licensee will maintain the non-motorized biking and hiking trails at all times in a safe condition satisfactory to Licensor.
- B. At any time, Licensor may require the removal, modification, or relocation of any portion of the non-motorized biking and hiking trails. Licensee will remove, modify, or relocate same, at its expense, to a location satisfactory to Licensor within sixty (60) days after receiving notice to remove, modify, or relocate from Licensor.
- C. At Licensee's expense, Licensee will post signs at all access points to the Property that read: "Non-motorized Biking and Hiking Only. No Other Use Permitted."
- D. At Licensee's expense, Licensee will post signs at all access points to the Property that read: "No Kite Flying, Model Airplanes, unmanned aerial vehicles (UAV's or Drones), or Metallic Balloons Permitted, High Voltage Wires Overhead."
- E. At Licensee's expense, Licensee will post signs at all access points of the Property that read: "Dogs are required to be on leash at all times."
- F. Licensee must close the non-motorized biking and hiking trails at any time Licensor deems it necessary for the safety of the general public or for maintenance of Licensor's facilities. If it is necessary to close the non-motorized biking and hiking trails for more than three days, Licensee will notify the general public of the closure by posting at all access points to the Property.
- G. At Licensee's expense, Licensee will install removable post-type barriers designed to accommodate Licensor's locks to prevent unauthorized vehicular use or parking on the Property, including but not limited to, motorcycles, off-road vehicles, and "all-terrain" vehicles.
- H. Licensee is responsible for all erosion control in connection with the construction, operation, maintenance, and use of the non-motorized biking and hiking trails, including but not limited to, water flowing onto lands of others. Licensee will perform any work deemed necessary by Licensor to correct any damage to the Property of the land of others.
- I. Use of the Property is a joint use with Licensor and other tenants of Licensor. Licensor may use the biking and hiking trails for access to its facilities.

Initial (____)/(____)
Licensor/Licensee

A D D E N D U M**TREES/LANDSCAPING**

- A. Existing landscaping improvements (trees, plants, and shrubs) have been inspected and approved by Licensor. This written approval may be modified and/or rescinded by Licensor for any reason whatsoever.
- B. At any time, Licensor may require Licensee to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without any compensation from Licensor.
- C. Licensee agrees and accepts full responsibility for the maintenance and/or removal of all trees, plants, and shrubs (vegetation) located on the property. All costs associated with the maintenance and/or removal of trees/vegetation will be the sole burden of Licensee.
- D. Periodically, the Property will be inspected by Licensor, and upon determination that any tree/vegetation requires trimming or removal, Licensee will be notified by Licensor. Failure by Licensee to trim or remove said tree/vegetation in the time allotted, that results in Licensor's contractor performing the work, Licensee will be billed by Licensor for the contractor's expense; and Licensee may be subject to termination under the terms and conditions of the Permit or License.
- E. Trees/vegetation must be slow growing and maintained by Licensee to not exceed fifteen (15) feet in height.
- F. Failure by Licensee to maintain all permit or license clearance requirements will require removal at Licensee's expense.
- G. Unless authorized in writing by Licensor, Licensee agrees not to plant any additional trees, plants, or shrubs within the Property. If additional authorization is requested by Licensee and prior written authorization is received by Licensor, no tree or plant species that is protected by federal or state law shall be planted within Licensor's land and no cactus or thorny shrubs/plants will be permitted.
- H. Any improvements or alterations, including retaining walls, planters, placement of large rocks, etc. and any mounds or changes of grade, require prior written approval by Licensor.
- I. Licensee will keep the Property clean, free from weeds, rubbish and debris, and in a condition satisfactory to Licensor.
- J. Upon permit or license termination, Licensee agrees to remove all trees/vegetation and improvements and restore the Property to a condition satisfactory to Licensor, at the sole expense of Licensee.

Initial (____)/(____/____)
Licensor/Licensee



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3G

TO: The Honorable Mayor and City Council
FROM: Shawn Igoe, Director of Public Works
SUBJECT: Receive and File Staff Report Summarizing the Status of Emergency Repairs of the Monterey Pass Road Water Line

RECOMMENDATION:

It is recommended that the City Council consider:

1. Receive and File the staff report summarizing the status of emergency repairs of the Monterey Pass Road water line; and
2. Taking such additional, related, action that may be desirable.

BACKGROUND:

On August 17, 2022, City Council adopted Resolution No. 2022-R69 authorizing the City Manager to take necessary measures for emergency repair of a water main line on Monterey Pass Road. Recurring water main leaks in several areas within Monterey Pass Road between the intersections of Vagabond Drive and Brightwood Street resulted in extensive infrastructure damage to the roadway and necessary water main pipe repairs to ensure continued water service to residences and businesses in the area.

The design phase was completed in December 2022 followed by research of available material and cost during the months of December and January to ensure the project could be expedited due to the significant material delivery delays. Construction started in March 2023 and is scheduled to be complete by December 2023.

As part of the City's outreach efforts, the construction manager visited businesses along the project area prior to the start of the project to notify them of the upcoming construction. The Economic Development Division also mailed out letters to businesses that may be impacted by this project. Message boards were placed within the project area prior to construction commencing to alert drivers of the impact to their commutes. The City will continue to provide project updates to the community for the duration of the project through the City website, social media, and City Council meetings. A dedicated webpage has been established on the city's website as, www.Montereypark.ca.gov/Montereypass, to inform the public about the project and provide progress updates. Residents and businesses can also sign up to receive project updates by subscribing to NIXLE, by texting "MPSS" to 888777.

The contractor has completed the installation of the 12-inch pipeline for the entire project from Floral Drive to Vagabond Road for a total length of 10,800 linear feet of pipeline. This is the backbone of the water distribution system along Monterey Pass Road. The contractor also completed the installation of all interconnecting pipes including the connection at Vagabond Road. The contractor is now working on installing 6-inch, 4-inch, 2-inch, and 1-inch diameter lateral service pipes for the fire hydrants, fire services, and water meters from Floral Drive to Vagabond Road. All lateral pipes between Floral Drive and Davidson Drive have been completed.

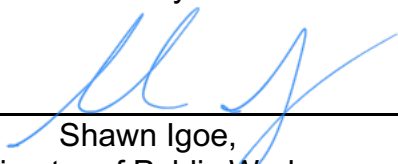
Traffic control devices have provided a safe working condition for both contractor and the driving public. These devices are removed at the end of the day and proper temporary asphalt resurfacing of the trench has provided a seamless transition for vehicular traffic. Street sweeping is performed on a daily basis to provide a clean working environment during and after work. A map showing construction work through August 3, is included as Attachment 1.

FISCAL IMPACT:

The Monterey Pass Road Emergency Water Main Improvements project is included in the FY23-24 Capital Improvement Plan as Project No. 99025. The following is an estimated cost for the project:

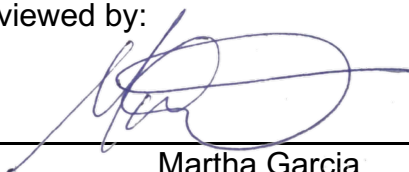
<u>CIP 99025 – Monterey Pass Road Emergency Watermain</u>	
Engineering Design	\$ 131,000
Geotechnical	\$ 100,000
Construction Cost	\$ 4,800,000
Material Cost	\$ 1,600,000
Street Rehabilitation	\$ 950,000
Construction Management and Inspection	\$ 410,000
Total	\$7,991,000

Respectfully submitted by:



Shawn Igoe,
Director of Public Works

Reviewed by:



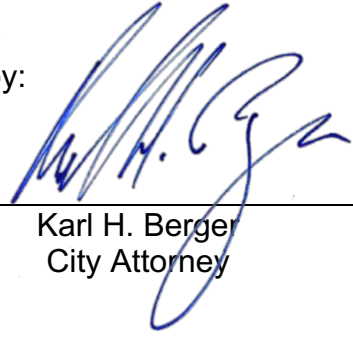
Martha Garcia
Director of Finance

Approved by:



Inez Alvarez
Interim City Manager

Reviewed by:



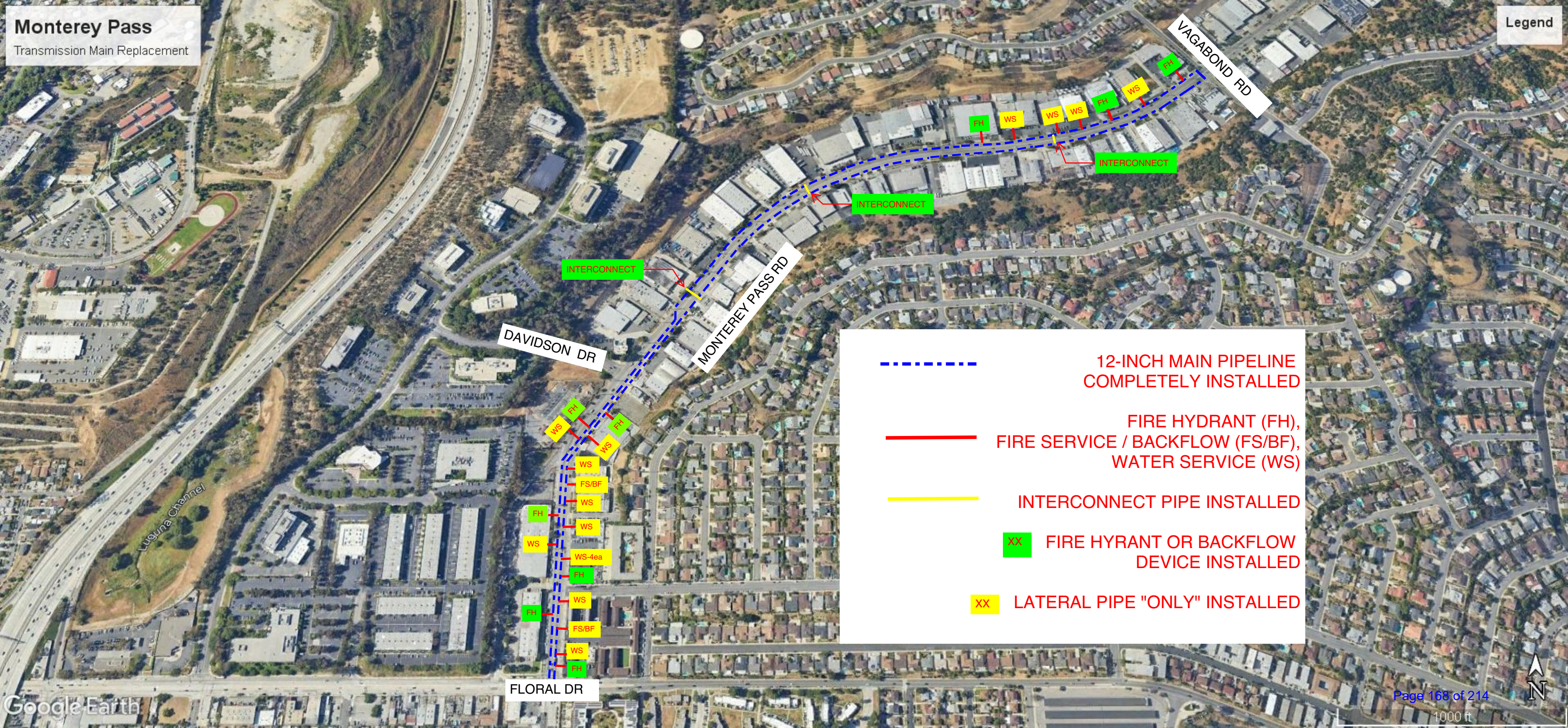
Karl H. Berger
City Attorney

ATTACHMENT:

1. Construction Map

ATTACHMENT 1

Construction Map



12-INCH MAIN PIPELINE
COMPLETELY INSTALLED

FIRE HYDRANT (FH),
FIRE SERVICE / BACKFLOW (FS/BF),
WATER SERVICE (WS)

INTERCONNECT PIPE INSTALLED

xx

FIRE HYDRANT OR BACKFLOW
DEVICE INSTALLED

xx

LATERAL PIPE "ONLY" INSTALLED





City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Consent Calendar - 3H

TO: The Honorable Mayor and City Council
FROM: Shawn Igoe, Director of Public Works
SUBJECT: Cured-In-Place Pipe (CIPP) Lining at Various Locations – Award of Contract

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the Interim City Manager to execute a public works contract, in a form approved by the City Attorney, with Southwest Pipeline Trenchless Corp., in the amount of \$823,699 for the CIPP Lining at Various Locations, Specification No. 2023-005; and
2. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption (Existing Facilities). The project results in minor alterations to existing public facilities involving no significant expansion of the existing use.

EXECUTIVE SUMMARY:

Per Resolution 2022-R52, the Public Works Director solicited bids for Capital Improvement Project No. 99014 - rehabilitation of approximately 19,550 linear feet of 8-inch sanitary sewer main. The bid opening was held on July 27, 2023. Staff completed review of bids and recommends that the contract be awarded to Southwest Pipeline Trenchless Corp., the lowest responsible bidder, in the amount of \$633,010.

BACKGROUND:

Following the Wastewater Collection System Master Plan's recommendations and identified by the City's recent closed-circuit television videotaping of the sewer system, the scope of the project consists of rehabilitation of approximately 19,550 linear feet of 8-inch sanitary sewer main using Cured-In-Place Pipe (CIPP) lining method.

The project involves the sewer improvements for the following segments:

STREET	SEGMENT
Barnum Wy	Ridgecrest St to Vagabond Dr
Rodman Cir	Rodman Cir to Cadiz St
Vagabond Dr	Monterey Pass Rd to Barnum Wy
Crest Vista Dr	Ridgeside Dr to W Crest Wy
Alpine Ter	Crest Vista Dr to End
Brier Cliff Wy	Ridgecrest St to Crest Vista Dr
Crest Haven Wy	Crest Vista Dr to End
Ridgeside Dr	Ridgeside Cir to Wandering Dr Via Venti to Ridgeside Cir
E Crest Wy	Ridgeside Dr to End
Wandering Dr	Dell Dr to Brightwood St
Sunrise Dr	W El Repetto Dr to Sunrise Pl Brightwood St to College View Dr
College View Ln	College View Dr to End
Moonbeam Dr	Sunrise Dr to Crest Vista Dr
Ridgecrest St	Hillside St to Vagabond Dr Barnum Wy to Highland Dr
Hillside St	Ridgecrest St to Light View St
Sunnyhill Dr	Sunnyslope Dr to Hillside St
Sunnyslope Dr	Highland Dr to Brightwood St
Sunnyslope Pl	Sunnyslope Dr to End
Solar Dr	Highland Dr to Brightwood St
Valley Vista Dr	Solar Dr to Brightwood St
Rolling Hill Dr	Highland Dr to Brightwood St Highland Dr to Crest Vista Dr
Lunar Dr	Crest Vista Dr to Brightwood St
Longhill Wy	Longhill Dr to End
Pebble Vale St	Pebble Ct to Brightwood St
Pebbledon St	Longhill Dr to Brightwood St
Stonewell St	Stone Ct to Brightwood St
Ridgecrest St	Brightwood St to Floral Dr

The City Clerk's office opened bids on July 27, 2023, for CIPP Lining at Various Locations Specification No. 2023-005, and completed the review of all bids submitted. The bids are listed in the table below:

RANK	BIDDER	BASE BID AMOUNT
1	Southwest Pipeline Trenchless Corp.	\$633,010.00
2	Nu Line Technology LLC	\$691,965.00
3	Insituform Technologies	\$722,496.00
4	Nor Cal Pipeline Services	\$1,064,546.00

The bid submitted by Southwest Pipeline Trenchless Corp. from Torrance, California is the lowest responsive bid. Southwest Pipeline Trenchless Corp. contractor's license was verified with the California State Contractor's License Board to be current, active, and in good standing. Registration with the California Department of Industrial Relations (DIR) was verified. Staff also contacted contractor's references and received positive feedback.

Staff recommends awarding a public works contract to Southwest Pipeline Trenchless Corp. in a not to exceed amount of \$823,699. The City is currently inspecting additional sewer mains prior to upcoming street resurfacing projects and anticipates the potential need for additional sewer repairs in these areas. By awarding the proposed contract to Southwest Pipeline Trenchless Corp., the City can complete needed repairs under their competitive bid rates and in an expedited process resulting in a cost and time benefit to the City.

FISCAL IMPACT:

The project is funded by Sewer Funds (411), CIP 99014, with an available budget of \$887,000. There are sufficient funds for the costs of the project as specified in the table below.

CIP 99014 – Cured-In-Place Pipe	
Construction	\$823,699.00
Project/Construction Management/Inspection (10%)	\$63,301.00
Total Estimated Project Cost	\$887,000.00
Project Budget	\$887,000.00

Respectfully submitted by:

Reviewed by:

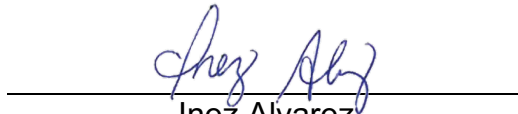


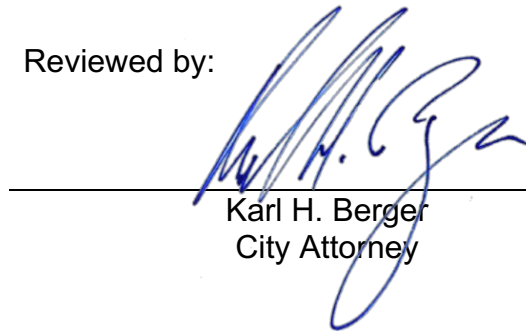
Shawn Igoe
Director of Public Works

Martha Garcia
Director of Finance

Approved by:

Reviewed by:



Inez Alvarez
Interim City Manager

Karl H. Berger
City Attorney

ATTACHMENT:

1. Southwest Pipeline and Trenchless Corp., Bid Proposal

ATTACHMENT 1
Southwest Pipeline and Trenchless Corp., Bid
Proposal

SECTION C. BIDDERS PROPOSAL

(Entire section C shall be submitted with the bid)

BIDDER'S NAME: Southwest Pipeline and Trenchless Corp.

In accordance with the City's Notice Inviting Sealed Bids, the undersigned BIDDER, hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the above stated project as set forth in the Plans, Specifications, and contract documents therefore, and to perform all work in the manner and time prescribed therein.

BIDDER declares that this proposal is based upon careful examination of the work site, Plans, Specifications, Instructions to Bidders, and all other contract documents. If this proposal is accepted for award, BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to the City of Monterey Park of the guarantee accompanying this proposal.

BIDDER understands that a bid is required for the entire work. The contract will be awarded on the prices shown on the bid schedule. It is agreed that the unit and/or lump sum prices bid include all appurtenant expenses, taxes, royalties and fees. In the case of discrepancies in the amounts of bid, unit prices shall govern over extended amount, and words shall govern over figures.

If awarded the Contract, the undersigned further agrees that in the event of the BIDDER'S default in executing the required contract and filing the necessary bonds and insurance certificates within **ten working days** after the date of the City's notice of award of contract to the BIDDER, the proceeds of the guarantee accompanying this bid shall become the property of the City and this bid and the acceptance hereof may, at the City's option, be considered null and void.

BID SCHEDULE

To the Monterey Park's City Council, herein called the "Council".

Pursuant to and in compliance with your Notice Inviting Bids and the other documents relating thereto, the undersigned bidder, having familiarized himself with the work, and with the terms of the contract, the local conditions affecting the performance of the contract, and the cost of the work at the place where the work is done, and with the drawings and specifications and other contract documents, hereby proposes and agrees to perform, within the time stipulated, the contract, including all of its component parts, and everything required to be performed, and to provide and furnish any and all of the labor, materials, tools, expendable equipment, and all applicable taxes, utility and transportation services necessary to perform the contract and complete in a workmanlike manner, all in strict conformity with the Contract Documents on file at the office of the City Clerk of said City, per the following bid schedule:

**BID SCHEDULE
CIPP LINING AT VARIOUS LOCATIONS**

NO.	ITEM DESCRIPTION	QTY.	Unit	Unit Price	Extended Price
1	Mobilization	1	LS	\$7,500.00	\$ 7,500.00
2	Traffic Control	1	LS	\$2,500.00	\$ 2,500.00
3	Install 8" Cured In Place Pipe (CIPP)	19,550	LF	\$ 29.00	\$ 566,950.00
4	Brushing and Removal at Existing Lateral	386	EA	\$45.00	\$ 17,370.00
5	Jet Cleaning Entire Reach	19,550	LF	\$ 0.80	\$15,640.00
6	Sewer Bypass Pumping	1	LS	\$ 3,500.00	\$3,500.00
7	CCTV Sewer Inspection	19,550	LF	\$ 1.00	\$ 19,550.00
TOTAL BASE BID AMOUNT:					\$ 633,010.00

TOTAL BASE BID AMOUNT IN WORDS Six Hundred Thirty Three Thousand and ten dollars

_____ DOLLARS
TOTAL BASE BID AMOUNT IN NUMBERS \$ 663,010.00

 Southwest Pipeline and Trenchless Corp.

Bidder (Company Name)
Justin Duchaineau, President

Authorized Signature Title

The award of Contract shall be based on the TOTAL BASE BID AMOUNT.

- The bid prices shall include any and all costs, including labor, materials, appurtenant expenses, taxes, royalties and any and all other incidental costs to complete the project, in compliance with the Bid and Contract Documents and all applicable codes and standards.
- All other work items not specifically listed in the bid schedule, but necessary to complete the work per bid and contract documents and all applicable codes and standards are assumed to be included in the bid prices.
- The City reserves the right to add, delete, increase or decrease the amount of any quantity shown and to delete any item from the contract and pay the contractor at the bid unit prices so long as the total amount of change does not exceed 25% (plus or minus) of the total bid amount for the entire project. If the change exceeds 25%, a change order may be negotiated to adjust unit bid prices.
- A bid is required for the entire work. The quantities set forth in the Bid Schedule will be used to calculate total bid amount. The final compensation under the contract will be based upon the actual quantities of work satisfactorily completed.
- In the case of discrepancies in the amount of bid, unit prices shall govern over extended amounts, and words shall govern over figures.

DESIGNATION OF SUBCONTRACTORS



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Public Hearing - 4A

TO: The Honorable Mayor and City Council
FROM: Jessica Serrano, Director of Community Development
SUBJECT: A continued public hearing to consider introduction and first reading of Zoning Code Amendment No. 22-01 ("ZCA-22-01"), an ordinance adding the Monterey Park Municipal Code, Chapter 21.19, entitled "Inclusionary Housing" to implement the Monterey Park Housing Element.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Opening a public hearing and taking testimonial and documentary evidence;
2. After closing the public hearing and considering the evidence submitted during that public hearing to introduce and waive first reading of Ordinance No. ____ adding Chapter 21.19 ("Inclusionary Housing") to the Monterey Park Municipal Code ("MPMC") to implement the Monterey Park Housing Element; and
3. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*; "CEQA") and its implementing regulations (14 Cal. Code of Regs. § 15000, *et seq.*; the "CEQA Guidelines"), the proposed Ordinance and Resolution (ZCA 22-01) are exempt from further CEQA review for the following reasons: (1) they will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15060(c)(2)); (2) there is no possibility that the Ordinance may have a significant effect on the environment because any potential, future, housing projects would undergo separate environmental review (CEQA Guidelines § 15061(b)(3)); and (3) the Ordinance and Resolution, by themselves, do not constitute a "project" as defined in the CEQA Guidelines because they involve a policy action that is legislative implementing affordable housing policy and affects prospective future housing development to comply with Housing Element Program 15 (CEQA Guidelines § 15378). The notice of exemption prepared for this project is contained in Attachment 4.

BOARD/COMMISSION REVIEW:

The Planning Commission, at its April 25, 2023 meeting, reviewed the Inclusionary Housing Ordinance ("IHO"), and recommended City Council approval, with a minor change. The Commission recommended that a change be made to the IHO so that in

cases where the number of required affordable units results in a fractional unit, the number would be rounded up to the next whole number for units to be provided on-site or the in-lieu fees be paid.

EXECUTIVE SUMMARY:

On June 7, 2023, the City Council reviewed the IHO and by a unanimous vote, continued the adoption of the IHO to August 16, 2023 for staff to further research. Thereafter, on June 21, 2023, the City Council by a unanimous vote continued the adoption of fees related to IHO to August 16, 2023. The staff report (without attachments) from the June 7, 2023 City Council meeting is contained in Attachment 2.

Staff amended the IHO related to rounding of fractional units for the calculation of inclusionary housing units or in-lieu fees as shown in Attachment 1.

Major findings from staff's research and analysis include:

1. City would likely not be at a competitive disadvantage if an IHO is adopted, but a feasibility study can better evaluate the City's market trends to ensure that the IHO does not deter housing production and that the correct in-lieu fee is established;
2. Funds from developer-paid-in-lieu fees may be used for a variety of uses to help leverage affordable housing, as determined by City Council;
3. Comparable community benefits may include facilities, improvements and programs which enhance quality of life for City residents;
4. In addition to the Density Bonus regulations, incentives, such as fee waivers, may be offered to encourage construction of lower income housing units;
5. IHO contains affordability requirements which may be best monitored through a housing consultant; and
6. Periodic review of IHO is recommended at 3-5 year intervals.

COUNCIL REQUESTED INFORMATION:

During the June 7, 2023 City Council meeting, the Council requested staff make changes to the IHO and provide additional related information such as:

1. Revise calculation of inclusionary housing fractional units;
2. Effects of IHO on the development community and will it help meet Regional Housing Needs Allocation ("RHNA");
3. Use of in-lieu fees;
4. Examples of comparable community benefits;
5. Clarification of affordability term;
6. Incentivizing creation of units for lower income level; and
7. Enforcement and compliance.

Staff made the requested changes to the ordinance related to rounding of fractional units

for the calculation of inclusionary housing units or in-lieu fees. Additionally, staff conducted research to provide this analysis to the Council.

Development Trends and RHNA

According to a 2007 study by the Furman Center for Real Estate and Urban Policy – NYU¹, the effects of an IHO includes predictions that developers may build or invest in other jurisdictions that do not have IHO programs and they may make up for the lost revenues by raising prices on market rate units. However, it should be noted in the 6th cycle of Housing Elements (2021-2029), many adjacent cities include programs to institute an inclusionary housing ordinance, such as San Gabriel and Montebello. Nearby cities, such as Alhambra, South Pasadena, and Pasadena already have IHOs in place.

In an article by Cal Matters², the author states that voluntary incentives generate more affordable housing, while housing mandates such as IHO's increase cost and dampen housing production. The City's recently updated Density Bonus regulation provides a menu of incentives from which developers may choose if a proposed project provides a minimum number of affordable units. Additionally, while some cities offer added density as an incentive for building affordable units, Monterey Park already allows unlimited density within its Mixed-Use land use designation, which is located in the Downtown and adjacent areas along the entire Garvey Avenue corridor, portions of Garfield Avenue and north Atlantic Boulevard³. The City's Density Bonus ordinance and unlimited density in the Downtown and adjacent areas help encourage housing production; other areas of the City where unlimited density is not allowed may be impacted by the IHO.

Whether the IHO will assist with meeting the City's RHNA, the city of Pasadena may provide a case study since it adopted its IHO in 2001. According to Pasadena's 2021-2029 Housing Element⁴, an evaluation of its progress with implementing their 5th cycle Housing Element (2014-2021) was conducted. From 2014 to 2020, 432 inclusionary affordable units were built and \$14,283,090 in developer-paid-in-lieu fees were added to its Inclusionary Housing Trust Fund. Pasadena's lower income housing RHNA requirements was 547. It appears as though Pasadena fell short of meeting this requirement by 115 lower income units. Their Housing Element went on to describe changes to Pasadena's IHO that were adopted in 2019 as follows:

1. Raised based inclusionary requirement from 15% to 20%;
2. Raised in-lieu fee to maximum levels supported by feasibility study;
3. Eliminated trade-down provisions, resulting in affordable units counting the same regardless of income level; and
4. Created concession menu as an alternative for applicants.

¹ Been, Meltzer, & Schuetz. [The Effects of Inclusionary Zoning on Local Housing Markets \(2007\)](#).

² Ward, Jazon. [Affordable-housing production needs more sugar, less vinegar \(2022\)](#).

³ [Monterey Park Land Use and Urban Design Element \(2020\)](#).

⁴ [Pasadena 2021-2029 Housing Element \(2022\)](#).

In summary, it does not appear that Monterey Park would be at a competitive disadvantage were it to adopt the IHO. A feasibility study, however, can better evaluate the City's market trends to ensure that the IHO does not deter housing production and that the appropriate in-lieu fee is established.

In-Lieu Fee Usage

The proposed IHO provides an option to developers for paying in-lieu fees instead of providing on-site affordable units. These fees would be deposited into a fund created to leverage affordable housing units. The City Council will be able to set the priorities on the appropriate use of in-lieu fee funding. Potential uses of this funding may include:

1. Gap funding for pre-development or construction of affordable housing projects;
2. Subsidies to target specific income level units, special needs housing, homeless housing, or transitional housing;
3. Capital improvements or studies (e.g. infrastructure, environmental, or other types of studies) needed to facilitate the construction of affordable housing;
4. Affordability preservation of existing affordable units;
5. Rehabilitation of existing affordable units;
6. First-time homebuyers' program;
7. Enforcement and compliance;
8. Administrative costs;
9. Annual membership fee for San Gabriel Valley Regional Housing Trust; and
10. Acquisition of parcels to facilitate the construction of affordable housing.

Comparable Community Benefits

The draft IHO includes a provision which exempts any eligible project from which the City enters into a development agreement that provides a comparable community benefit. Community benefits are negotiated as part of development agreements for large-scale projects (e.g. housing projects with 10 or more units; hotels with more than 25 guest rooms; industrial projects on lots greater than one acre) and generally include developer paid facilities, improvements, or programs that can be enjoyed the community and enhance quality of life. Examples of comparable community benefits, include:

1. Infrastructure improvements (e.g. traffic lights, street paving, sidewalks, bike lanes, walking paths);
2. Park improvements;
3. Public facility improvements;
4. Public art;
5. Dedication of land for public use; and
6. Programs for the community.

Incentives

Recently, the City updated its Density Bonus regulations, which can be used in combination with the IHO and provides developers with incentives and concessions in exchange for building affordable units. The Density Bonus regulations allow developers to choose from a menu of incentives that include reduced setbacks, increased building height, reduced open space among others, while increasing the density on a project and lowering the parking requirements.

In addition to the Density Bonus regulations, other incentives that the City could explore to incentivize construction of lower income housing units include:

1. Expedited processing, and
2. Direct public subsidies.

Below is a graph (Figure 1) from a 2021 study (Wang & Balachandran⁵) that shows other incentives that can be combined with an IHO. The majority of cities nationwide (57%) offer Density Bonus as an incentive, but other types of incentives offered by cities drop off substantially.

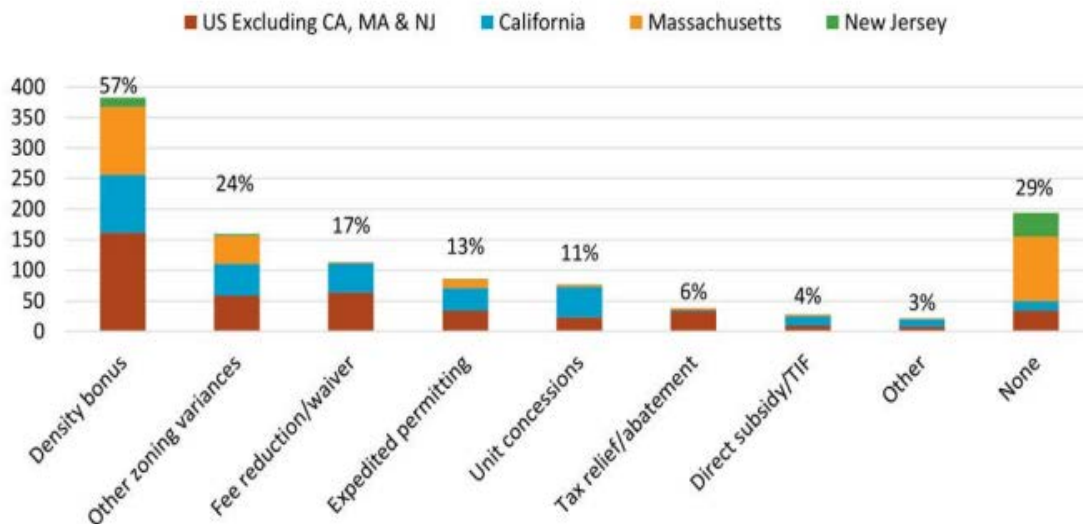


Figure 1: Incentives by Percentage Survey

Affordability and Enforcement

The draft IHO requires that for-sale units remain affordable for a term of 45 years and that rental units remain affordable for a term of 55 years. If purchasing a unit, the owner must occupy the unit as a principal residence and the City must approve subsequent buyers to ensure they meet the income qualifications and resale price restrictions. For rental units,

⁵ Wang & Balachandran. [Inclusionary Housing in the United States \(2021\)](#)

the owner of the unit must certify to the City that the tenant is income qualifying at initial rental and annually thereafter.

Should the IHO be adopted, staff will calculate the number of affordable units and collect in-lieu fees, as applicable. However, as affordable units come on-line as part of the IHO, additional staff with insight and knowledge about tracking and evaluating affordable units and the maintenance of such affordability levels will be necessary to provide enforcement and monitoring. Staff recommends that a housing consultant be retained to help track, provide oversight and enforce the IHO and its projects.

Periodic review of the IHO is also desirable to measure whether or not the program is successful in creating and maintaining affordable housing units. Generally, periodic review of an IHO occurs sometime between 3-5 years to allow for projects to go from entitlement to construction completion to best measure the IHO's effectiveness. The five-year mark also coincides with Government Code § 66001(d) that requires reporting of any funds collected, in this case, in-lieu fees, and City must make findings of funds collected and expended.

2023-2024 STRATEGIC PLAN GOAL:

The proposed ordinance supports the City's goal of expanding **housing** opportunities for all. Adoption of the IHO will meet Program 15 of the Monterey Park Housing Element which states that the City Council will consider an inclusionary housing ordinance. Additionally, the IHO will encourage the production of affordable housing units in new housing developments.

FISCAL IMPACT:

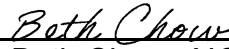
There no identifiable fiscal impacts associated with adopting the Ordinance itself (other than costs associated with codifying the Ordinance). Should the City Council adopt the IHO, an in-lieu fee will be considered at a subsequent meeting. The in-lieu fee will generate a funding source that can potentially be used for the creation or maintenance of affordable housing units within the City. At this time, City does not have an estimate of how much funding will be collected as it is dependent on how many projects are subject the IHO and how many developers will elect to use the in-lieu fee option.

Respectfully submitted by:

Prepared by:

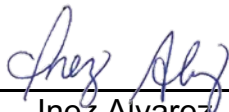


Jessica Serrano
Director of Community
Development



Beth Chow, AICP
Interim Planning Manager

Approved by:



Inez Alvarez
Interim City Manager



Karl H. Berger
City Attorney

ATTACHMENTS:

1. Redlined Ordinance No. _____ amending Title 21 (Zoning) of the Monterey Park Municipal Code to add Chapter 21.19, entitled "Inclusionary Housing" (with Planning Commission recommendation)
2. City Council Agenda Report dated, June 7, 2023
3. Planning Commission meeting comment/recommendation summary, dated September 27, 2022
4. Survey of Inclusionary Housing Ordinances in Surrounding Communities
5. Notice of Exemption

ATTACHMENT 1

Redlined Ordinance No. _____ amending Title 21
(Zoning) of the Monterey Park
Municipal Code to add Chapter 21.19, entitled
“Inclusionary Housing” (with
Planning Commission recommendation)

ORDINANCE NO.

**AN ORDINANCE ADDING CHAPTER 21.19, ENTITLED
“INCLUSIONARY HOUSING,” TO THE MONTEREY PARK MUNICIPAL
CODE**

The City Council of the City of Monterey Park does ordain as follows:

SECTION 1: The City Council finds and declares that:

- A. On January 19, 2022, the City Council adopted the 2021-2029 Housing Element in accordance with California law. The Housing Element was certified on March 30, 2023.
- B. Goal 4 of the City’s 2021-2029 Housing Element seeks to provide housing that meets the needs of all economic segments of the community.
- C. Policy 4.1 of the Housing Element encourages the use of regulatory structures to facilitate affordable housing.
- D. Program 15 of the Housing Element identifies Inclusionary Housing regulations as a method for increasing affordable housing.
- E. To help implement the Housing Element, the City drafted the proposed Ordinance (“ZCA 22-01”) pursuant to Monterey Park Municipal Code (“MPMC”) § 21.38.020.
- F. On September 7, 2022, the City Council discussed draft inclusionary housing regulations. At that meeting, the City Council gave direction to the Interim Community Development Director regarding how such regulations should be drafted.
- G. On September 27, 2022, the Planning Commission conducted a duly noticed public hearing to assess the proposed MPMC amendments in ZCA 22-01.
- H. On November 2, 2022, the City Council conducted a duly noticed public hearing regarding ZCA-22-01. Following the public hearing, the City Council referred the ordinance back to the Planning Commission for additional consideration, with direction to the Interim Community Development Director to include an option for land donation as part of the inclusionary housing regulations.
- I. The City reviewed this Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the “CEQA Guidelines”). CEQA and the CEQA Guidelines are collectively referred to as “CEQA Regulations.”

- J. Notice of Public a Hearing before the Planning Commission was duly given and published in the time, form, and manner as required by law.
- K. In *Building Industry Association v. City of San Jose* (2015) 61 Cal.4th 435, the California Supreme Court upheld cities' ability to adopt inclusionary housing requirements utilizing their police powers.
- L. Pursuant to Government Code §§ 65850 and 65850.1, cities may adopt ordinances requiring inclusionary housing requirements for rental residential developments so long as they offer alternative means of compliance.
- M. On April 25, 2023, the Planning Commission conducted a duly noticed public hearing regarding ZCA 22-01. Thereafter, it adopted Planning Commission Resolution No. 02-23 recommending that the City Council adopt this Ordinance.
- N. The findings in this Resolution are made based on the entire administrative record including testimony and evidence presented to the Planning Commission on September 27, 2022; the City Council at its November 2, 2022, public hearing; the April 25, 2023, public hearing before the Planning Commission; and the public hearing held by the City Council on including, without limitation, the staff reports submitted by the Community Development Director.

SECTION 2: Pursuant to MPMC § 21.38.050, the City Council finds as follows:

- A. The MPMC regulations in this Ordinance are consistent with the goals, policies and objectives of the General Plan. Among other things, these regulations will provide housing opportunities for households in all income levels without constraining housing development in the City.
- B. These regulations will not adversely affect surrounding properties. Such regulations will operate citywide and will not affect a change in the use or the intensity of use of property in any zone.
- C. These regulations promote public health, safety, and general welfare and serve the goals and purposes of the MPMC's zoning regulations. The inclusionary housing regulations will continue to promote the public health, safety, and general welfare while serving the goals and purposes of the zoning regulations. Among other things, the regulations will facilitate creation of housing to address the Legislature's determination regarding a statewide housing shortage for households of very low-, low-, and moderate-incomes.

SECTION 3. *Environmental Assessment.* Pursuant to the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*; "CEQA") and its implementing regulations (14 Cal. Code of Regs. § 15000, *et seq.*; the "CEQA Guidelines"), the proposed Ordinance and Resolution (ZCA 22-01) are exempt from further CEQA review

for the following reasons: (1) they will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15060(c)(2)); (2) there is no possibility that the Ordinance may have a significant effect on the environment because any potential, future, housing projects would undergo separate environmental review (CEQA Guidelines § 15061(b)(3)); and (3) the Ordinance and Resolution, by themselves, do not constitute a “project” as defined in the CEQA Guidelines because they involve a policy action that is legislative implementing affordable housing policy and affects prospective future housing development to comply with Housing Element Program 15 (CEQA Guidelines § 15378).

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SECTION 4: A new Chapter 21.19 is added to the MPMC to read as follows:

“Chapter 21.19

INCLUSIONARY HOUSING

- 21.19.010 Purpose.
- 21.19.020 Definitions.
- 21.19.030 Applicability; Exemptions.
- 21.19.040 Inclusionary Housing Unit Requirements.
- 21.19.050 Alternative Compliance.
- 21.19.060 Standards for Inclusionary Housing Units.
- 21.19.070 Eligibility Requirements.
- 21.19.080 Inclusionary Housing Plan.
- 21.19.090 Inclusionary Housing Agreement.
- 21.19.100 Modifications or Waivers.
- 21.19.110 Administration and Enforcement.

21.19.010 Purpose.

This Chapter is adopted in accordance with Article XI, § 7 of the California Constitution and Government Code §§ 65850 and 65850.1 for the purpose of establishing requirements, standards, and procedures to facilitate affordable housing development for a range of households with varying income levels.

21.19.020 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter:

- A. “Affordable housing” means dwelling units made available to low-, very low-, or moderate-income households.
- B. “Affordable housing cost” has the same meaning as set forth in Health and Safety

Code § 50052.5 and any successor statute or regulation.

- C. "Affordable rent" has the same meaning as set forth in Health and Safety Code § 50053 and any successor statute or regulation.
- D. "Area median income" means the median family income of a geographic area.
- E. "Developer" means the person or persons seeking City approval of a project.
- F. "Director" means the City Manager, or designee.
- G. "Dwelling unit" means one or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with full cooking, sleeping, and bathroom facilities for the exclusive use of a single household.
- H. "Eligible household" means a household eligible to purchase or rent an inclusionary housing unit, as applicable.
- I. "Health care facility" means a facility, place, or building, other than a hospital, which is maintained and operated as a residence for patients to provide them long-term medical care, and includes nursing homes, intermediate care facilities, extended care facilities, hospice homes, and similar facilities licensed by the California Department of Health Services pursuant to Health and Safety Code § 1200, *et seq.*
- J. "HUD" means the United States Department of Housing and Urban Development.
- K. "Inclusionary housing unit" means a dwelling unit built pursuant to the requirements of this chapter and made available to very low-, low-, or moderate-income households.
- L. "Inclusionary housing in-lieu fee" is a fee adopted by city council resolution in accordance with this chapter the payment of which may satisfy a developer's obligations in this chapter.
- M. "Low-income household" means a household income that does not exceed 80% of area median income for Los Angeles County, as published periodically by HUD, pursuant to Health and Safety Code § 50079.5 and any successor statute or regulation.
- N. "Market rate unit" means a dwelling unit where the rental rate or sales price is not restricted by applicable law.
- O. "Moderate-income household" means a household income that does not exceed 120% of area median income for Los Angeles County, as published periodically by HUD, pursuant to Health and Safety Code § 50093 and any successor statute or regulation.

P. "Project" means any residential or mixed-use proposal for the creation of five or more new dwelling units.

Q. "Very low-income household" means a household income that does not exceed 50% of area median income for Los Angeles County, as published periodically by HUD, pursuant to Health and Safety Code § 50105 and any successor statute or regulation.

21.19.030 Applicability; Exemptions.

A. This chapter applies to projects for rent or sale, including the residential portions of mixed-use developments. It may also be incorporated as a public benefit into any development agreement approved pursuant to this code.

B. The following are exempted from this chapter's requirements:

1. Any eligible project for which the City enters into a development agreement that provides comparable community benefits, as determined by the City Council.
2. Any eligible project that is 100% affordable for very low-, low-, or moderate- income households that will be deed-restricted for a period of at least 55 years for rental units or 45 years for for-sale units.
3. Development of emergency shelters, community care facilities, or health care facilities.
4. Reuse of a designated landmark or contributing structure for housing within a historic district.
5. Accessory dwelling units, junior dwelling units, or units created pursuant to Government Code §§ 65852.21 and 66411.7, provided that the replacement or restoration does not increase the number of existing units by five or more.
6. Residential building additions, repairs, or remodels, provided the work does not increase the number of existing units by five or more.
7. Replacement or restoration of residential units damaged or destroyed by fire, flood, earthquake, or other disaster, provided that the replacement or restoration does not increase the number of existing units by five or more.
8. Any eligible project otherwise exempt under state or federal law.

21.19.040 Inclusionary Housing Unit Requirements.

A. Inclusionary Units for Rent. Developers proposing a rental project must rent 15% of the units to affordable households at an affordable rent, as follows:

1. Nine percent to very low-income households or low-income households; and
 2. Six percent moderate-income households.
- B. Inclusionary Units for Sale. Developers with projects for sale must sell 15% of the units to moderate-income households at an affordable housing cost.
- C. Calculation of Inclusionary Housing Units Fractional Units.
1. The percentage of inclusionary housing units required in this section will be applied to the project's total number of proposed dwelling units.
 2. If an inclusionary housing unit calculation in this section results in a fractional remainder, the developer may choose one of the following options: round up to the next whole number when the fraction is 0.5 or higher and provide the resulting unit onsite; or pay the fractional amount of inclusionary housing in-lieu fees round up to the next whole number and pay the amount as an inclusionary housing in-lieu fee pursuant to this chapter.

21.19.050 Alternative Compliance.

A. Inclusionary Housing In-lieu Fee; Affordable Housing Trust Fund.

1. The inclusionary housing unit requirements of this chapter may be satisfied if the developer causes an inclusionary housing in-lieu fee to be paid to the City. This may be accomplished by providing some of the required inclusionary housing units onsite and paying an the in-lieu fee required under this section for any remaining, required inclusionary housing units.
2. The inclusionary housing in-lieu fee must be paid, in full, to the City before it issues a final certificate of occupancy for the project.
3. An affordable housing trust fund is created. All funds authorized in this chapter must be deposited into this inclusionary housing trust fund. The monies in such fund must be used exclusively for providing affordable housing in the City and for reasonable costs associated with the acquisition, development, maintenance, improvement, and oversight of affordable housing. Such additional uses may be designated by City Council resolution.

B. Off-site Units.

The Director may determine that a developer has met this chapter's requirements if the developer develops, or causes a qualified third-party affordable housing developer to develop, allocated affordable housing units off-site on property located within the City's jurisdiction in accordance with the following requirements:

1. Any third-party (e.g., a nonprofit housing agency) the developer associates with to create off-site units under this section must agree, in writing, to all the provisions of this chapter and be a signatory to the inclusionary housing agreement required under this chapter.
2. The off-site affordable units developed must at least be equal to the inclusionary housing units required for the project and consistent with the standards set forth in this chapter.
3. To ensure the creation of the off-site affordable units, developer must provide a surety, in a form approved by the City Attorney, equal to 25% of the total estimated cost to construct the off-site affordable units to ensure performance. Examples of sureties that may be acceptable include the following: performance bonds; surety bonds; cash deposits; money orders; letters of credit; and certificates of deposit. The Director will relinquish the surety at the time that the Building Official issues a final certificate of occupancy for the last of the off-site affordable units.
4. The developer must pay an in-lieu fee in an amount required by this chapter to the City in the event the off-site units are not timely completed.

C. Land Dedication or Conveyance.

The Director may determine that a developer met this chapter's requirements if the developer dedicates off-site real property in accordance with all the following requirements:

1. The property must be fully within the City's jurisdiction.
2. The developer must identify and offer for dedication or conveyance the property subject to this section at the time of project application and concurrently provide proof to the Director's satisfaction evidencing the property's value and developer's transferable, unencumbered interest in the property.
3. The developer must provide evidence to the Director's satisfaction that shows the property is free from environmental contamination, has access to public streets, and utilities, and suitable for affordable housing development pursuant to applicable law.
4. The land must be transferred to the City or City-approved developer specializing in affordable housing development.
5. The land and constructed units thereupon must be deed restricted, in a manner approved by the City Attorney, that secures the units' continued affordability.

6. The City Manager will make a recommendation to the City Council whether to accept or deny the proposed dedication or conveyance. The City has no obligation to accept any proposed dedication or conveyance made in accordance with this subsection.

21.19.060 Standards for Inclusionary Housing Units.

A. Projects with inclusionary housing units are subject to the following requirements:

1. The developer must identify all contiguous property under common ownership or control in its project application. If the developer does not plan to develop all such property, then it must record a covenant, in a form approved by the City Attorney, requiring that such undeveloped property include inclusionary housing units or pay the in-lieu fee as required by this chapter at such future date that an application is filed for ministerial or discretionary approval of a residential development subject to this chapter. Such covenant must run with the land and be effective for at least 30 years pursuant to Civil Code § 885.030.
2. All inclusionary housing units must be reasonably dispersed throughout the project to avoid any concentration of inclusionary units within a project.
3. All inclusionary housing units must be comparable to market rate units included within a project in terms of number of bedrooms, design, materials, size, finished quality, appearance, or other material conditions.
4. All inclusionary housing units must be accessible to project amenities, utilities, and facilities available to market rate units at the same or lower cost chargeable, if at all, to market rate units.
5. All inclusionary housing units must be constructed before or concurrent with the construction of market rate units in the project, and in phased projects, inclusionary housing units may be constructed in proportion to the number of units in each phase of the residential development.
6. A developer must submit a written report to the Director, within 30 days of the Director's written request, that identifies the income and family size of the occupants of the inclusionary unit. The City may impose a fee established by city council resolution to recover its associated regulatory costs pursuant to this chapter.

B. Inclusionary housing units for sale are subject to the following restrictions:

1. Such for-sale units must be deed restricted to the target household income group for a minimum of 45 years.

2. The developer, property owner, and all subsequent owners of an inclusionary housing unit offered for sale must certify, in a form and content acceptable to the Director, the purchaser's income.
3. An owner of such a for-sale unit is prohibited from leasing or renting the unit unless the City gives its prior written consent to such lease or rental based on economic hardship, shown by substantial evidence by the owner.
4. Except as otherwise provided, a purchaser of inclusionary housing units offered for sale must occupy the unit as a "principal residence" as such term is defined for federal tax purposes in the United States Internal Revenue Code. Upon good cause shown, supported by substantial evidence, the Director may allow a purchaser to rent inclusionary housing units to persons within the same household income category.
5. The City must approve subsequent owners of such for-sale units who must meet the same qualifications as the original owner.
6. Before the escrow closing for such a for-sale unit, the seller must provide written notice to the buyer of the affordability restrictions including, without limitation, resale price restrictions, in a document written in plain language and approved in writing by the Director.
7. Title in a for-sale unit may transfer because of changes in circumstance including, without limitation, death, marriage, and divorce. Except as otherwise provided, if such a changed circumstance results in a title transfer which causes a household to become ineligible for an inclusionary housing unit then the housing unit must be sold to an eligible household within nine months after such title transfer occurs.
8. Upon the death of one owner, title in the for-sale unit may transfer to the surviving joint tenant without respect to the joint tenant's household income eligibility.
9. If a for-sale unit is sold for an amount more than the resale price authorized under this chapter, the buyer and seller are jointly liable to the City for the entire purchase price of the unit. Funds recovered by the Director must be deposited in the affordable housing trust fund. The foregoing notwithstanding, the Director may allow the buyer and seller up to 180 days to cure any violation of this chapter's resale price restrictions upon the buyer and seller's written request for such cure period.

C. Inclusionary housing units for rent are subject to the following restrictions:

1. Such rental units must be deed restricted to the target household income group for a minimum of 55 years.

2. The owner of the rental units must certify to the Director, in a form acceptable to the City Attorney, the income of the tenant at the time of the initial rental and annually thereafter.
3. The renter of an inclusionary housing unit is prohibited from subleasing the unit unless the Director gave its prior written consent to such sublease based on demonstrated hardship by the renter as shown by substantial evidence. Any rent obtained through an unpermitted sublease of an inclusionary housing unit is forfeited to the City, and recovered funds must be deposited in the affordable housing trust fund.
4. The Director may require the execution and recording of whatever documents are necessary or useful in ensuring enforcement of this section, in a form approved by the City Attorney, which must be recorded against all applicable inclusionary units.
5. Before the escrow closing of an inclusionary housing unit for rent, the seller must provide written notice to the buyer of the affordability restrictions including, without limitation, to resale price restrictions in a document written in plain language and approved, in writing by the Director.

21.19.070 Eligibility Requirements.

- A. Unless otherwise provided, only eligible households are authorized to occupy inclusionary housing units in this chapter.
- B. Elected and appointed officials or employees of the City subject to the City's conflict of interest code are ineligible to occupy an inclusionary housing unit created under this chapter.

21.19.080 Inclusionary Housing Plan.

No application for a project subject to this chapter's requirements will be complete until the developer submits an inclusionary housing plan to the City in a form acceptable to the Director that contains all of the following, as applicable:

- A. The number, type, and location of all inclusionary housing units for the project.
- B. Any requested modifications or waivers and the basis therefore.
- C. A detailed methodology for determining the rental rates or sale prices of all inclusionary housing units.
- D. The affordability level and affordability term for each inclusionary housing unit.
- E. Deed restrictions, including applicable sale and rent limitations set forth in this chapter.

- F. A timeline of project phasing, including completion timelines for inclusionary housing units in relation to market rate units.
- G. The financing for ongoing monitoring and administrative costs.
- H. Enforcement mechanisms to ensure that inclusionary housing units are occupied by eligible households and are not sold, rented, leased, sublet, assigned, or otherwise transferred to non-eligible households.
- I. The manner in which inclusionary housing units will be marketed and filled, including the screening and qualifying of prospective renters or purchasers of inclusionary housing units.

21.19.090 Inclusionary Housing Agreement.

- A. A written inclusionary housing agreement, in a form approved by the City Attorney, must be entered into between the developer and the City for any project providing onsite inclusionary housing units or off-site inclusionary housing units pursuant to this chapter.
- B. The inclusionary housing agreement must include the following:
 - 1. All information required for an inclusionary housing plan.
 - 2. A clause authorizing the recovery of City costs, including, without limitation, attorney's fees, incurred in any action taken to enforce compliance with the inclusionary housing agreement.
 - 3. Any additional reasonable information the Director requires in ensuring compliance with this chapter.
- C. The Building Official will not issue a building permit for a project subject to this section's requirements until all of this chapter's applicable requirements of are satisfied, including, without limitation, full execution of an inclusionary housing agreement.
- D. The inclusionary housing agreement must be recorded with the Los Angeles County Recorder and will run with the land, binding any developer successor in interest, including bona fide purchasers.

21.19.100 Modifications or Waivers.

- A. The Director may modify or waive this chapter's requirements if the developer demonstrates for good cause shown and by substantial evidence to the Director that this chapter's application would constitute a violation of applicable law or a taking of property in violation of the United States or California Constitutions.

- B. Any developer requesting an adjustment or waiver of this chapter's requirements must submit documentation concurrently with filing the project application that presents substantial evidence to support the adjustment or waiver request. This documentation must set forth in detail the factual and legal basis for any such claim.
- C. Before or in conjunction with a decision on the proposed project, the Director must render a written decision on the proposed adjustment or waiver of this chapter's requirements. The Director's decision may be appealed to the Planning Agency in a manner provided in this code.

21.19.110 Administration and Enforcement.

- A. The City Council may establish fees or regulations by resolution for the City's ongoing administration of this chapter.
- B. Any public official, employee, or agent's failure to fulfill this chapter's requirements does not excuse any person, owner, household, or other party from complying with such requirements.
- C. The Building Official may not issue a final certificate of occupancy for a project subject to this chapter's requirements until all of this chapter's applicable requirements are satisfied, unless otherwise provided in an inclusionary housing agreement.
- D. In addition to the general remedies provided in this code and other applicable law, the City Attorney is authorized to take any appropriate enforcement action to ensure compliance with this chapter, including, without limitation:
 - 1. Actions to revoke, deny, or suspend any permit, including a building permit, certificate of occupancy, or discretionary approval.
 - 2. Actions to recover civil fines, restitution to prevent unjust enrichment for violating this chapter, and/or enforcement costs, including attorney's fees.
 - 3. Eviction or foreclosure.
 - 4. Any other appropriate action for injunctive relief or damages."

SECTION 5: *Electronic Signatures.* This Ordinance may be executed with electronic signatures in accordance with Government Code § 16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 6: *Construction.* This Ordinance must be broadly construed to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 7: *Severability.* If any part of this Ordinance or its Application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 8: *Recordation.* The City Clerk, or designee, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 9: *Effective Date.* This Ordinance will become effective 30 days after second reading and adoption.

PASSED AND ADOPTED this ____ day of _____, 2023.

Jose Sanchez, Mayor

ATTEST:

Maychelle Yee, City Clerk

APPROVED AS TO FORM:
KARL H. BERGER, CITY ATTORNEY

Justin A. Tamayo, Deputy City Attorney

ATTACHMENT 2

City Council Agenda Report dated, June 7, 2023



City Council Staff Report

DATE: June 7, 2023

AGENDA ITEM NO: Public Hearing - 4D

TO: The Honorable Mayor and City Council
FROM: Jessica Serrano, Director of Community Development
SUBJECT: A continued public hearing to consider introduction and first reading of Zoning Code Amendment No. 22-01 (ZCA-22-01), an ordinance adding the Monterey Park Municipal Code, Chapter 21.19, entitled "Inclusionary Housing" to implement the Monterey Park Housing Element.

RECOMMENDATION:

It is recommended that the City Council consider:

1. Opening a continued public hearing and taking testimonial and documentary evidence;
2. After closing the public hearing and considering the evidence submitted during that public hearing to introduce and waive first reading of Ordinance No. _____ adding Chapter 21.19 (Inclusionary Housing) to the Monterey Park Municipal Code to implement the Monterey Park Housing Element; and
3. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

Pursuant to the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*; "CEQA") and its implementing regulations (14 Cal. Code of Regs. § 15000, *et seq.*; the "CEQA Guidelines"), the proposed Ordinance and Resolution (ZCA 22-01) are exempt from further CEQA review for the following reasons: (1) they will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines § 15060(c)(2)); (2) there is no possibility that the Ordinance may have a significant effect on the environment because any potential, future, housing projects would undergo separate environmental review (CEQA Guidelines § 15061(b)(3)); and (3) the Ordinance and Resolution, by themselves, do not constitute a "project" as defined in the CEQA Guidelines because they involve a policy action that is legislative implementing affordable housing policy and affects prospective future housing development to comply with Housing Element Program 15 (CEQA Guidelines § 15378).

BOARD/COMMISSION REVIEW:

The Planning Commission, at its April 25, 2023 meeting reviewed this ordinance, and recommended approval of the ordinance to the City Council, with a minor change. The Commission recommended that a change be made to the ordinance so that in cases

where a fractional unit is required of the developer, the process would require rounding up to the next whole number for units to be provided on-site or the in-lieu fees be paid. A redline version of the ordinance has been provided to demonstrate the language change recommended by the Commission (Attachment 1).

EXECUTIVE SUMMARY:

On May 17, 2023, the City Council by a unanimous vote, continued the item to June 7, 2022.

Program 15 of the Monterey Park Housing Element provides that the City Council will consider an inclusionary housing ordinance. The ordinance was originally presented to Council at its November 2, 2022 meeting, however the City Council recommended that a land dedication option be included in the ordinance, and referred the matter back to the Planning Commission for review.

The Ordinance (Attachment 1) would encourage the production of affordable units in new housing developments. This is accomplished by several methods, or a combination of methods: (1) require actual construction of affordable units; (2) payment of an in-lieu fee to the City that commensurate with the cost of a the “affordability gap” between the market and affordable rate for the new unit or the construction of off-site affordable units within the City; (3) construction of affordable units at an off-site location within the City, and/or (4) dedication of land for the purpose of constructing affordable units within the City.

BACKGROUND:

The City adopted the 2021-2029 Housing Element of the General Plan on January 19, 2022; it was certified on March 20, 2023. Housing Element Program 15 provides that the City Council will consider an inclusionary housing program. Such programs require certain residential and mixed-use developments to designate a percentage of units within the development as affordable housing. Alternatively, a developer may construct off-site units or pay a fee or dedicate land in the City for the creation of affordable units.

On September 7, 2022, the City Council discussed potential inclusionary housing standards. The Council generally supported inclusionary housing requirements and directed the City Manager to develop an ordinance.

On September 27, 2022, the Planning Commission adopted a resolution recommending that the City Council adopt the draft Ordinance, which was considered by City Council on November 2, 2022. At that meeting, the Council asked for more information on how the Affordable Housing Trust Fund monies would be utilized, allowing developers an option to dedicate land for the development of affordable units, and provide more information on density bonuses. Council directed the Director to make further changes to the Inclusionary Housing Ordinance and refer the matter back to the Planning Commission for review and recommendation.

The Director revised the proposed Ordinance by including language at the end of draft MPMC Section 21.19.050(A)(3) governing the use of the Affordable Housing Trust Fund monies, which can be used for additional uses as may be designated by City Council resolution; added subsection “c” to 21.19.050 regulating land dedication as an alternative manner of compliance; and is bringing revisions to the City’s Density Bonus regulations in conjunction with the Inclusionary Housing Ordinance. The option for developers to dedicate land works in tandem with the in-lieu fees that would create not only the capital to fund an affordable housing project, but also provides for land to create units. This item was considered by the Planning Commission on April 25, 2023. The Planning Commission adopted Resolution No. 02-23, recommending that the Council adopt the draft ordinance with the change noted in the above section. A fee resolution related to the in-lieu fee will be schedule with the second reading of this ordinance, should the ordinance be introduced and a first reading occur.

ANALYSIS

As part of the research conducted in the drafting of this Ordinance, several inclusionary housing ordinances were reviewed, including ordinances for nearby communities and for communities beyond the San Gabriel Valley. Attachment 3 contains a summary of some of the inclusionary housing ordinances that were reviewed.

The following table provides a summary of the major components of the proposed Ordinance:

Applicability	Projects creating 5 or more dwelling units
Affordability Levels*	For rent projects: - 9% Low-Income Households - 6% Moderate-Income Households For sale projects: - 15% Moderate-Income Households
Alternative Compliance Methods	- Inclusionary Housing In-lieu Fee before a final certificate of occupancy - Off-Site Units - Land Dedication
For- Sale Unit Standards	- Must be affordable for 45 years - Must certify purchaser’s income - City consent required prior to leasing or renting inclusionary unit - Purchaser of inclusionary units must occupy as “principal residence” - Affordability restrictions must be disclosed to new owners
Rental Units Standards	- Must be affordable for 55 years - Must certify renter’s income - Renter cannot sublease without City approval - Affordability restrictions must be disclosed to new owners

Applicability	Projects creating 5 or more dwelling units
Standards	- Inclusionary Housing Units must be comparable to market rate units and dispersed throughout development - Certification of continuing occupancy of inclusionary unit by eligible households
Agreement	Inclusionary Housing Agreement required between developer and City before the City issues a building permit
Modifications or Waivers	- Modifications or waivers to requirements may be allowed under certain circumstances, subject to Director approval - Director's approval may be appealed to Planning Agency

* Income levels are established on an annual basis by the California Housing and Community Development Department (HCD).

OPTIONAL IMPLEMENTATION METHODS AND OTHER DEVELOPMENT INCENTIVES

The Director researched other mechanisms for implementation of inclusionary housing requirements and found that the City of Long Beach imposed the following:

1. Phased implementation over the course of 5 years, consisting of a gradual increase in the percentage of total project units that must be affordable, with the 4th year resulting the in the full percentage amount as follows:

Year	Rental (12%)	Ownership (10%)
	Required Percentage of Total Project Units	
2020/2021	5%	4%
2022	6%	5%
2023	8%	7%
2024	12%	10%

2. Initial review of the program to be conducted at the end of the 3rd year.
3. The entire program will be evaluated every 5 years.

This City of Long Beach also considered additional development incentives, such as:

1. Fee exemptions from Development Impact Fees for 100% low-income housing projects;
2. Priority plan check for projects including affordable units within a market-rate project or 100% affordable housing projects;
3. Projects with affordable units beyond the base number of units required by the inclusionary requirements shall be provided priority entitlement processing; and
4. Priority entitlements processing and building permit processing if that same design is used in another location in the City.

FISCAL IMPACT:

There no identifiable fiscal impacts associated with adopting the Ordinance itself (other than administrative costs associated with codifying the Ordinance). A proposed in-lieu fee will be scheduled to coincide with a second reading of this ordinance.

Respectfully submitted by:

Prepared by:



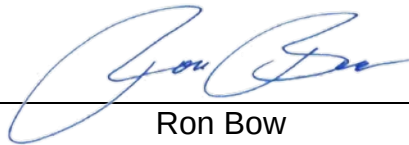
Jessica Serrano
Director of Community
Development



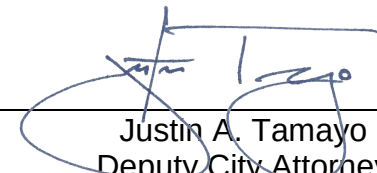
Beth Chow, AICP
Senior Planner

Approved by:

Reviewed by:



Ron Bow
City Manager



Justin A. Tamayo
Deputy City Attorney

ATTACHMENTS:

1. Redlined Ordinance No. _____ amending Title 21 (Zoning) of the Monterey Park Municipal Code to add Chapter 21.19, entitled "Inclusionary Housing" (with Planning Commission recommendation)
2. Survey of Inclusionary Housing Ordinances in Surrounding Communities
3. Notice of Exemption

ATTACHMENT 3
Planning Commission Meeting
Comment/Recommendation Summary, Dated
September 27, 2022

September 27, 2022 Planning Commission Meeting – Comment/Recommendation Summary

- Some commissioners suggested removing moderate income households as a target for affordable housing while some were opposed to the idea.
- Commissioner sees IHO requirements as unnecessary penalties for not providing a set number of units and feels that it will discourage the overall development of units.
- Commissioners suggested a Housing Division to help verify and enforce affordable housing agreements.
- Commissioners inquired regarding the in-lieu fees; asked if in lieu fees would be accumulated in order for the city to develop its own 100% affordable housing projects or used to aid developers in creating affordable housing. Commissioners suggested the City accumulate funds to provide its own 100% affordable housing.
- Commissioners suggested in lieu fees be paid before a building permit is issued rather than before a Certificate of Occupancy to help mitigate issues with compliance
- Commissioners suggested Density Bonus automatically be applied to affordable housing developments to make it more lucrative for developers to pursue
- Commissioner suggested in lieu fees be paid for whole units rather than for fractional units.
- Commissioner suggested the quality of affordable units be the same, not comparable, to market rate units. Suggested staff be appointed to enforce consistent quality for all units.
- All the Commissioners suggested that a 10-14% rental percentage rate be implemented to maintain a competitive edge against neighboring cities.
- Chair suggested that the 25% surety for off-site units be established at the commencement of off-site units being developed.
- Commissioners also suggested implementing measures that would encourage developers to provide the units versus an in-lieu fee.

ATTACHMENT 4
**Survey of Inclusionary Housing Ordinances in
Surrounding Communities**

Survey of Inclusionary Housing Ordinances

Jurisdiction	Threshold Units	Inclusionary Percentage	In Lieu Fee	Other Alternatives	Rental-Units Income Category	For-Sale Units Income Category	Term of Affordability
Monterey Park (Proposed)	5+ unit residential development	15%	Yes	Off-site units	9% low-income households 6% moderate-income	Moderate-Income households	45 years
Alhambra	5+ unit residential development	15%	Yes	- Off-site units - Land donation	9% low-income households 6% moderate-income households May be reduced if: - Very low-income units in lieu of low-income = credit of 1.5 units/unit - Very low-income units in lieu of moderate-income = credit of 2 units/unit - Low-income units in lieu of moderate-income = credit of 1.5 units/unit	9% low-income households 6% moderate-income households May be reduced if: - Very low-income units in lieu of low-income = credit of 1.5 units/unit - Very low-income units in lieu of moderate-income = credit of 2 units/unit - Low-income units in lieu of moderate-income = credit of 1.5 units/unit	45 years
Duarte	4+ unit residential development	15%	Yes	NA	- very low, low or moderate-income households 40% of inclusionary units must be for very low-income households May be reduced if: - Very low-income units in lieu of moderate-income = credit of 2 units/unit - Low-income units in lieu of moderate-income = credit of 1.5 units/unit	- Moderate-Income households May be reduced if: - Very low-income units in lieu of moderate-income = credit of 2 units/unit - Low-income units in lieu of moderate-income = credit of 1.5 units/unit	- Rental Units: 55 years - For-Sale Units: 45 years

Survey of Inclusionary Housing Ordinances

Jurisdiction	Threshold Units	Inclusionary Percentage	In Lieu Fee	Other Alternatives	Rental-Units Income Category	For-Sale Units Income Category	Term of Affordability
La Habra*	10+ unit residential development	15%	Yes	• Off-site units • Land donation • Acquire and reconstruct existing units • Combination of options allowed	• 6% low-income households • 9% moderate-income households	Households earning no more than 110% AMI**	• Rental Units: 55 years • For-Sale Units: 45 years
Los Angeles County	5+ unit residential development	Rental (< 15 units): • 40% AMI or less = 5% • 65% AMI or less = 7% • 80% AMI or less = 10% Rental (15 units or >): • 40% AMI or less = 10% • 65% AMI or less = 15% • 80% AMI or less = 20% For-Sale (< 15 units): • 135% AMI or less = 7% For-Sale (15 units or >): • 135% AMI or less = 15%	No	• Off-site units	Extremely low, very low, low or moderate-income households	Moderate or middle income households	• Rental Units: in perpetuity • For-Sale Units: determined by equity-sharing agreement

Survey of Inclusionary Housing Ordinances

Jurisdiction	Threshold Units	Inclusionary Percentage	In Lieu Fee	Other Alternatives	Rental-Units Income Category	For-Sale Units Income Category	Term of Affordability
Pasadena	10+ unit residential development	20%	Yes	- Off-site units - Land donation - Off-site units when very low, low or moderate-income households are displaced	5% very low-income households 5% very low or low-income households 10% very low, low or moderate-income households	very low, low or moderate-income	- Rental Units: in perpetuity - For-Sale Units: 45 years
South Pasadena	3+ unit residential development	20%	Yes	- Off-site units - Rehabilitation/ conversion of equivalent number of existing units to affordable units - Land donation	≤10 Units – 2 units lower income, or 1 very low & 1 non-above moderate income 11+ Units – 50% extremely low or very low and 50% lower income	Moderate-income	55 years

* Outside of the San Gabriel Valley.

** AMI = Area Median Income means the median family income of a geographic area.

ATTACHMENT 5

Notice of Exemption

Notice of Exemption

From: City of Monterey Park Planning
320 W. Newmark Avenue
Monterey Park, CA 91754

To:

- ☐ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814
- ☐ Los Angeles, County Clerk
Environmental Filings
12400 Imperial Highway #1201
Norwalk, CA 90650
Attn: Business Filings and Registration

Project Title: Zoning Code Amendment No. 22-01 (ZCA-22-01) Inclusionary Housing Ordinance
Project Location: City-Wide
Project Location - City: Monterey Park
Project Location - County: Los Angeles

Description of Project:

An amendment to Title 21 of the Monterey Park Municipal Code to establishing inclusionary housing requirements. The amendment is a legislative policy action intended to increase the availability of affordable housing stock by requiring developers who create five or more units to make a percentage of the units available to lower- and moderate-income households.

Name of Public Agency Approving Project:

City of Monterey Park

Name of Person or Agency Carrying Out Project:

City of Monterey Park

Exempt Status: (check one)

- | | |
|---|--|
| ☐ Ministerial (Sec. 21080(b)(1); 15268); | ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a)); |
| ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); | ☐ Categorical Exemption. State type and section number: _____ |
| ☐ Statutory Exemptions. State code number: _____ | ☒ Other: <u>Sections 15060(c)(2), 15061(b)(3)</u> |

Reasons why project is exempt:

Pursuant to CEQA, this Ordinance is not subject to exempt from further CEQA review under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.; "CEQA") for the following reasons: (1) it will not result in a direct or reasonably foreseeable indirect physical change in the environment (14 Cal. Code Regs. CEQA Guidelines § 15060(c)(2); (2) there is no possibility that this Ordinance may have a significant effect on the environment (14 Cal. Code Regs. because this is review of proposed legislation and any potential housing projects that would be affected by the proposed regulations would undergo independent environmental review (CEQA Guidelines § 15061(b)(3); and (3) this Ordinance, by itself, does not constitute a "project" as defined in the CEQA Guidelines (14 Cal. Code Regs. by CEQA because it involves a policy action affecting prospective future development to comply with Housing Element Program 15 (CEQA Guidelines § 15378).

Lead Agency Contact Person: Beth Chow, AICP Telephone (626) 307-1315

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: _____ Title: Senior Planner

- ☐ Signed by Lead Agency Date received for filing at OPR: _____
- ☐ Signed by Applicant



City Council Staff Report

DATE: August 16, 2023

AGENDA ITEM NO: Public Hearing - 4B

TO: The Honorable Mayor and City Council
FROM: Jessica Serrano, Director of Community Development
SUBJECT: A public hearing to consider adopting a resolution establishing city-wide fees related to the Inclusionary Housing Ordinance

RECOMMENDATION:

It is recommended that the City Council consider:

1. Continue the public hearing to the September 6, 2023 City Council meeting; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

This matter is still under review and the outcome of the Council's decision related to the proposed Inclusionary Housing Ordinance may affect the fee proposal. Staff recommends that this item be continued to the September 6, 2023 City Council meeting.

Respectfully submitted by:

Prepared by:

A handwritten signature in blue ink, appearing to read "J. Serrano", is written over a horizontal line.

Jessica Serrano
Director of Community
Development

A handwritten signature in blue ink, appearing to read "Beth Chow", is written over a horizontal line.

Beth Chow, AICP
Interim Planning Manager

Approved by:

Reviewed by:

A handwritten signature in blue ink, appearing to read "Inez Alvarez", is written over a horizontal line.

Inez Alvarez
Interim City Manager

A large, stylized handwritten signature in blue ink is written over a horizontal line.

Karl H. Berger
City Attorney

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA, DENOUNCING ANTISEMITISM

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. The City of Monterey Park is committed to inclusion and advancement of diversity and equity for people of all races, ethnicities, national origins, religions, ages, genders, and backgrounds.
- B. The City of Monterey Park takes great pride in diversity and respect for all people, and the Jewish community is an integral part of the City's fabric, recognizing our diversity as a vital strength for the City and our character.
- C. The City of Monterey Park supports efforts to eradicate antisemitism, and all forms of hatred and supports expanded education programs, including Holocaust programs, to counter intolerance and discrimination.
- D. The City of Monterey Park condemns antisemitism in all its forms, including hatred and prejudice directed towards Jewish community members; stereotypes or conspiracy theories about Jews; Holocaust denial or distortion, and; extremist indoctrination or recruitment related to any form of antisemitism.
- E. The City of Monterey Park affirms that hatred and bias in any form are unacceptable in our community. The City of Monterey Park remains committed to our vision of welcoming and serving the people of Monterey Park to create a community that offers a high quality of life.
- F. Any victims of antisemitism in the City of Monterey Park are urged to report any incidents so that local law enforcement can respond, track such incidents, and bring perpetrators to justice.
- G. The City of Monterey Park, on behalf of its citizens and as supporters and allies of our Jewish community, does hereby proclaim the City of Monterey Park's condemnation of antisemitism. The City of Monterey Park firmly stands against hate, bias, or violence based on identity and remains committed to nondiscrimination and human rights.
- H. The City of Monterey Park will continue to work alongside the American Jewish Committee, the Anti-Defamation League, the United States Conference of Mayors, and Jewish Federation of the Greater San Gabriel and Pomona Valleys to combat and denounce antisemitism.
- I. The City Council of Monterey Park is committed to protecting all residents. Every person in Monterey Park deserves to be treated fairly, with dignity, and to have their humanity, existence, history, and contributions valued.

SECTION 2: *Electronic Signatures*. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 3: *Recordation*. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 4: *Effective Date*. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this ____ day of _____, 2023.

Jose Sanchez, Mayor

Attest:

Maychelle Yee, City Clerk