

**CITY COUNCIL OF MONTEREY PARK
AND THE CITY COUNCIL ACTING ON BEHALF OF THE SUCCESSOR AGENCY
OF THE FORMER REDEVELOPMENT AGENCY AND THE MONTEREY PARK FINANCING
AUTHORITY
AGENDA**

REGULAR CITY COUNCIL MEETING

**Wednesday
September 1, 2021
6:30 p.m.**

EXECUTIVE ORDER NO. N-29-20

These meetings will be conducted pursuant to Section 3 of Executive Order No. N-29-20 issued by Governor Newsom on March 17, 2020.

Accordingly, Councilmembers will be provided with a meeting login number and conference call number; they will not be physically present at Council Chambers.

Pursuant to the Governor's order, the public may provide public comment utilizing the methods set forth below.

Note that City Hall is currently closed to the public. You will not be admitted to City Hall.

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.

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>.

This Agenda may include items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

PUBLIC PARTICIPATION

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed in the following ways:

Via Email (Written Communications)

Public comment will be accepted up to 24 hours before the meeting via email to mpclerk@montereypark.ca.gov. Written communications (if any) will be briefly summarized and include the name of each individual that submitted a comment; the summary will be read via prerecorded video and played during the Public Comment section of the City Council meeting. To view the full text of written communications, please visit www.montereypark.ca.gov/AgendaCenter. All written communications are provided to the City Council and filed as part of the City's administrative record.

Via Telephone

Public comment may be submitted via telephone during the meeting, before the close of public comment, by calling **(888) 788-0099 or (877) 853-5247** and entering Zoom Meeting ID: **289 222 5995** then press pound (#). When prompted to enter participation ID number press pound (#) again. If participants would like to make a public comment they will enter **"*9"** then the Clerk's office will be notified, and you will be in the rotation to make a public comment. Press **"*6"** to unmute yourself when called upon to speak. Participants are encouraged to join the meeting 15 minutes before the start of the meeting. You may speak up to 5 minutes on Agenda item. Speakers will not be allowed to combine time. The Mayor and City Council may change the amount of time allowed for speakers. As part of the virtual meeting protocols, anonymous persons will not be allowed to provide public comment.

Important Disclaimer

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CALL TO ORDER **Mayor**

FLAG SALUTE **Mayor**

ROLL CALL **Peter Chan, Hans Liang, Henry Lo, Fred Sornoso, 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.

[1.] PRESENTATION

1-A. COMMUNITY CLEANUP, SEPTEMBER 18, 8 A.M. – 1 P.M., GARVEY RANCH PARK

[2.] OLD BUSINESS – None.

[3.] CONSENT CALENDAR ITEMS NOS. 3A-3B

3-A. MINUTES

It is recommended that the City Council (and the City Council acting on behalf of the Successor Agency and the Financing Authority Board of Directors) consider:

- (1) Approving the minutes from the regular and special meetings of July 21, 2021; and
- (2) Taking such additional, related, action that may be desirable.

3-B. NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II – AWARD OF CONTRACT

It is recommended that the City Council consider:

- (1) Authorizing the City Manager to execute a public works contract, in a form approved by the City Attorney, with Big Ben, Inc., in the amount of \$3,643,675 for the Northeast Area Water Main Improvements Phase II, Specification No. 2021-002.
- (2) Authorizing the appropriation of \$1,033,900 from Water Operations Funds (401) for the construction of the project, Capital Improvement Project (CIP) 96002.
- (3) Authorizing the Director of Public Works to approve change orders and contingency up to \$364,368 (10%) of the contract amount, for a total project cost of \$4,008,043.
- (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.

[4.] PUBLIC HEARING – None.

[5.] NEW BUSINESS

5-A. ORDINANCE ENACTING WATER CONSERVATION MEASURES AND REQUIREMENTS

It is recommended that the City Council consider:

- (1) Introducing and waiving first reading of an Ordinance amending the Monterey Park Municipal Code (“MPMC”) to add Chapter 14.25 that enacts water conservation regulations; and
- (2) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed ordinance 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 §§ 15000, *et seq.*) because it establishes rules and procures to clarify existing policies and practices related to water service; 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. The ordinance would be adopted, in part, for protection of the environment. Accordingly, the ordinance does not constitute a “project” that requires environmental review (*see specifically* 14 CCR § 15378(b)(2,5)).

5-B. ORDINANCE AMENDING CHAPTER 21.34 OF THE MONTEREY PARK MUNICIPAL CODE REGARDING THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY AND AMENDING CHAPTER 9.66.010 REGULATING INTERFERENCE WITH RADIO COMMUNICATIONS AND A RESOLUTION ADOPTING SMALL WIRELESS FACILITY REGULATIONS

It is recommended that the City Council consider:

- (1) Introducing and waiving first reading of an Ordinance Amending Chapter 21.34 of the Monterey Park Municipal Code ("MPMC") regulating installation of wireless telecommunications facilities in the public rights-of-way and amending MPMC § 9.66.010 regulating interference with radio communications; and
- (2) Adopting a resolution implementing small wireless facility regulations pursuant to the MPMC; and
- (3) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed ordinance 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 §§ 15000, *et seq.*) pursuant to CEQA Guidelines § 15061 (b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation of any equipment within the City's boundaries. Installation of wireless communications facilities, if any, generally would be exempt from CEQA review in accordance with either CEQA Guidelines § 15302 (replacement or reconstruction), § 15303 (new construction or conversion of small structures), and/or § 15304 (minor alterations to land).

[6.] CITY COMMUNICATIONS (CITY COUNCIL)

[7.] FUTURE AGENDA ITEMS

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

ADJOURN



City Council Staff Report

DATE: September 1, 2021

AGENDA ITEM NO: Consent Calendar
Agenda Item 3A

TO: The Honorable Mayor and City Council

FROM: Vincent D. Chang, City Clerk

SUBJECT: Minutes

RECOMMENDATION:

It is recommended that the City Council (and the City Council acting on behalf of the Successor Agency) and the Financing Authority Board of Directors consider:

1. Approving the minutes from the regular and special meetings of July 21, 2021; and
2. Taking such additional, related, action that may be desirable.

EXECUTIVE SUMMARY:

None.

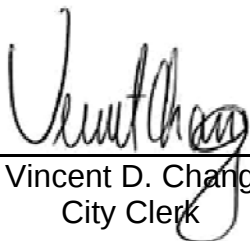
BACKGROUND:

None.

FISCAL IMPACT:

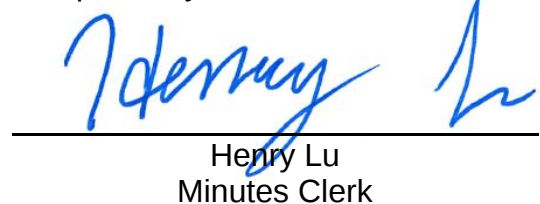
None.

Respectfully submitted,



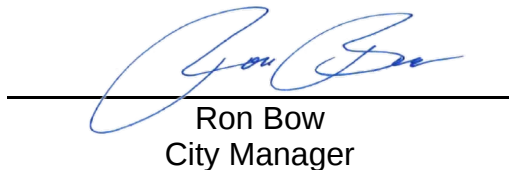
Vincent D. Chang
City Clerk

Prepared by:



Henry Lu
Minutes Clerk

Approved By:



Ron Bow
City Manager

ATTACHMENT(S):

1. Draft Minutes

ATTACHMENT 1

Draft Minutes

**MINUTES
MONTEREY PARK CITY COUNCIL
SUCCESSOR AGENCY (SA)
SPECIAL MEETING
JULY 21, 2021**

The City Council of the City of Monterey Park held a Special Teleconference Meeting on Wednesday, July 21, 2021 at 5:00 p.m. The special meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

The minutes include items considered by the City Council acting on behalf of the Successor Agency of the former Monterey Park Redevelopment Agency, which dissolved February 1, 2012. Successor Agency matters will include the notation of "SA" next to the Agenda Item Number.

PUBLIC PARTICIPATION

In accordance with Executive Order No. N-29-20 and guidance from the California Department of Public Health on gatherings, remote public participation was allowed in the following ways:

Via Email

Public comment was accepted up to 2 hours before the meeting via email to mpclerk@montereypark.ca.gov and read into the record during public comment, when feasible. We request that written communications be limited to not more than 50 words.

Via Telephone

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The Special Meeting will not be televised 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>.

MISSION STATEMENT

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CALL TO ORDER:

Mayor Pro Tem Lo called the meeting to order at 5:05 p.m.

ROLL CALL:

Deputy City Clerk Cindy Trang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu at 5:11 p.m.

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, City Attorney Karl Berger, Assistant City Manager Inez Alvarez, Assistant Deputy City Clerk Helena Cho

ORAL AND WRITTEN COMMUNICATIONS

None.

1. NEW BUSINESS – OPEN SESSION

1A. PRESENTATION REGARDING CITY COUNCIL CONSIDERATION OF ADMINISTRATIVE SPACE AND PROPERTY NEEDS

Public Speakers:

- Bill Boyd, Executive Vice President of Kidder Matthews, was present and available for questions.
- Linda Lee, Executive Vice President of Kidder Matthews, was present and available for questions.
- Scott Unger, Senior Vice President of Kidder Matthews, was present and available for questions.

Action Taken: By consensus, the City Council received and filed a presentation provided by the City Manager regarding the City's existing administrative office needs and potential for property acquisition or expansion.

1B. APPOINTMENT OF REAL PROPERTY NEGOTIATORS

Action Taken: The City Council appointed the City Manager, Assistant City Manager, Management Services Director, and City Attorney as the real property negotiators for Closed Session Item No. 2-A.

Motion: Moved by Council Member Chan and seconded by Council Member Liang motion carried by the following vote:

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

2. CLOSED SESSION

The City Council adjourned to Closed Session at 5:38 p.m.

2A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – GOVERNMENT CODE § 54956.8: five items

Properties: 1977 Saturn St, AIN 5265-026-054; 660-670 Monterey Pass Rd., AIN 5252 002-009, 5252-002-010; 1200 Corporate Center Dr., 5237-024-065, 5237-024-066, 5237-024-067, 5237-024-068; 861-887 Atlantic Blvd., 5253-003-025; and 337 W. Newmark Ave. – 5257-010-009

City Ron Bow, City Manager
Negotiators: Karl H. Berger, City Attorney
Inez Alvarez, Assistant City Manager
Martha Garcia, Management Services Director

Negotiating Parties: **1977 Saturn St** – BRE California Saturn LLC DBA C/O Connie Ellis
660-670 Monterey Pass Road – JONAMERICA LLC
1200 Corporate Center Dr – OMNINET LACC LLC ET AL / OMNINET LACC TUCSON LLC, DBA C/O Michael Danielpour
861-887 Atlantic Blvd – MARKDEV DV Monterey Park LLC
337 W Newmark Ave – He Hong and Mingxing

Under Price and terms of payment
Negotiation:

RECONVENE & ADJOURNMENT

The City Council reconvened from Closed Session with all Council Members present. The meeting was adjourned at 6:29 p.m.

Action Taken: No reportable action taken in Closed Session.

Vincent D. Chang
City Clerk

**MINUTES
MONTEREY PARK CITY COUNCIL
FINANCING AUTHORITY
SUCCESSOR AGENCY (SA)
JULY 21, 2021**

The City Council and the Financing Authority of the City of Monterey Park held a Regular Teleconference Meeting via Zoom on Wednesday, July 21, 2021 at 6:30 p.m. The regular meeting was conducted pursuant to Section 3 of Executive Order No. N-29-20 issued on March 17, 2020. Accordingly, Council Members were provided a meeting login number and conference call number and were not physically present at Council Chambers.

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MISSION STATEMENT

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CALL TO ORDER:

Mayor Yiu called the meeting to order at 6:32 p.m.

FLAG SALUTE:

Mayor Yiu led the Flag Salute.

ROLL CALL:

City Clerk Vincent Chang called the roll:

Council Members Present: Peter Chan, Hans Liang, Henry Lo, Fred Sornoso,
Yvonne Yiu

Council Members Absent: None

ALSO PRESENT: City Manager Ron Bow, City Attorney Karl Berger, City Treasurer Joseph Leon, Assistant City Manager Inez Alvarez, Fire Chief Matt Hallock, City Librarian Diana Garcia, Director of Human Resources & Risk Management Christine Tomikawa, Director of Management Services Martha Garcia, Director of Public Works Frank Lopez, Director of Recreation & Community Services Robert Aguirre, Police Captain Eric Kim, Economic Development Manager Joseph Torres, Planning Manager Jason Moquin, Water Utility Manager Richard Gonzales, Financial Services Manager Harry Wong, Recreation & Community Services Program Coordinator Guillermo Chavez, Community Communications Coordinator Randy Ishino, Deputy City Clerk Cindy Trang, Assistant Deputy City Clerk Helena Cho

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

City Attorney Berger reported that no reportable action was taken in closed session from the July 21, 2021, 5:00 P.M. Special City Council meeting.

PUBLIC COMMUNICATIONS

Public Speaker Disclaimer: Meetings are held virtually and the information listed for the speakers may or may not reflect the correct spelling of their respective name.

- Hong Nguyen, representing Supervisor Hilda Solis' Office, read a thank you letter addressed to the City and City Council for their support of Project Roomkey.

The City Council halted Public Communications to hear Agenda Item No. 1A and continued Public Communications after Agenda Item No. 4A.

- Memo Chavez, Recreation & Community Services Program Coordinator, announced that on Monday, August 2, 2021, the Langley Senior Center will reopen programs by registration only from Monday – Friday, 8:00 a.m. – 3:00 p.m. Registration will begin on July 26, 2021 by calling 626-307-1395. He relayed that activities will be limited for 2 hours per week and is free for all seniors. The Recreation and Community Services department invited the public to Movie in the Park on Friday, July 23, 2021, 8:00 p.m. at Barnes Park Field. He reported that the City of Monterey Park Night at Dodger Stadium event has been sold out.
- Thea Lim spoke about the dangers of secondhand smoke. She stated that secondhand smoke is a severe problem in Monterey Park. She said that the residents have started a coalition called Healthy Environment Against Residential Tobacco Smoke (HEARTS) to raise awareness about secondhand smoke. She urged that the City Council to consider banning or eliminating smoking in multi-unit housing.
- Fitria stated that she is bother by secondhand smoke coming from other units in the multi-unit complex she lives in. She said that she started a coalition with other residents called Healthy Environment Against Residential Tobacco Smoke (HEARTS) to raise awareness about secondhand smoke. She shared her experience living in a multi-unit housing complex that has numerous smokers. She implored that the City Council to consider implementing a smoke free multi-unit housing policy.
- Mark Han stated that he is a member of the Healthy Environment Against Residential Tobacco Smoke (HEARTS) coalition. He relayed that HEARTS has educated and informed the community about the dangers of secondhand smoke exposure in multi-unit housing. He encouraged the community that are affected by secondhand smoke exposure to contact the HEARTS coalition at mhan@kfamla.org or calling 626-679-3825 or by visiting their Facebook page @HeartsMontereyPark.
- Patrick Fu stated that he is a member of the Healthy Envrioment Against Residential Tobacco Smoke (HEARTS) coalition. He shared data from their community engagement efforts and reported that they have surveyed over 500 Monterey Park Residents. He relayed that 42% of residents reported secondhand smoke drifting into their unit in the past year. He said that according to their data 41% of those that experience secondhand smoke live with children or seniors, 35% live with someone with a medical condition that has been affected by secondhand smoke. He reported that 89% of residents would choose to live in a non-smoking residential complex if given the choice. He announced that the Coalition can provide more information or material to the City Council and that the coalition would be reaching out to the City Council.

- Kathy Ko spoke about her experience with secondhand smoke. She mentioned that Monterey Park has one of the highest rates of tobacco users in Los Angeles County. She encouraged the City Council to work with the HEARTS coalition and consider an ordinance to reduce secondhand smoke exposure in multi-unit housing.

1. PRESENTATION

Matters listed under presentation are for informational content and discussion only.

1A. PRESENTATION BY ASSESSOR PRANG FROM THE LOS ANGELES COUNTY OFFICE OF THE ASSESSOR ON OVERVIEW OF PROGRAMS, TAX SAVING MEASURES, AND PROP 19

This item was heard after the 1st speaker in Public Communication.

Jeffrey Prang, Los Angeles County Assessor, presented a PowerPoint Presentation on Overview of Programs, Tax Saving Measures, and Proposition 19.

1B. INTRODUCTION OF DIRECTOR OF HUMAN RESOURCES AND RISK MANAGEMENT – CHRISTINE TOMIKAWA

This item was heard after Public Communication.

City Manager Bow introduced Christine Tomikawa, the new Director of Human Resources and Risk Management. Director of Human Resources & Risk Management Tomikawa introduced herself and shared her excitement to work for the City.

1C. 2021-2022 HOUSING ELEMENT UPDATE

Planning Manager Moquin and Reema Shakra, Project Manager with Rincon Consultants, presented a PowerPoint presentation regarding the 2021-2022 Housing Element Update.

Public Speakers:

- Brenna Weatherby, Principal-in-Charge with Rincon Consultants, was present and available for questions.
- Edwin Sun spoke about the Regional Housing Needs Assessment (RHNA) allocation numbers. He urged Rincon Consultants to identify enough space within the housing element to produce the housing numbers needed to address the city's housing crisis. He implored Rincon Consultants to incorporate the Climate Action Plan into the Housing Element and stated that they should not be separated.

1D. 2021 FIREWORK ENFORCEMENT UPDATE

Fire Chief Hallock presented an update on the 2021 Firework Enforcement Update. He informed that there was a decline in the usage of illegal fireworks during the enforcement period.

1E. UPDATE ON NEW AND INNOVATIVE SHOP LOCAL APP PROGRAM

Economic Development Manager Torres presented a PowerPoint presentation regarding updates on new and innovative Shop Local App program.

2. OLD BUSINESS
None.

3. CONSENT CALENDAR ITEMS NOS. 3A-3C

Matters listed under consent calendar are considered to be routine, ongoing business and are enacted by one motion unless specified.

Action Taken: The City Council and the City Council, acting on behalf of the Successor Agency, approved and adopted Agenda Item Nos. 3A-3C on Consent Calendar, reading resolutions and ordinances by the title only and waiving further reading thereof.

Motion: Moved by Council Member Chan and seconded by Council Member Sornoso motion carried by the following vote:

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

3A. MINUTES

Approve the Minutes from the regular meeting of June 2, 2021 and the special meeting of May 26, 2021.

Action Taken: The City Council (and the City Council acting on behalf of the Successor Agency) approved the minutes from the regular meeting of June 2, 2021 and the special meeting of May 26, 2021 on Consent Calendar.

3B. MONTHLY INVESTMENT REPORT – JUNE 2021

As of June 30, 2021 invested funds for the City of Monterey Park is \$102,419,847.88.

Action Taken: The City Council received and filed the monthly investment report on Consent Calendar.

3C. WAIVE FURTHER READING AND ADOPT AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE § 2.04.050 TO CHANGE THE ELECTION DATE OF GENERAL MUNICIPAL ELECTIONS AND REQUESTING CONSOLIDATION WITH LOS ANGELES COUNTY PURSUANT TO ELECTIONS CODE § 1301

The first reading and introduction of the Ordinance took place at the July 7, 2021 City Council meeting. The July 7, 2021 staff report is attached for reference. Second reading and adoption of this Ordinance amendment is recommended; it will become effective upon approval by the Los Angeles County Board of Supervisors pursuant to Elections Code § 1301(b)(1).

Senate Bill (SB) 970 changes the date of the statewide direct primary to the first Tuesday after the first Monday in June in even-numbered years in which there is no presidential primary to take effect January 1, 2021. The change will affect the terms of office for all elected officials and the City Council mayoral rotation schedule. The effect of the election date and the release of the 2020 Census data will determine the deadline for submittal of the redistrict map to the Los Angeles County.

Action Taken: The City Council waived further reading and adopted Ordinance No. 2212 amending Monterey Park Municipal Code § 2.04.050 to change the election date of general municipal elections and requesting consolidation with Los Angeles County pursuant to Elections Code § 1301 on Consent Calendar.

Ordinance No. 2212, entitled:

AN ORDINANCE AMENDING MONTEREY PARK MUNICIPAL CODE § 2.04.050 TO CHANGE THE ELECTION DATE OF GENERAL MUNICIPAL ELECTIONS AND REQUESTING CONSOLIDATION WITH LOS ANGELES COUNTY PURSUANT TO ELECTIONS CODE § 1301

4. PUBLIC HEARING

4A. PUBLIC HEARING TO RECEIVE INPUT REGARDING REDRAWING OF COUNCIL DISTRICT BOUNDARIES PURSUANT TO ELECTIONS CODE § 21601

On May 1, 2019, the City Council adopted Ordinance No. 2160 transitioning to district-based elections. In accordance with the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act (Elections Code § 21601-21609), following the federal decennial census every ten years, districts boundaries must be redrawn so that each district is substantially equal in population. It is important in ensuring that each City Councilmember represents about the same number of constituents. The maps must meet certain requirements and has a total deviation of less than 10% difference.

The U.S. Census Bureau announced on February 12, 2021 that the 2020 Census redistricting data will be released by September 30, 2021. However, "legacy format" data will be released no later than August 16. The Statewide Database will require an additional 30 days to adjust the datasets for redistricting, and the City can expect to receive the data in late September 2021.

Although the final 2020 Census redistricting data is not yet available, staff wants to begin the redistricting process to receive direction from the City Council and to engage community participation. The City contracted with National Demographics Corporation (NDC) to assist with the redistricting process and draw new maps, if needed.

This item was heard promptly at 7:00 P.M. after Agenda Item No. 1A.

Public Speakers:

- Justin Levitt, Vice-President of National Demographics Corporation, presented a PowerPoint presentation and was available for questions.
- Bill Lam implored the City Council to hold more public outreach and to consider holding redistricting workshops on the weekends. He voiced his opinion that there should be two districts north of Garvey Avenue.

Recommendation: That the City Council consider: (1) Conducting a Public Hearing to receive testimony on redrawing of council district boundaries pursuant to Elections Code § 21601; (2) Providing direction to the City's demographer regarding redrawing of council district boundaries pursuant to Elections Code § 21601; and (3) Taking such additional, related, action that may be desirable.

Action Taken: The City Council opened the public hearing at 7:01 p.m. to received documentary and testimonial evidence; closed the public hearing at 7:30 p.m.; and by consensus, received and filed the staff report.

4B. RESOLUTION ADOPTING THE WHITMORE VILLAS MITIGATED NEGATIVE DECLARATION AND APPROVING TENTATIVE MAP NO. 82607 (TM-20-03)

The requested tentative map (Tentative Map No. 82607) would subdivide 2.8 acres into two lots. This would allow the applicant to develop the property for condominium uses. The property affected by the proposed tentative map is the former New Avenue School site which has been vacant since 2018 when the New Avenue School and associated structures were demolished.

This subdivision would result in construction of 11 buildings consisting of a total of 63 townhomes with subterranean garages. The 63 proposed units would have an average size of approximately 1,320 square feet each, for a total livable area of approximately 82,707 square feet. The two-story units, with and without attached garages, would total 40 two-bedroom units and 23 three-bedroom units. Between three and nine units are in each of the 11 separate buildings, which are centered around internal driveways and common areas. Private yards with low walls (± 42 inches high) would front the sidewalk on New Avenue and Whitmore Street. Units along New Avenue and Whitmore Street would have both internal and street-facing entrances; units directly abutting each other in the interior of the development would include private patios with 6-foot fences between units.

The development would also construct 166 parking spaces, including 46 enclosed garage parking spaces, 8 surface parking spaces, and 112 underground garage parking spaces. Access would be provided from New Avenue via two west-facing driveways at the center and southern edge of the project site, and from Whitmore Street via a north-facing driveway at the northeast corner of the project site. Existing driveways would be removed, and new driveways would be installed.

The only action that the City Council may consider is approving the proposed tentative map; the actual development is allowed by the MPMC (Monterey Park Municipal Code) as a matter of right by the R-3 zoning regulations.

CEQA (California Environmental Quality Act):

Pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code §§ 21000, *et seq.*) and CEQA Guidelines (14 California Code of Regulations §§ 15000, *et seq.*), an environmental assessment was conducted for this project. An Initial Study and a Mitigated Negative Declaration were prepared and were made available for public review from March 16, 2021 through April 14, 2021. With the implementation of certain mitigation measures, the proposed Project will not have a significant impact on the environment and therefore a Mitigated Negative Declaration (MND) with Mitigation Measures and Mitigation Monitoring and Reporting Plan (MMRP) is recommended for adoption.

This item was heard after Consent Calendar Items Nos. 3A-3C.

Public Speakers:

- City Clerk Chang received, filed, and read into the record eight written communications. All eight written communications voiced their support of the project from: Eileen Xu, James Chang, Steven Xue, Zeqiong Ao, Xiaoyan Zhang, Ting Xue, Jianna Li, and Huijun Wu.
- Feng Xiao, Project Architect representing the property owner, was present and available for questions.

Action Taken: The City Council (1) opened the public hearing at 8:55 p.m.; (2) received documentary and testimonial evidence; (3) closed the public hearing at 9:07 p.m.; (4) adopted Resolution No. 12259 adopting the Whitmore Villas Mitigated Negative Declaration and approving Tentative Map No. 82607 (TM-20-03).

Motion: Moved by Council Member Liang and seconded by Council Member Chan motion carried by the following vote:

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

Resolution No. 12259, entitled:

A RESOLUTION ADOPTING THE WHITMORE VILLA MITIGATED NEGATIVE DECLARATION AND APPROVING TENTATIVE MAP NO 82067 (TM-20-03), ALLOWING FOR SUBDIVISION OF 2.8 ACRES INTO TWO PARCELS TO DEVELOP 63 TWO STORY TOWNHOME UNITS AT 126 NEW AVENUE

5. NEW BUSINESS

5A. DISSOLUTION AND CONSOLIDATION OF CERTAIN CITY COMMISSIONS; FORMATION OF TRAFFIC SAFETY COMMITTEE

Beginning in 2013, the City Council undertook a series of actions to make the City's commissions, boards and committees more efficient (collectively, the "commissions"). Among other things, the City Council significantly reduced the number of commissions and also clarified their responsibilities. Monterey Park Municipal Code ("MPMC") Chapter 2.82 was adopted in 2013 to facilitate the creation of commissions – when the City Council found such action desirable – and also establish uniformity as to membership, terms, and procedures. Most recently, the City Council adopted Ordinance No. 2209 in June 2021 to clarify the terms of persons serving on commissions and the number of commissioners needed to form a quorum.

In 2020, the COVID-19 emergency provided an opportunity for City staff to further evaluate efficiencies. The message championed by the City Council – as exemplified by the 2020 Monterey Park Business Recovery Program – was to "cut through the red tape" and make things easier for businesses, and residents, to obtain City services.

A review of the various commissions suggests that the City may reduce resource expenditures – both staff and money – by further consolidating, revising, and dissolving certain commissions. The City Council may always create ad hoc commissions or establish new standing commissions when the need arises. Maintaining a multitude of standing commissions, however, requires the City to prepare agenda packets; pay for noticing; pay for staffing at commission meetings; recruit for persons to fill vacancies; utilize meeting rooms that could be used for other community events; and engage in other, similar, administrative activities.

Certainly, several commissions are necessary for the ongoing functions of municipal government. The Planning Commission and Library Board, as examples, serve central functions for the City. Other commissions, however, may be more useful for formulating City Council policy if they were consolidated into one overall commission. And at least two commissions may be dissolved altogether.

The draft ordinance, if adopted, would dissolve the personnel board and the traffic commission. As to the personnel board, all bargaining units (i.e., the unions) were consulted regarding the dissolution and expressed no objection.

For the traffic commission, the City Engineer believes that the contributions by an at-large volunteer on a technical advisory committee – mainly comprised of City employees from the police department, fire department and public works department – would be far more efficient for prioritizing traffic improvements throughout the City.

Recommendation: That the City Council consider: (1) Introducing and waiving first reading of an ordinance amending the Monterey Park Municipal Code to dissolve the personnel board and traffic commission; (2) Adopting a resolution consolidating the Community Participation and Environmental Commission into the Monterey Park Environmental and Community Participation Commission and authorizing the City Manager to create the Traffic Safety Committee; (3) If desirable, extending the terms of certain appointed officials on any remaining commissions; and (4) Taking such additional, related, action that may be desirable.

Action Taken: The City Council tabled the agenda item to obtain more public input and directed staff to bring back the agenda item at a future City Council meeting for consideration and allowed public speakers to be heard at this time.

Motion: Moved by Council Member Chan and seconded by Council Member Liang motion carried by the following vote:

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

Public Speakers:

- Allan Shatkin, Chair of the Traffic Commission, spoke in opposition of dissolving the Traffic Commission. He urged the City Council to table or oppose the resolution to dissolve and consolidate certain commissions. He stated the Traffic Commission is a vital public platform for the residents and said that its dissolution would be a disservice to the residents.
- City Clerk Chang received, filed, and read into the record two written communications from Jeff Schwartz and Steven Klein voicing their opposition to the dissolution of Commissions.

5B. CONSIDERATION OF OPPOSING SENATE BILL 9 (ATKINS), INCREASED DENSITY IN SINGLE-FAMILY ZONES

The San Gabriel Valley Council of Governments (SGVCOG) has reached out to surrounding municipalities requesting local leadership join other cities in submitting a letter to the Assembly Appropriations Committee and the San Gabriel Valley's eight Assemblymembers and five state Senators opposing Senate Bill (SB) 9.

Staff is seeking direction from City Council on its position to oppose SB 9 and send a letter or adopt a Resolution opposing SB 9.

Public Speakers:

- Patrick Chu said that home rental prices in Monterey Park and nearby cities are increasing and becoming impossible to afford. He voiced his support of Senate Bill (SB) 9 and stated that SB 9 would help bring down rent prices.
- Jenny Fu voiced her support of Senate Bill 9.
- Andrew voiced his opposition to the agenda item. He communicated that he supports Senate Bill 9 and said that housing prices are very high in Monterey Park.
- City Clerk Chang received, filed, and read into the record one written communication from Edwin Sun. Mr. Sun expressed his support for Senate Bill 9.

Action Taken: The City Council opposed Senate Bill 9, increased Density in Single-Family Zones by sending a letter and adopted Resolution No. 12260.

Motion: Moved by Council Member Liang and seconded by Council Member Sornoso motion carried by the following vote:

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

Resolution No. 12260, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEREY PARK, CALIFORNIA, OPPOSING SENATE BILL 9 (ATKINS) WHICH WOULD REQUIRE MINISTERIAL APPROVAL OF HOUSING DEVELOPMENT CONTAINING TWO RESIDENTIAL UNITS AND PARCEL MAP DIVIDING A LOT INTO TWO EQUAL PARTS FOR RESIDENTIAL USE

6. CITY COMMUNICATIONS (CITY COUNCIL)

Council Member Chan relayed that the San Gabriel Valley Metro Service Council had an agenda item regarding Street Safety Policy and said that he forwarded the survey to staff to review and inform him if there are any safety issues so that he can relay the information to the Metro Service Council. He directed the City Attorney to consider an anti-smoking policy in multi-family units for discussion at a future city council meeting.

Council Member Liang spoke about the Covid-19 Delta variant and relayed that the Los Angeles County has mandated indoor mask usage. He encouraged the public to stay vigilant and stated that the pandemic is not over.

Council Member Sornoso reported that he discussed bulky item issues with Fire Chief Hallock. He reminded the community to contact Athens to schedule their bulky item pickup for any large items they wish to discard.

Mayor Pro Tem Lo announced that Congresswoman Judy Chu nominated City Manager Ron Bow for the 27th District Congressional Leadership Award. He relayed that the event is titled Hometown Heroes of the Pandemic and is scheduled for July 24, 2021, from 10:30 – 11:30 a.m. via Zoom. He congratulated City Manager Bow for getting the Building Bridges of the Year award. He requested that the City Council Strategic planning session information be posted on social media to inform the residents. He reported that the City has a vaccination rate of 82.6% of residents getting at least one vaccine shot. He informed the public that Los Angeles County Supervisor Hilda Solis, Assembly Member Ed Chau, and the Chinatown Service Center will provide a Vaccine Mobile Clinic at Barnes Park on July 23, 2021, from 5:30 – 8:00 p.m. He encouraged the community to get their Covid-19 vaccination shot.

Mayor Yiu reported that the Los Angeles International Airport/Community Noise Roundtable voted for the North Downwind Option B proposal and is one step closer to changing the flight paths over Monterey Park. She spoke about issues the city was facing while she was running for office such as pension liability, street repairs, and airplane noise. She relayed that the city is developing the Shop Local App and said that it is an innovative idea to rebuild the economy during the pandemic. She encouraged the community to continue giving feedbacks and comments to the Council so that they can work on improving the lives of the community.

7. FUTURE AGENDA ITEMS

None.

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

None.

ADJOURNMENT

There being no further business for consideration, the meeting was adjourned at 10:06 p.m.

Vincent D. Chang
City Clerk



City Council Staff Report

DATE: September 1, 2021

AGENDA ITEM NO: Consent Calendar
Agenda Item 3B

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Director of Public Works / City Engineer
SUBJECT: Northeast Area Water Main Improvements Phase II – Award of Contract

RECOMMENDATION:

It is recommended that the City Council consider:

1. Authorizing the City Manager to execute a public works contract, in a form approved by the City Attorney, with Big Ben, Inc., in the amount of \$3,643,675 for the Northeast Area Water Main Improvements Phase II, Specification No. 2021-002.
2. Authorizing the appropriation of \$1,033,900 from Water Operations Funds (401) for the construction of the project, Capital Improvement Project (CIP) 96002.
3. Authorizing the Director of Public Works to approve change orders and contingency up to \$364,368 (10%) of the contract amount, for a total project cost of \$4,008,043.
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:

On July 7, 2021, the City Council adopted a resolution approving the design and specifications for the Northeast Area Water Main Improvements Phase II project. The bid opening was held on August 3, 2021. Staff completed review of bids and recommends that the contract be awarded to Big Ben, Inc., the lowest responsible bidder, in the amount of \$3,643,675.

BACKGROUND:

Phase I of the Northeast Area Water Main Improvements was completed in the 2015-2016 fiscal year. On February 4, 2020, the City executed a professional services agreement to Elie Farah, Inc. to finalize plans, specification, and estimates for the

Northeast Area Water Main Improvements Phase II project. The design of the water main improvements includes installation of approximately 7,950 lineal feet of 8-inch Polyvinyl Chloride (PVC) C909 and 3,060 lineal feet of 10-inch PVC C909 water main along various streets within the northeast side of the City; including construction of water service line replacement, installation of new fire hydrants and laterals, fire service lines and appurtenances, valves, abandonment of existing mains, and tie-in to existing water systems. This project will significantly reduce the occurrence of water main breaks, improve water system reliability, and most notably provide improved fire protection capability.

The project involves water improvements for the following streets:

Street	Segment
Hellman Ave.	Garfield Ave. to Alhambra Ave.
Sierra Vista St., Rural Dr., Orange Ave., Gladys Ave., Florence Ave., Elizabeth Ave., & New Ave.	Garvey Ave. to Emerson Ave.

Staff opened bids on August 3, 2021, for the Northeast Area Water Main Improvements Phase II, Specification 2021-002, and completed the review of all bids submitted. The bids are listed in the table below:

RANK	BIDDER	BASE BID AMOUNT
1	Big Ben, Inc.	\$3,643,675
2	Stephen Doreck Equipment Rentals, Inc.	\$3,692,549
3	Colich & Sons L.P.	\$4,182,175
4	Dominguez General Engineering, Inc.	\$4,868,850
5	TE Roberts Inc.	\$5,046,529

The bid submitted by Big Ben, Inc. is the lowest responsive bid from a responsible bidder. Big Ben, 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.

FISCAL IMPACT:

The project is included in FY 2020-21 adopted budget and will be funded with the available budget of \$2,974,143. A budget appropriation in the amount of \$1,033,900 from

Water Operations Funds (401) to CIP 96002 is recommended to cover the full cost of this project.

Respectfully submitted by:



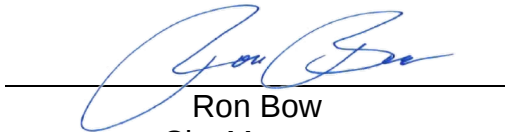
Frank A. Lopez
Director of Public Works/
City Engineer

Prepared by:



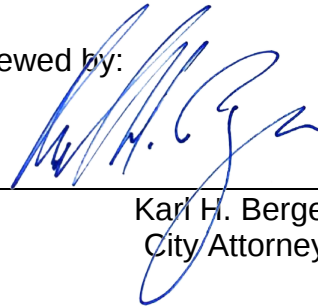
Ulises Benavente
Civil Engineering Assistant

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Big Ben, Inc. Bid Proposal

ATTACHMENT 1

Big Ben, Inc. Bid Proposal

SECTION C. BIDDERS PROPOSAL**(Entire section C shall be submitted with the bid)****BIDDER'S NAME:** Big Ben Inc.

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
NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATION NO. 2021-002

NO.	ITEM DESCRIPTION	UNIT OF	EST.	Unit Price	Extended Price
1	Mobilization and Demobilization	LS	1	120,000	120,000
2	Traffic Control	LS	1	40,000	40,000
3	Remove and dispose of asbestos cement (AC) pipe 1" thru 4" diameter	LF	90	20	1,800
4	Remove and dispose asbestos cement (AC) pipe 5" thru 12" diameter	LF	90	20	1,800
5	Trenching & Excavation Safety Measures	LS	1	45,000	45,000
6	Furnish and Install 4" PVC C909, Ultra Blue Seismic, CL 235 Waterline	LF	90	155	13,950
7	Furnish and Install 6" PVC C909, Ultra Blue Seismic, CL 235 Waterline	LF	90	165	14,850
8	Furnish and Install 8" PVC C909, Ultra Blue Seismic, CL 235 Waterline	LF	7,950	90	715,500
9	Furnish and Install 10" PVC C909, Ultra Blue Seismic, CL 235 Waterline -PCC pavement	LF	1,800	125	225,000
10	Furnish and Install 10" PVC C909, Ultra Blue Seismic, CL 235 Waterline -AC pavement	LF	1,260	120	151,200
11	Furnish and install 8 inch -45 degree bend	EA	6	500	3,000
12	Furnish and install 8 inch - 22.5 degree bend	EA	12	600	7,200
13	Furnish and install 10 inch -45 degree bend	EA	4	900	3,600
14	Furnish and install 10 inch - 22.5 degree bend	EA	6	900	5,400
15	Remove 6 inch Fire Hydrant Assembly and deliver to City Yard.	EA	2	750	1,500
16	Remove 6 inch Fire Hydrant Assembly and salvage for reuse.	EA	11	750	8,250
17	Furnish and Install new Fire Hydrant Assembly Per City Standards	EA	9	12,000	108,000
18	Furnish and re-install salvaged Fire Hydrant Assembly Per City Standards	EA	11	10,000	110,000

BID SCHEDULE
NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATION NO. 2021-002

NO.	ITEM DESCRIPTION	UNIT OF	EST.	Unit Price	Extended Price
19	Furnish and Install 1-inch Water Service per City Standard	EA	251	1,875	470,625
20	Furnish and Install 2-inch Water Service per City Standard	EA	39	5,000	195,000
21	Furnish and Install 2-inch Water Service per City Standard by boring/jacking method	EA	7	6,500	45,500
22	Furnish and install new 4-inch manifold for water services per City Std	EA	4	12,000	48,000
23	Furnish and Install 4-inch Water Service per City Standard	EA	1	11,000	11,000
24	Furnish and Install 2-inch fire service per City Standard	EA	11	6,000	66,000
25	Furnish and Install 4-inch fire service per City Standard	EA	3	8,000	24,000
26	Furnish and Install 6-inch fire service per City Standard	EA	1	11,000	11,000
27	Furnish and Install 8" water main utility undercrossing	EA	2	4,500	9,000
28	Remove existing single 2", 2.5" detector check and Furnish and Install 2.5" DCDA per City Std	EA	4	5,500	22,000
29	Remove existing single 4" detector check and Furnish and Install 4" DCDA per City Std	EA	2	8,500	17,000
30	Replace customer side water service line behind water meter	LF	900	40	36,000
31	Furnish and install cap on abandoned waterline	EA	18	750	13,500
32	Furnish and install cap with thrust block on abandoned waterline	EA	8	1,000	8,000
33	Abandon Valve and Valve box -PCC Pavement	EA	7	500	3,500
34	Abandon Valve and Valve box -AC Pavement	EA	41	300	12,300
35	Furnish and Install 4" Gate Valve and Box	EA	7	1,500	10,500
36	Furnish and Install 6" Gate Valve and Box	EA	1	2,500	2,500
37	Furnish and Install 8" Gate Valve and Box	EA	18	2,200	39,600

BID SCHEDULE
NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATION NO. 2021-002

NO.	ITEM DESCRIPTION	UNIT OF	EST.	Unit Price	Extended Price
38	Furnish and Install 10" Gate Valve and Box	EA	10	3,000	30,000
39	Furnish and Install Air Release and Vacuum (ARV) Assembly	EA	2	5,500	11,000
40	Furnish and Install Blow-off Assembly	EA	2	4,500	9,000
41	Remove unsuitable material.	CY	2,200	20	44,000
42	Replace unsuitable material with one sack sand slurry.	CY	2,000	125	250,000
43	Replace unsuitable material with CMB	CY	200	25	5,000
44	Pressure test and disinfect pipeline	LS	1	40,000	40,000
45	Replace permanent pavement in trench	TON	1993	150	298,950
46	Replace permanent PCC in trench	CY	290	350	101,500
47	Remove and replace existing broken/ damaged PCC pavement	CY	50	450	22,500
48	Remove and replace PCC cross gutter	SF	200	55	11,000
49	Pothole existing utilities	EA	55	400	22,000
50	Remodel conflicting sewer lateral	EA	5	1000	5,000
51	Tie-in Connection of Proposed 10" Water Main to Existing 8" at Sta. 50+00 per Detail A.	EA	1	12,000	12,000
52	Tie-in Connection of Proposed 10" Water Main to Existing 8" at Sta. 55+90 and 62+18 per Detail B.	EA	2	7,000	14,000
53	Tie-in Connection of Proposed 10" Water Main to Existing 10" at Sta. 68+33 per Detail C.	EA	1	6,500	6,500
54	Tie-in Connection of Proposed 8" Water Main to Existing 10" at Sta. 63+00 per Detail D.	EA	4	4,500	18,000
55	Tie-in Connection of Proposed 8" Water Main to Existing 8" at Sta. 50+00 per Detail E and Detail F.	EA	3	8,000	24,000
56	Tie-in Connection of Proposed 8" Water Main to Existing 8" at Sta. 50+39 per Detail G.	EA	1	14,000	14,000

BID SCHEDULE
NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATION NO. 2021-002

NO.	ITEM DESCRIPTION	UNIT OF	EST.	Unit Price	Extended Price
57	Tie-in Connection of Proposed 8" Water Main to Existing 4" at Sta. 50+00 per Detail K.	EA	3	5,500	16,500
58	Tie-in Connection of Proposed 8" Water Main to Existing 8" at Sta. 63+00 per Detail I.	EA	2	4,500	9,000
59	Tie-in Connection of Proposed 10" Water Main to Existing 10" at Sta. 62+79 per Detail H.	EA	1	9,000	9,000
60	Remove & Replace sidewalk at various locations	SF	2,200	12	26,400
61	Adjust manhole frame & cover to Grade	EA	5	1,000	5,000
62	Adjust Valves Can and Cover to Grade	EA	5	550	2,750
63	Remove/Replace and/or install new raised Pavement Markers	LS	1	1,500	1,500
64	Remove and Replace Traffic Striping, Markings, & Markers	LS	1	10,000	10,000
65	Remove and Replace Inductive Loop Detector	EA	8	500	4,000
TOTAL BASE BID AMOUNT IN NUMBERS		\$ 3,643,675.00			

TOTAL BASE BID AMOUNT IN WORDS _____

Three Million Six Hundred Forty-Three Thousand
Six Hundred Seventy-Five \$ 00/100 - DOLLARS

TOTAL BASE BID AMOUNT IN NUMBERS \$ 3,643,675.00Big Ben Inc.

Bidder (Company Name)

[Signature]
Authorized SignaturePresident
Title

The low bid will be established based on the "Base Bid". Any "Additive Alternate" bid items must also be filled out, but will not be taken into account in determining the lowest responsible bidder, but may be awarded to the awardee at the sole and complete discretion of the City as part of the performance of the contract.

- 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.

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: California Professional Eng.	Traffic Loop	\$ <u>3,800</u>
Address: La Puente, CA		
Tel: 626-810-1338		
Name: Superior Pavement Markings	Striping	\$ <u>11,000</u>
Address: Cypress, CA		
Tel: 714-995-9100		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Name:		\$ _____
Address:		
Tel:		
Total Subcontract Amount (shall not exceed 49% of Total Bid Amount)		\$ _____

REFERENCES

References shall be for projects constructed by the bidding company; references for other projects performed by principals or other individuals of the bidding company may not be included. References shall be either minimum from 3 Public Agencies; or minimum from 2 Public Agencies plus 2 Private Entities for which BIDDER has performed similar work within the past three years.

Reference 1		
Agency Name <u>City of Sierra Madre</u>	Project Name and Brief Description <u>Annual Water Main Replacement</u> <u>7000' - C909 Water Main</u>	
Contact Name and Title <u>Chris Cimino</u>		
Tel: <u>626-253-1025</u> E-mail: <u>ccimino@cityofsierramadre.com</u>	Contract Value: \$ <u>1.3M</u>	Year Completed: <u>2021</u>

Reference 2		
Agency Name <u>City of Fullerton</u>	Project Name and Brief Description <u>Commonwealth Ave. Improvements</u> <u>Sewer, Water, & Street Improvement</u>	
Contact Name and Title <u>Jose Medina</u>		
Tel: <u>714-738-6863</u> E-mail: <u>jose.medina@cityoffullerton.com</u>	Contract Value: \$ <u>4.5M</u>	Year Completed: <u>2021</u>

Reference 3		
Agency Name <u>City of Fullerton</u>	Project Name and Brief Description <u>Loma Alta Reconstruction</u> <u>Sewer, water, street Rehab.</u>	
Contact Name and Title <u>Tiffany Foo</u>		
Tel: <u>714-738-6321</u> E-mail: <u>Tfoo@cityoffullerton.com</u>	Contract Value: \$ <u>3.8M</u>	Year Completed: <u>2021</u>

Reference 4		
Agency Name <u>City of Orange</u>	Project Name and Brief Description <u>Walnut Ave. Improvements</u> <u>Water, Sewer, street Improvement</u>	
Contact Name and Title <u>Youchi Nakagawa</u>		
Tel: <u>714-744-5572</u> E-mail: <u>ynakagawa@cityoforange.org</u>	Contract Value: \$ <u>1.7M</u>	Year Completed: <u>2020</u>

SITE INSPECTION

The Bidder declares that he/she has carefully read and examined the plans, specifications, bid documents, and he/she has made a personal examination of the site (indicate name of the person, representing the bidder, who inspected the site and date below) and that he/she understands the exact scope of the Project without question.

Name of Person who inspected the site:

Sep Sharif

Date of Inspection:

07/30/2021

ADDENDA ACKNOWLEDGMENT

The Bidder acknowledges receipt of the following Addenda and has included their provisions in this Proposal:

Addendum No. 01 Dated 07/21/2021

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

BIDDER certifies that all previous contracts or subcontracts, all reports which may have been due under the requirements of any Agency, Site, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

AFFIRMATIVE ACTION CERTIFICATION

BIDDER certifies that affirmative action has been taken to seek out and consider minority business enterprises for those portions of work to be subcontracted, and that such affirmative actions have been fully documented, that said documentation is open to inspection, and that said affirmative action will remain in effect for the life of any contract awarded hereunder. Furthermore, BIDDER certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

INSURANCE REQUIREMENTS

To be awarded this contract, the successful bidder shall procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits</u>
Commercial general liability:	\$2,000,000
Business automobile liability	\$2,000,000
Workers compensation	Statutory requirement.

Commercial general liability insurance shall meet or exceed the requirements of ISO-CGL Form No. CG 00 01 11 85 or 88. The amount of insurance set forth above shall be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies shall be endorsed to name the City, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by the City will be excess thereto. Such endorsement shall be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent. Such insurance shall be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to the City.

Automobile coverage shall be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).

The Contractor shall furnish to the City duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement, endorsements as required herein, and such other evidence of insurance or copies of policies as may be reasonably required by the City from time to time. Insurance shall be placed with admitted insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Certificate(s) shall reflect that the insurer will provide thirty (30) day notice of any cancellation of coverage. The Contractor shall require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

By signing this form, the bidder certifies that it has read, understands, and will comply with these insurance requirements if it is selected as the City's Contractor. Failure to provide this insurance will render the bidder's proposal "nonresponsive."

Bidder's Name:

Big Ben Inc.

Authorized Signature:



Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

PUBLIC CONTRACT CODE SECTION 7106**Noncollusion Declaration by Bidder**

The undersigned declares:

I am the President of Big Ben Inc., the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Bidder's Name:

Big Ben Inc.

Authorized Signature:

[Signature]

Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

PUBLIC CONTRACT CODE SECTION 10162

In conformance with the above Public Contract Code Section, the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder any officer of such bidder, or any employee of such bidder who has a proprietary interest in such bidder

has never been X has been _____ (indicate YES or NO after applicable answer)

disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation, and if so to explain the circumstances.

If the answer is **has been YES** explain the circumstances below:

Bidder's Name:

Big Ben Inc.

Authorized Signature:

[Signature]

Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

PUBLIC CONTRACT CODE SECTION 10232

In conformance with above Public Contract Code Section, the bidder hereby declares under penalty of perjury under the laws of the State of California that no more than one final, unappealable finding of contempt of court by a federal court

has not been X has been _____ (Indicate YES or NO after applicable answer)

issued against the bidder within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. For purposes of this section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for the finding.

Bidder's Name:

Big Ben Inc.

Authorized Signature:



Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

PUBLIC CONTRACT CODE SECTION 10285.1

In conformance with above Public Contract Code Section, the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder or any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof

has never been X has been _____ (Indicate YES or NO after applicable answer)

convicted within the preceding three years by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including, for the purposes of this article, the Regents of the University of California or the Trustees of the California State University.

Bidder's Name:

Big Ben Inc.

Authorized Signature:



Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

BIDDER INFORMATION

Bidder's Name: Big Ben Inc.
Address: 4790 Irvine Blvd. #105-404, Irvine CA 92620
Form of Legal Entity: Corporation
If a Corporation, State of Incorporation: California
State Contractor's Class and License No.: 774444-A

Contact Person Information:

Name: Sep Sharifi Title: President
E-mail: Sep@bigbenengineering.com Tel: 949-660-9400

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint venturers, and/or corporate officers having a principal interest in this proposal:

Sep Sharifi (President) 949-660-9400
Jennifer Sharifi (Sec./Treasurer) 949-660-9400

The date(s) of any voluntary or involuntary bankruptcy judgements against any principal having an interest in this proposal are as follows:

None

All current and prior DBA'S, alias, and/or fictitious business names for any principal having an interest in this proposal are as follows:

Big Ben Engineering.

Previous contract performance history:

Was any contract terminated previously: No

If the answer to the above is "yes", provide the following information:

Contract/project name and number: NA

Date of termination: _____

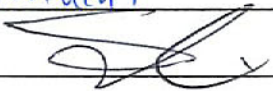
Reason for termination: _____

Owner's name: _____

Owner contact person and tel. no.: _____

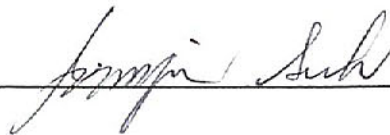
IN WITNESS WHEREOF, BIDDER executes and submits this proposal with the names, titles, hands, and seals of all aforementioned principals this 2nd day of August, 2021.

BIDDER

Big Ben Inc.
Sepehr Sharifi
President


Subscribed and sworn to this 2nd day of August, 2021.

NOTARY PUBLIC





PROPOSAL GUARANTEE

BID BOND

Bond No.: N/A

KNOW ALL MEN BY THESE PRESENTS that Big Ben Inc., as BIDDER, AND Markel Insurance Company, as SURETY, are held and firmly bound unto the City of Monterey Park, in the penal sum of Ten percent of amount bid (\$ 10%) dollars, lawful money of the United States, which is 10 percent of the total amount bid by BIDDER to the City of Monterey Park for the **NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATIONS NO. 2021-002** ("Public Project"), for the payment of which sum, BIDDER and SURETY agree to be bound, jointly and severally, firm by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas BIDDER is about to submit a bid to the City of Monterey Park for the above stated project, if said bid is rejected, or if said bid is accepted and a contract is awarded and entered into by BIDDER in the manner and time specified, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of the City of Monterey Park.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals this 28th day of July, 2021.

SIGNED AND SEALED this 28th day of July, 2021.

Big Ben Inc.

Sepehr Sharifi

PRINCIPAL

Markel Insurance Company

Cynthia J. Young

SURETY

Cynthia J. Young
Attorney-in-Fact

PRINCIPAL's MAILING ADDRESS:

Big Ben Inc.4730 Irvine Blvd, #105-404Irvine, CA 92620

SURETY's MAILING ADDRESS:

Markel Insurance Company4521 Highwood PkwyGlen Allen, VA 23060

NOTE: All signatures shall be acknowledged by a notary public.

SECRET

SECRET

SECRET

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ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

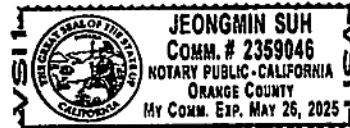
On August 2, 2021 before me, Jeongmin Suh, Notary Public,
(insert name and title of the officer)

personally appeared Sepehr Amina Sharifi,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jeongmin Suh (Seal)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

JUL 28 2021

SS.

On _____ before me, Rebecca Elizabeth Adcock, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Cynthia J. Young

Name(s) of Signer(s)

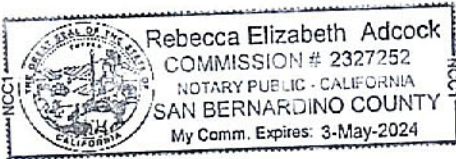
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]

Signature of Notary Public



OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual

☐ Corporate Officer

Title _____

☐ Partner -- ☐ Limited ☐ General

☐ Attorney-in-Fact

☐ Trustee

☐ Guardian or Conservator

Other: _____

RT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing: _____

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE No 07500
SAN FRANCISCO

Amended

Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

Markel Insurance Company

of Deerfield, Illinois , organized under the
laws of Illinois , subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance: Fire, Marine,
Surety, Disability, Plate Glass, Liability, Workers' Compensation,
Common Carrier Liability, Boiler and Machinery, Burglary, Credit,
Sprinkler, Team and Vehicle, Automobile, and Miscellaneous
as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 16th
day of January , 2002 , I have hereunto
set my hand and caused my official seal to be affixed this
 16th day of January , 2002 .



By

Harry W. Low
Insurance Commissioner

Victoria S. Sidbury
Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the conditions contained herein.

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

Jay P. Freeman, Cynthia J. Young, Laurie B. Druck, Christina Mountz, Melissa D. Schwartz

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000 00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 01 day of August, 2020.

SureTec Insurance Company

By: 
Michael C. Keimig, President



Markel Insurance Company

By: 
Robin Russo, Senior Vice President

Commonwealth of Virginia
County of Henrico SS:

On this 01 day of August, 2020 A. D., before me, a Notary Public of the Commonwealth of Virginia, in and for the County of Henrico, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal at the County of Henrico, the day and year first above written.



By: 
Donna Donavant, Notary Public
My commission expires 1/31/2023

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

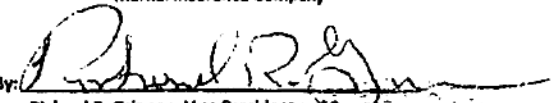
IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 28th day of July, 2021.

SureTec Insurance Company

By: 
M. Brent Beaty, Assistant Secretary



Markel Insurance Company

By: 
Richard R. Grinnan, Vice President and Secretary

PROPOSAL GUARANTEE**CERTIFIED CHECK or CASHIER'S CHECK**

As an Alternative to Bid Bond, Bidder can provide Certified Check or Cashier's Check as follows

Accompanying this proposal is a certified check or a cashier's check payable to the order of the City of Monterey Park, in the amount of BID BOND (\$) dollars, lawful money of the United States, which is 10 percent of the total amount bid by BIDDER to the City of Monterey Park for the **NORTHEAST AREA WATER MAIN IMPROVEMENTS PHASE II, SPECIFICATIONS NO. 2021-002** ("Public Project").

The proceeds of the same shall become the property of said City if, in case this proposal shall be accepted by said City through the City Council, the undersigned shall fail to execute a contract, with and furnish the insurance and bonds required by the City of Monterey Park within the specified time; otherwise, the same is to be returned to the undersigned as set forth in the Instructions to Bidders.

Bidder's Name:

Big Ben Inc.

Authorized Signature:

[Signature]

Name and Title:

Sep Sharifi (President)

Date:

8-3-2021

--END OF SECTION--



City Council Staff Report

DATE: September 1, 2021

AGENDA ITEM NO: New Business
Agenda Item 5A

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Director of Public Works / City Engineer
SUBJECT: Ordinance Enacting Water Conservation Measures and Requirements

RECOMMENDATION:

It is recommended that the City Council consider:

1. Introducing and waiving first reading of an Ordinance amending the Monterey Park Municipal Code ("MPMC") to add Chapter 14.25 that enacts water conservation regulations; and
2. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed ordinance 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 §§ 15000, *et seq.*) because it establishes rules and procures to clarify existing policies and practices related to water service; 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. The ordinance would be adopted, in part, for protection of the environment. Accordingly, the ordinance does not constitute a "project" that requires environmental review (*see specifically* 14 CCR § 15378(b)(2,5)).

EXECUTIVE SUMMARY:

The proposed ordinance would allow the City Council to declare various stages of drought emergency and enforce water conservation measures. These measures include, without limitation, fines for violations, restrictions on the time and frequency of irrigation, and allowable forms of irrigation systems.

BACKGROUND:

California is experiencing unprecedented drought that has resulted in Governor Newsom issuing emergency proclamations throughout the State. On July 8, 2021, the Governor declared that the entire state is in drought and called on all Californians to reduce water use by at least 15 percent to help protect water reserves.

The State Water Resources Control Board (SWRCB) and the Department of Water Resources are currently monitoring reservoir storage to determine whether additional response actions are needed.

Historical Summary

On December 9, 2009, City Council adopted Ordinance No. 2072 to enact water conservation measures. The 2009 ordinance was in response to Governor Schwarzenegger's June 2008 executive order proclaiming statewide drought. Ordinance No. 2072 closely followed the Los Angeles County's Phased Water Conservation Plan amendments.

In May 2013, the City Council adopted Ordinance No. 2097 that was part of the Title 21 amendments (also referred to as California Green Building Standard Code). The ordinance established landscape plan requirements for new developments that encouraged the use of drought tolerant plants and prohibited irrigation systems that overspray and run off into the street or sidewalk.

During the 2012 to 2015 drought, City Council adopted emergency regulations that were required by SWRCB. The State regulations were adopted as an emergency with a sunset clause that caused the regulations to expire in February 2016. City Council also adopted a resolution at that time that declared a Stage 2 Drought Emergency as described in the emergency regulation. Water production declined from 8,391 AFY in FY 2015 to 7,409 AFY in FY 2016 meeting the Stage 2 goal of at least 10% reduction. FY 2016 water production is in fact the lowest ever produced by the City.

These enacted water conservation measures have impacted the City's water production, from a high of 11,018 AFY in FY 2007 to a low of 7,409 AFY in FY 2016. Water production is essentially water consumption as water is produced based on need.

Fiscal Year	AFY	Fiscal Year	AFY
FY1999-2000	10,970	FY2010-2011	8,497
FY2000-2001	10,308	FY2011-2012	8,791
FY2001-2002	10,470	FY2012-2013	8,965
FY2002-2003	10,179	FY2013-2014	9,094
FY2003-2004	10,253	FY2014-2015	8,391
FY2004-2005	9,966	FY2015-2016	7,409
FY2005-2006	10,439	FY2016-2017	7,557
FY2006-2007	11,018	FY2017-2018	7,782
FY2007-2008	10,063	FY2018-2019	7,540
FY2008-2009	9,501	FY2019-2020	7,448
FY2009-2010	8,686	FY2020-2021	7,578

Proposed Ordinance

The water conservation measures in Ordinance No. 2072 (codified in MPMC Chapter 14.08) are reiterated in the proposed new ordinance when no drought emergency is declared: prohibiting hosing down driveways, watering more than once a day, and not repairing leaking faucets or irrigation systems, to name a few. However, fines for violations are greater in the proposed new ordinance: from \$25 for second and subsequent violations to \$100 for first violation, \$200 for second, and \$500 for each additional violation.

The proposed new ordinance is similar to the emergency regulations that were enacted on July 1, 2015 and expired on February 13, 2016. It differs, however, in that it includes two additional stages: Stage 5 that would reduce the City's water demand by 41 percent to 50 percent and Stage 6 that would reduce demand by more than 50 percent.

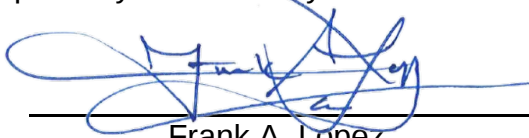
The Director of Public Works is responsible for monitoring water supplies and the City's water demand. Upon determining that a drought exists, the Director would advise the City Council regarding the extent of the emergency and City Council would consider declaring the Stage of drought emergency (i.e., 1, 2, 3, 4, 5 or 6) by resolution.

This new ordinance, if adopted, would be permanent and amend the MPMC. The adoption of this ordinance requires a second reading and a majority vote. It would take effect 30 days after adoption.

FISCAL IMPACT:

Adopting the Ordinance, by itself, has no financial effect.

Respectfully submitted by:



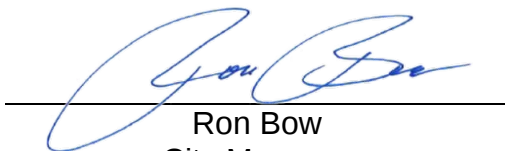
Frank A. Lopez,
Director of Public Works /City
Engineer/City Planner

Prepared by:



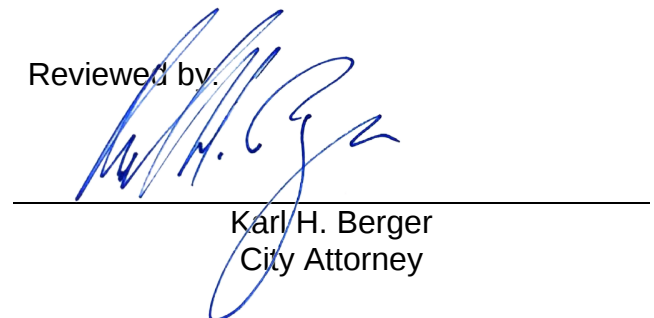
Richard Gonzales,
Water Utility Manager

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENT:

1. Draft Ordinance

ATTACHMENT 1

Draft Ordinance

ORDINANCE NO. _____

**AN ORDINANCE ADDING A NEW CHAPTER 14.25 ENTITLED
“WATER CONSERVATION REGULATIONS” AUTHORIZING
THE CITY COUNCIL TO DECLARE DROUGHT EMERGENCIES
IN VARIOUS STAGES AND IMPOSING DIFFERENT
CONSERVATION REQUIREMENTS IN RESPONSE TO SUCH
EMERGENCIES.**

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

SECTION 1: A new Chapter 14.25 entitled “Water Conservation Regulations” is added to the Monterey Park Municipal Code as set forth in attached Exhibit “A,” which is incorporated by reference.

SECTION 2: *Savings Clause.* Repeal of any provision of the MPMC or any other regulation by this Ordinance 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 3: *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 4: *Validity of Previous Code Sections.* If this 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 5: *Effective Date.* This Ordinance will become effective 30 days after its adoption.

SECTION 6: *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 7: *Publication.* The City Clerk must certify as to the adoption of this ordinance and cause the summary thereof to be published within 15 calendar days of the adoption and post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code § 36993, for the City of Monterey Park.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2021.

Yvonne Yiu, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

EXHIBIT A

“Chapter 14.25 WATER CONSERVATION REGULATIONS

14.25.010 Purpose.

This chapter is adopted in accordance with Article XI, § 7 of the California Constitution and Water Code § 375 for the purpose of adopting water conservation regulations.

14.25.020 Precedence.

To the extent that any regulation in this chapter conflicts with that of chapter 14.08, the more restrictive regulation favoring water conservation takes precedence. The Director, in consultation with the City Attorney, may make a written determination regarding any such potential conflict and enforce the more restrictive regulation.

14.25.030 General Prohibition and Enforcement.

- A. It is unlawful for any person to violate, or fail to comply with, any provision of this chapter. Unless otherwise provided, violations of this chapter constitute an infraction.
- B. Every person violating this chapter is guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by such person.
- C. In addition to these penalties, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a public nuisance and may be abated in accordance with applicable law including, without limitation, this code.
- D. This chapter may also be enforced with administrative citations in accordance with chapter 4.20.

14.25.040 Penalties.

- A. Each infraction is punishable as follows:
 - 1. A fine not exceeding \$100.00 for the first violation;
 - 2. A fine not exceeding \$200.00 for a second violation of the same provision within one year;

3. A fine not exceeding \$500.00 for each additional violation of the same provision within one year of the first violation.
- B. If a person violates the same provision a fourth time within one year of the first violation, the City Attorney may, but is not required to, prosecute the violation as a misdemeanor in accordance with applicable law.
- C. Following a duly noticed public hearing, the City Council may, by resolution, adopt additional penalties in accordance with applicable law for violations of this chapter.

14.25.050 Exception; defense.

- A. This chapter does not apply when an action is needed to address an immediate threat to health and safety or to comply with a term or condition in a permit issued by a State or federal agency.
- B. A person may assert such exception as a defense for violations of this chapter.

14.25.060 Definitions.

Words and phrases not defined by this chapter have the meaning set forth in this code, the Water Code, or regulations promulgated by the State Water Resources Control Board in accordance with applicable law.

“Decorative water features” means water features that are artificially supplied with water including, without limitation, ponds, lakes, waterfalls, and fountains, but excluding pools and spas.

“Director” means the Public Works Director, or designee.

14.25.070 Service permits – Application.

Should the City Council declare a Stage 4, Stage 5, or Stage 6 Drought Emergency in accordance with this chapter, it may also direct the Director not to accept any applications for new water service.

14.25.080 Consumer supplying water.

It is unlawful for any person to allow, maintain, or permit leaks or waste of water. When a person's interior water pipes, those water pipes on the person's side of the water meter, leak to an extent that water is being wasted and the customer does not repair said leaks, the Director, may, except in a Drought Emergency, give the customer 30 days' notice to

make such repairs to eliminate said wastage of water. If said repairs are not completed within the 30 days' notice, the water service to the property may be shut off. To have water service restored after such a shutoff, the person must furnish proof of repairs, apply for water service to be reinstated, and pay a reconnection fee established by city council resolution. In a Drought Emergency, the Director may provide less time for compliance as required in accordance with applicable law. Persons must be provided with at least 24 hours to repair.

14.25.090 Regulations – Generally.

- A. Multiple Parcels. It is unlawful for water to be served to two or more parcels of property separately owned through a common service pipe, unless there is no main contiguous to said premises from which service may be had, and further unless the consumer first in order of service from the main provides a written guarantee to pay water rates for all parcels of property so served. Except in a Drought Emergency, the Director, must give 30 days' notice in writing to all consumers served through such service before enforcing chapter 14.08 or chapter 14.12 by discontinuing water service in accordance with this code and Public Utilities Code Sections 10001, *et seq.* In a Drought Emergency, the Director may provide less time for compliance.
- B. Hosing Down. To, among other things, comply with the city's national pollutant discharge elimination system ("NPDES") permit requirements, it is unlawful for any person to hose water or wash down any sidewalk, walkway, driveway, parking area or other paved surface, except as is required for the benefit of public health and safety.
- C. Lawn/Landscape Watering. To, among other things, comply with the City's NPDES permit requirements:
 - 1. It is unlawful for any person to water or cause to be watered any lawn or landscaping between the hours of 9:00 a.m. and 5:00 p.m. of any one day.
 - 2. It is unlawful for any person to water or cause to be watered any lawn or landscaping more than once a day.
 - 3. It is unlawful for any person to water or cause to be watered any lawn or landscaping within 48 hours after measurable precipitation.
 - 4. It is unlawful for any person to water or cause to be watered any lawn or landscaping to such an extent that runoff into any adjoining street, parking lot or alley occurs due to incorrectly directed or

maintained sprinklers or excessive watering.

5. It is the duty of all persons to inspect all hoses, faucets and sprinkling systems for leaks, and to cause all leaks to be repaired as soon as is reasonably practicable.
- D. Indoor Plumbing and Fixtures. It is the duty of all persons to inspect all accessible indoor plumbing and faucets for leaks, and to cause all leaks to be repaired as soon as is reasonably practicable, but not later than seven days after receiving a notice of violation from the Director.
- E. Washing Vehicles. It is unlawful for any person to wash any motor vehicle, boat, trailer, or other type of mobile equipment unless such vehicle is washed:
 1. At a commercial carwash;
 2. Using only reclaimed water; or
 3. By using a hand-held bucket or a water hose equipped with an automatic shutoff nozzle.
- F. Running Hose Prohibited. It is unlawful for any person to leave a water hose running while washing a vehicle or at any other time.
- G. Public Eating Places. It is unlawful for any restaurant, hotel, cafeteria, café, or other public place where food is sold or served to serve drinking water to any customer unless specifically requested to do so by such customer.
- H. Linen Services. Commercial lodging establishments, including hotels and motels, must offer guests the option of declining daily bed linen and towel laundry services. Each commercial lodging establishment must prominently display notice of this option in each room.
- I. Decorative Fountains. It is unlawful for any person to use water to clean, fill, or maintain levels in any decorative fountain, pond, lake, or other similar aesthetic structure unless such water flows through a recycling system.
- J. It is unlawful to install non re-circulating water systems at new commercial car washes and new commercial laundromat facilities.
- K. Single Pass Cooling Systems. It is unlawful to install single pass cooling systems in new commercial buildings requesting new water utility service.

- L. A written warning must be provided to persons upon the first violation of this section.

14.25.100 Determination of Drought Emergency.

The Director must monitor and evaluate projected available water supplies and estimated water demand of the city's users. Upon the Director determining whether through an independent evaluation or as directed by the State Water Resources Control Board, that a Drought Emergency exists, the City Council must consider declaring a Stage 1, Stage 2, Stage 3, Stage 4, Stage 5, or Stage 6 Drought Emergency by resolution. In addition to the general regulations, restrictions from the previous Drought Emergency State will apply to the next higher stage in addition to a more stringent restriction.

14.25.110 Stage 1 Drought Emergency.

- A. Declaring a Stage 1 Drought Emergency demonstrates the need to reduce the City's water demand by a maximum of 10%.
- B. The resolution declaring a Stage 1 Drought Emergency must direct the Director, to provide public notice regarding appropriate voluntary water use restrictions including, without limitation:
 - 1. Watering outdoors for the purposes of irrigating landscape, lawns, vegetated areas, and plant material without the use of a drip irrigation or micro-spray system should be limited to three times per week. Residents may water and/or irrigate landscape, lawns, vegetated areas, and plant material on Monday, Wednesday, and Friday.

14.25.120 Stage 2 Drought Emergency.

- A. Declaring a Stage 2 Drought Emergency demonstrates the need to reduce the City's water demand between 11% and 20%.
- B. The resolution declaring a Stage 2 Drought Emergency must, in addition to the general prohibitions of this chapter, direct the Director, to impose the following mandatory water use restrictions:
 - 1. Watering outdoors for the purposes of irrigating landscape, lawns, vegetated areas, and plant material without the use of a drip irrigation or micro-spray system is limited to two times per week. Residents may water and/or irrigate landscape, lawns, vegetated

areas, and plant material on Monday and Thursday.

2. Install non drip irrigation or micro-spray systems used in watering outdoors for purposes of irrigating landscape, lawns, vegetated areas, and plant material in new commercial and residential developments requesting new water utility service is unlawful.
- C. It is unlawful to use potable water to irrigate ornamental turf on public street medians within the City's service boundaries.

14.25.130 Stage 3 Drought Emergency.

- A. Declaring a Stage 3 Drought Emergency demonstrates the need to reduce the City's water demand between 21% and 30%.
- B. The resolution declaring a Stage 3 Drought Emergency must, in addition to the general prohibitions of this chapter, direct the Director, to impose the following mandatory water use restrictions:
 1. Watering outdoors for the purposes of irrigating landscape, lawns, vegetated areas, and plant material without the use of a drip irrigation or micro-spray system is limited to one time per week. Persons are permitted to water and/or irrigate landscape, lawns, vegetated areas, and plant material on Monday.
 2. Filling swimming pools, spas, hot tubs, jacuzzis, or children's wading pools is limited to not more than one time per week on Mondays.
 3. Using potable water from fire hydrants is limited to firefighting and emergency related activities and/or other activities necessary to maintain public health, safety, and welfare including, without limitation, flushing utility distribution pipelines; constructing water distribution and production facilities; and maintaining street sweeping services. If there is a need for acquiring fire hydrant and flow testing services, the applicant is required to have the test completed by the Director, through the water system computer model in-lieu of having an actual real-time field test completed. The expense incurred by the City for completing a fire hydrant and flow test using the City water system computer model will be paid by the applicant.
- C. Declaring a Stage 3 Drought Emergency makes it is unlawful to:
 1. Install non drip irrigation or micro-spray systems used in watering

outdoors for purposes of irrigating landscape, lawns, vegetated areas, and plant material in new commercial and residential developments requesting new water utility service.

2. Use potable water to irrigate ornamental turf on public street medians within the City's service boundaries.
3. Wash any motorized vehicle or non-motorized equipment including, without limitation, automobiles, trucks, vans, buses, motorcycles, boats, or other motorized and non-motorized equipment unless performed at commercial car wash facilities.

14.25.140 Stage 4 Drought Emergency.

- A. Declaring a Stage 4 Drought Emergency demonstrates the need to reduce the City's water demand between 31% and 40%, or more.
- B. The resolution declaring a Stage 4 Drought Emergency must, in addition to the general prohibitions of this chapter, direct the Director, to impose the following mandatory water use restrictions:
 1. Using potable water from fire hydrants is limited to firefighting and emergency related activities and/or other activities necessary to maintain public health, safety, and welfare including, without limitation, flushing utility distribution pipelines; constructing water distribution and production facilities; and maintaining street sweeping services. If there is a need for acquiring fire hydrant and flow testing services, the applicant is required to have the test completed by the Director, through the water system computer model in-lieu of having an actual real-time field test completed. The expense incurred by the City for completion of a fire hydrant and flow test using the City water system computer model will be paid by the applicant.
- C. Declaring a Stage 4 Drought Emergency makes it unlawful to:
 1. Water without a drip irrigation or micro-spray system.
 2. Install non drip irrigation or micro-spray systems used in watering outdoors for purposes of irrigating landscape, lawns, vegetated areas, and plant material in new commercial and residential developments requesting new water utility service.
 3. Use potable water to irrigate ornamental turf on public street medians within the City's service boundaries.

4. Fill swimming pools, spas, hot tubs, and/or jacuzzis of any kind whether in-ground or above-ground structures, including children's wading pools.
5. Wash any motorized vehicle or non-motorized equipment including, without limitation, automobiles, trucks, vans, buses, motorcycles, boats, or other motorized and non-motorized equipment unless performed at commercial car wash facilities.

14.25.150 Stage 5 Drought Emergency.

Declaring a Stage 5 Water Shortage demonstrates the need to reduce the City's water demand between 41% and 50%. All prohibitions and restrictions for a Stage 4 Drought Emergency are applicable to a Stage 5 Drought Emergency and must be incorporated into the resolution adopted by the city council.

14.25.160 Stage 6 Drought Emergency.

Declaring a Stage 6 Water Shortage demonstrates the need to reduce the City's water demand more than 50 percent. All prohibitions and restrictions for a Stage 5 Drought Emergency are applicable to a Stage 6 Drought Emergency and must be incorporated into the resolution adopted by the city council."



City Council Staff Report

DATE: September 1, 2021

AGENDA ITEM NO: New Business
Agenda Item 5B

TO: The Honorable Mayor and City Council
FROM: Frank A. Lopez, Director of Public Works / City Engineer
SUBJECT: Ordinance Amending Chapter 21.34 of the Monterey Park Municipal Code Regarding the Installation of Wireless Telecommunications Facilities in the Public Rights-of-Way and Amending Chapter 9.66.010 Regulating Interference with Radio Communications and A Resolution Adopting Small Wireless Facility Regulations

RECOMMENDATION:

It is recommended that the City Council consider:

1. Introducing and waiving first reading of an Ordinance Amending Chapter 21.34 of the Monterey Park Municipal Code ("MPMC") regulating installation of wireless telecommunications facilities in the public rights-of-way and amending MPMC § 9.66.010 regulating interference with radio communications; and
2. Adopting a resolution adopting small wireless facility regulations pursuant to the MPMC; and
3. Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The proposed ordinance 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 §§ 15000, *et seq.*) pursuant to CEQA Guidelines § 15061 (b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation of any equipment within the City's boundaries. Installation of wireless communications facilities, if any, generally would be exempt from CEQA review in accordance with either CEQA Guidelines § 15302 (replacement or reconstruction), § 15303 (new construction or conversion of small structures), and/or § 15304 (minor alterations to land).

EXECUTIVE SUMMARY:

The MPMC currently does not identify *small cell* facilities. Applications for installation of small cell facilities in the public right-of-way are processed as large cell towers, which are typically installed on private property. Amending MPMC Chapter 21.34 regulating the installation of wireless telecommunications facilities in the public rights-of-way and Chapter 9.66.010 regulating interference with radio communications will reconcile the

MPMC with Federal Communications Commission (FCC) regulations. The amendment defines and establishes development standards for small wireless facilities to promote the orderly development of wireless telecommunications and infrastructure throughout the City of Monterey Park.

BACKGROUND:

To accelerate the deployment of wireless infrastructure for 5G connectivity, the Federal Communications Commission (FCC) issued a ruling on September 27, 2018 to “remove barriers to wireless infrastructure deployment by establishing shot clocks for small wireless facilities.” Under the rule, cities are required to expedite the review of applications for small cell sites in the public right-of-way.

While 3G and 4G technology uses macro cell sites on large cell towers, the proposed 5G network will consist predominantly of small cell sites. Small cell antennas are significantly smaller than the macro cell sites and are defined as 50 feet or less high, no more than 10 percent taller than adjacent structures, and no more than 28 cubic feet in volume. Regarding environmental and health effects, FCC establishes maximum permitted radio frequency (RFR) emissions from cellular towers and prohibits local governments from regulating wireless facilities based on environmental effects.

Also, per the new FCC ruling, “shot clock” timelines by which local jurisdictions must take action on the small cell facility applications are 60 days for collocations on an existing structure and 90 days for new structures. The September 2018 ruling took effect on January 14, 2020.

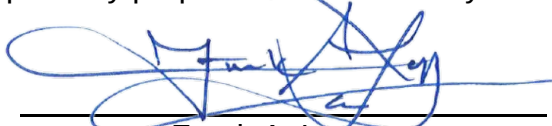
Another critical thing to note, is that the new ruling preempts aesthetic requirements for small wireless facilities unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

The MPMC currently does not regulate *small cell* facilities. All applications are treated as large cell towers. Amendment(s) to the MPMC to address small cell facilities will streamline the review process for future applications.

FISCAL IMPACT:

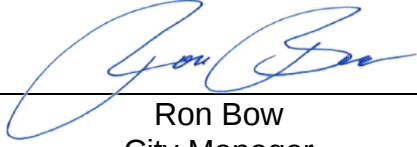
Adopting the Ordinance, by itself, has no financial effect.

Respectfully prepared & submitted by:



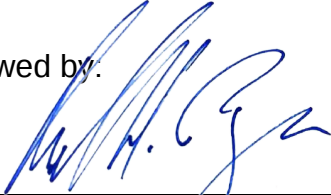
Frank A. Lopez,
Director of Public Works
City Engineer / City Planner

Approved by:



Ron Bow
City Manager

Reviewed by:



Karl H. Berger
City Attorney

ATTACHMENTS:

1. Draft Ordinance
2. Resolution w/ Small Cell Regulations

ATTACHMENT 1

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 21.34 OF THE MONTEREY PARK MUNICIPAL CODE ("MPMC") REGARDING INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY AND AMENDING MPMC § 9.66.010 REGULATING INTERFERENCE WITH RADIO COMMUNICATIONS

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

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

- A. On September 26, 2018, the FCC adopted a declaratory ruling and report and order (the "FCC Ruling") which, among other things, (1) creates a new regulatory classification for "small wireless facilities" ("SWFs"); (2) requires state and local governments to process applications for SWFs within 60 days for attachments to existing structures or 90 days for new structures (the "SWF Shot Clocks"); (3) establishes a national standard for what constitutes an effective prohibition on wireless services; (4) provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition; and (5) limits the fees that can be charged for the facilities.
- B. SWFs are designed to accommodate fifth generation ("5G") technology. Wireless providers have recently begun to deploy 5G technology, primarily in the public right-of-ways. The FCC Ruling was adopted to reduce regulatory barriers to the deployment of wireless infrastructure and to ensure that the United States remains the leader in advanced wireless services and wireless technology. The FCC Ruling is intended to facilitate the growth of SWFs (and the corresponding deployment of 5G technology) over a short period of time.
- C. SWFs are primarily installed in public right-of-ways and, consequently, create significant concerns about traffic and pedestrian safety; land use conflicts and incompatibilities including the relative excessive height of poles and towers; visual and aesthetic blight arising from cumulative number of SWFs as well as their individual physical characteristics and that of associated equipment; and the protection and preservation of public property, all of which may negatively impact the unique quality and character of the City and the public health, safety and welfare thereof. Regulating the installation of SWFs in the public right-of-ways is necessary to protect and preserve the safety of the community as well as the aesthetics of the community.
- D. The FCC Ruling sets forth new standards for state and local government regulations of SWFs and restricts the aesthetic requirements that may be imposed by local governments. Any aesthetic standard adopted by a local government must be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; and (3) objective and published in

advance. A number of local public agencies throughout the country have filed suit against the FCC, challenging various aspects of the FCC Ruling including its limitation on aesthetic regulations.

- E. Federal and state laws and regulations regarding the deployment of small wireless facilities are expected to change and evolve quickly over the near term as the courts review the FCC Ruling and the federal and state governments react. Given the rapid and substantial changes in applicable law that are expected to occur over the near term and the significant adverse consequences of noncompliance with these changes in the law, the City Council finds that operational and aesthetic regulations adopted by a resolution that may be quickly amended is a necessary and appropriate means to protect the public health, safety and welfare from the potential harm caused by unregulated small wireless facilities and related infrastructure deployments in the public rights-of-way.

SECTION 2: Environmental Assessment. This Ordinance was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*; “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*; the “CEQA Guidelines”). The Ordinance is exempt from environmental review pursuant to CEQA Guidelines § 15061(b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly. The Ordinance does not authorize any specific development or installation of any equipment within the City’s boundaries. Installation of wireless communications facilities, if any, generally would be exempt from CEQA review in accordance with either CEQA Guidelines § 15302 (replacement or reconstruction), § 15303 (new construction or conversion of small structures), and/or § 15304 (minor alterations to land).

SECTION 3: MPMC § 21.34.030(B) is amended to read as follows:

“(B) Permits Required.

- (1) In addition to any other requirements to obtain excavation permits or encroachment permits, or both, from the Public Works Director pursuant to this code, no wireless telecommunications facility that does not qualify as a small wireless facility may be erected, constructed, installed, operated, expanded, or maintained in the public right-of-way without a valid wireless telecommunications facility encroachment permit issued pursuant to this code.
- (2) Small Wireless Facilities. In addition to any other requirements to obtain excavation permits or encroachment permits, or both, from the Public Works Director pursuant to this code, no small wireless facility may be erected, constructed, installed, operated, expanded, or maintained in the public right-of-way without a valid small wireless facility encroachment permit. Small wireless facility encroachment permits are processed in accordance with the Small Wireless Facility

Regulations adopted by city council resolution. The Small Wireless Facility Regulations are intended to supplement the terms of this chapter. The general terms of this chapter apply to Small Wireless Facilities unless a more specific term is set forth in the SWF Regulations, in which case the more specific term of the Small Wireless Facility Regulations control. For purposes of this chapter, 'small wireless facility' means the same as defined by the Federal Communications Commission in 47 C.F.R. § 1.6002(f), as may be amended or superseded."

SECTION 4: MPMC § 9.66.010 is amended to read as follows:

"9.66.010 Prohibited.

It is unlawful for any person to operate in the city any device, appliance, equipment or apparatus generating or causing high frequency oscillations or radiations which interfere with radio broadcast receiving apparatus or wireless receiving apparatus."

SECTION 5: **Construction.** This Ordinance must be broadly construed in order 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 6: **Savings Clause.** Repeal of any provision of the MPMC or any other regulation by this Ordinance 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 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: **Validity of Previous Code Sections.** If this 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 9: **Effective Date.** This Ordinance becomes effective 30 days after its adoption.

SECTION 10: **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 11: **Publication.** The City Clerk must certify as to the adoption of this ordinance and cause the summary thereof to be published within fifteen calendar (15) days of the adoption and post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code § 36993, for the City of Monterey Park.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2021.

Yvonne Yiu, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

ATTACHMENT 2

Resolution w/ Small Cell Regulations

RESOLUTION NO. _____

**A RESOLUTION ADOPTING SMALL WIRELESS FACILITY
REGULATIONS PURSUANT TO MONTEREY PARK MUNICIPAL CODE
§ 21.34.030(B)(2).**

The City Council does resolve as follows:

SECTION 1: Environmental Assessment. This Resolution was reviewed pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.; “CEQA”) and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, et seq.; the “CEQA Guidelines”). The Resolution is exempt from environmental review pursuant to CEQA Guidelines § 15061(b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly. The Resolution does not authorize any specific development or installation of any equipment within the City’s boundaries. Installation of wireless communications facilities, if any, generally would be exempt from CEQA review in accordance with either CEQA Guidelines § 15302 (replacement or reconstruction), § 15303 (new construction or conversion of small structures), and/or § 15304 (minor alterations to land).

SECTION 2: Small Wireless Facility Regulations. The Small Wireless Facility (“SWF”) Regulations attached as Exhibit “A,” and incorporated by reference, are adopted pursuant to MPMC § 21.34.030(B)(2). The City Manager, or designee, is authorized to implement the Regulations in accordance with MPMC Chapter 21.34.

SECTION 3: Severability. If any part of this Resolution 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 Resolution are severable.

SECTION 4: 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 5: 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 his duly appointed deputy, may attest thereto.

SECTION 6: Effective Date. This Resolution will become effective concurrently with Ordinance No. _____ and will remain effective unless repealed or superseded.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2021.

Yvonne Yiu, Mayor

ATTEST:

Vincent D. Chang, City Clerk

APPROVED AS TO FORM:



Karl H. Berger, City Attorney

EXHIBIT A

SMALL WIRELESS FACILITY REGULATIONS

SECTION 1. PURPOSE AND INTENT

SECTION 2. DEFINITIONS

SECTION 3. APPLICABILITY

SECTION 4. SMALL WIRELESS FACILITY APPLICATIONS

SECTION 5. DECISIONS

SECTION 6. CONDITIONS OF APPROVAL

SECTION 7. LOCATION REQUIREMENTS

SECTION 8. DESIGN STANDARDS

SECTION 1. PURPOSE AND INTENT

These regulations are intended to establish reasonable, uniform and comprehensive standards and procedures for small wireless facilities (“SWF”) deployment, construction, installation, collocation, modification, operation, relocation and removal within the City’s territorial boundaries, consistent with and to the extent permitted under federal and state law. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner. These guidelines provide standards necessary (1) for the preservation of the public right-of-ways in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, and (3) to provide for the orderly, managed and efficient development of wireless communications facilities in accordance with the state and federal laws, rules and regulations.

These regulations are not intended to, nor will they be interpreted or applied to (1) prohibit or effectively prohibit any personal wireless service provider’s ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity’s ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC’s regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or state law.

SECTION 2. DEFINITIONS

The following definitions are applicable to the words and phrases used in these regulations. Undefined words and phrases will have the meanings assigned to them in Chapters 21.04 and 21.34 of the Monterey Park Municipal Code, as may be amended from time to time. Words and phrases not defined herein, or in the Municipal Code or relevant federal or state law or regulation, have their ordinary meaning.

“Accessory equipment” means equipment other than antennas used in connection with a small wireless facility or other infrastructure deployment. The term includes “transmission equipment” as defined by the FCC in 47 C.F.R. § 1.6100(b)(8), as may be amended or superseded.

“Antenna” means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded.

“Collector streets” means streets intended to serve as the intermediate route to handle traffic between local streets and arterials. In addition, collector streets provide access to abutting property. The term “collector streets” includes those streets identified as such in the City of Monterey Park General Plan Circulation Element.

“Collocation” means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded.

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

“Decorative pole” means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.

“Director” means the Public Works Director, or designee.

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

“FCC Shot Clock” means the presumptively reasonable time frame, accounting for any tolling or extension, within which the City generally must act on a request for authorization in connection with a personal wireless service facility, as such time frame is defined by the FCC and as may be amended or superseded.

“Local streets” means two-lane undivided roadways designed to serve local circulation, with traffic characterized by low volumes of vehicles traveling at slower speeds. Generally, a local street is not intended to handle through traffic. The term “local streets” includes those streets identified as such in the City of Monterey Park General Plan Circulation Element.

“Minor arterials” means roadways that generally provide a 64 to 68 feet curb to curb width within an 80 to 88-foot right-of-way. Minor arterials may be four-lane divided streets or four-lane undivided roadways. The term “minor arterials” includes those streets and highways identified as such in the Monterey Park General Plan Circulation Element.

“Personal wireless services” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

“Personal wireless service facilities” means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.

“Principal arterials” means roadways that serve as regional travel routes, accommodating through trips and linking the local street system to through routes. Principal arterials generally have a width ranging from 84 to 100 feet curb to curb within a 100 to 120-foot right-of-way. The estimated daily capacity is 40,000 to 60,000 vehicles

per day. The term “principal arterials” includes those streets and highways identified as such in the Monterey Park General Plan Circulation Element.

“Public right-of-way” or “PROW” means any street, sidewalk, pedestrian path, bike path or any “public way” as defined in Streets and Highways Code section 18609 and any successor statute. The PROW also means and includes a strip of land acquired by reservation, dedication, prescription, condemnation, or easement that allows for the passage of people and goods. The PROW includes, without limitation, streets, curbs, gutters, sidewalks, roadway medians, and parking strips. The PROW does not include lands owned, controlled or operated by the city for uses unrelated to streets or the passage of people and goods, such as, without limitation, parks, city hall and community center lands, city yards, and lands supporting reservoirs, water towers, police or fire facilities and non-publicly accessible utilities.

“RF” means radio frequency.

“Section 6409” means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455(a)), as may be amended or superseded.

“Small wireless facility” means the same as defined by the FCC in 47 C.F.R. § 1.6002(l), as may be amended or superseded, and which, as of the date of the adoption of these Regulations, states that small wireless facilities, consistent with 47 C.F.R. § 1.1312(e)(2), are facilities that meet each of the following conditions:

(1) The facilities

(i) Are mounted on structures 50 feet or less in height including their antennas as defined in 47 C.F.R. § 1.1320(d); or

(ii) Are mounted on structures no more than 10 percent taller than other adjacent structures; or

(iii) Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;

(2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of “antenna” in 47 C.F.R. § 1.1320(d)), is no more than three cubic feet in volume;

(3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;

(4) The facilities do not require antenna structure registration under applicable FCC or FAA regulations;

(5) The facilities are not located on Tribal lands, as defined under 36 C.F.R. § 800.16(x); and

(6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

“Support structure” means a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m), as may be amended or superseded.

“Technically infeasible” means a circumstance in which compliance with a specific requirement of the municipal code or these regulations is physically impossible and not merely more difficult or expensive than a noncompliant alternative.

SECTION 3. APPLICABILITY

Except as expressly provided otherwise, these regulations are applicable to all existing small wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small wireless facilities within the public rights-of-way in the City.

SECTION 4. SMALL WIRELESS FACILITY ENCROACHMENT PERMIT APPLICATIONS

- A. **Application Contents.** All applications for a small wireless facility encroachment permit (SWFEP) must include all of the following information and materials, unless exempted by the director.
1. **Application Form.** A complete application for SWFEP must include all of the information required by MPMC sections 21.34.030, subdivisions (D) and (E) unless, in the opinion of the City Attorney, state or federal law precludes any such requirement.
 2. **Application Fee.** Payment of the applicable fee for SWFEP, as established by resolution of the City Council.
 3. **Project Description and Justification.** The applicant must submit a written statement that explains, with substantial evidence provided in support, why the proposed facility qualifies as a “small wireless facility” as defined by the FCC in 47 C.F.R. § 1.6002(l). The project description and justification must also explain (i) whether and why the proposed support is a “structure” as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for SWFEP.
 4. **Construction Drawings.** The applicant must submit construction drawings, prepared, signed and stamped by a licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes, all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must contain cut sheets that contain the technical specifications for

all existing and proposed antennas and accessory equipment, which includes, the manufacturer, model number and physical dimensions, and depict the applicant's preliminary plan for electric and data backhaul utilities, including the anticipated locations for conduits, cables, meters, etc.

5. **Site Survey.** For any SWF proposed to be located within the PROW, the applicant must submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 50 feet from the proposed project site, which includes all: i) traffic lanes; ii) private properties and property lines; iii) above and below-grade utilities and related structures and encroachments; iv) fire hydrants, roadside call boxes and other public safety infrastructure; v) streetlights, decorative poles, traffic signals and permanent signs; vi) sidewalks, driveways, parkways, curbs, gutters and storm drains; vii) benches, trash cans, mailboxes, kiosks and other street furniture; and viii) existing trees, planters and other landscape features.
 6. **Photo Simulations.** The applicant must submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible places, together with a vicinity map that shows the site location and the photo location for each vantage point.
 7. **Wind Load Analysis.** Safety is a paramount concern for all structures and equipment placed with the PROW. The applicant must submit a wind load analysis with an evaluation of high wind load capacity. The analysis must, when applicable, address the impact of modification of an existing structure/facility.
 8. **Traffic Control Plan (TCP).** A traffic control plan when the proposed installation is on any street in a non-residential zone. The director may require a traffic control plan when the applicant proposes to use large equipment (e.g., a crane) in any zone.
- B. **Additional Requirements.** The director may develop, publish and from time to time update or amend permit application requirements, procedures, forms, checklists, guidelines, informational handouts and other related materials that the approval authority finds necessary, appropriate or useful for processing any application governed by these Regulations. All such requirements and materials must be in written form and publicly stated to provide all interested parties with prior notice (or posted upon the city's website).
- C. **Application Submittal Appointment.** All SWFEP applications must be submitted to the director at a pre-scheduled application submission appointment. The director will endeavor to provide applicants with an appointment within five business days after receipt of a written request. An application will only be reviewed once the application is complete in accordance with this chapter and these regulations.

SECTION 5. DECISIONS

- A. **Director's Decision.** All SWFEPs are processed administratively. Once an application is complete, the Director will cause notice of the application to be given to any person who has filed a written request with the city to receive such notice. At least 10 calendar days after the application is deemed complete and notice of the application has been given (if applicable), the director will approve, conditionally approve or deny the SWFEP application without a public hearing.
- B. **Required Findings for Approval.** Before issuing an approval or conditional approval of a SWFEP, the director must make all of the following findings:
1. All notices required by these regulations have been given.
 2. The proposed use is permitted in the public right-of-way and complies with all applicable provisions of the municipal code.
 3. The proposed SWF will not interfere with the use of the public right-of-way and existing improvements thereon.
 4. The proposed SWF will not physically or visually interfere with vehicular, bicycle, and/or pedestrian use of streets, intersections, bicycle lanes, driveways, sidewalks, and/or walkways.
 5. The proposed SWF and its location will comply with the Americans with Disabilities Act.
 6. The proposed SWF will comply with the design criteria set forth in the SWF Regulations.
 7. The proposed SWF will be located in the most preferred location identified in the SWF Regulations. If the SWF is proposed for a lesser-preferred location, that either 1) no more preferred locations or structures exist within 50 feet from the proposed site; or 2) any more preferred locations or structures within 50 feet would not be technically feasible.
 8. The proposed SWF will not be located on a prohibited support structure identified in the SWF Regulations.
- C. **Notice of Director's Decision.** Within two business days of making a decision to approve, conditionally approve, or deny SWFEP, the director will give written notice of the decision to 1) the applicant, and 2) to any person who has filed a written request with the city to receive such notice. If comment on the application was received via email, notice of the decision may be made by return email.
- D. **Appeals.**

1. Procedure for Filing an Appeal. Any individual may appeal the director's decision on an application for a SWFEP application to the city manager. The appeal must be filed within 10 calendar days after the date the director gives notice of his/her decision. The appeal must be in writing, accompanied by the required appeal fee, and filed with the city clerk. In the event the tenth day falls on a holiday or weekend, the appeal letter and appeal fee may be filed on the next business day that City Hall is open for business. In the absence of a timely appeal and payment of the appeal fee, the director's decision is final. The appeal must state specifically wherein it is claimed that there was an error or abuse of discretion by the decision maker or where the decision is not supported by the evidence in the record.
2. Scheduling and Noticing of the Appeal. The city clerk will fix a time and place for hearing the appeal not later than 20 days after a timely notice of appeal is filed. The city clerk must provide at least seven calendar days' notice of the time and place for the hearing in the following manner:
 - a. To the appellant by depositing the notice in the United States mail to the address provided by the appellant in his/her/its notice of appeal and by emailing the notice to the appellant at the email address indicated on the appeal, if any.
 - b. If the appellant is not the applicant, notice of the appeal will be given to the applicant by depositing the notice in the United States mail to the address indicated on the application. Notice may also be provided by email to the applicant's email address noted on the application, if any.
 - c. To any person that has filed a written request for such notice, notice will be given by depositing the notice in the United States mail to the address indicated on the request for notice. If notice was requested to be given via email in lieu of regular mail, notice instead will be given via email to the email address indicated on the request.
3. Decision on Appeal; Notice. Appeals are reviewed de novo. The city manager may hear the appeal in person but is not required to do so. The city manager must render a written decision within 15 calendar days of the hearing. Notice of the city manager's decision must be given in the same manner as the notice of appeal. The city manager's decision is city's final determination; there is no appeal to the city council.

SECTION 6. CONDITIONS OF APPROVAL

- A. **Standard Conditions.** Except as authorized by the director pursuant to this section, all SWFEPs are subject to the following conditions, in addition to the standard conditions of approval for other wireless telecommunication facilities:
 1. **Post-Installation Certification.** Within 60 calendar days after the permittee places the approved or deemed-approved SWF into operation, the permittee

must provide the director with documentation demonstrating that the SWF was constructed and installed in compliance with the approved construction drawings and photo simulations. Documentation must include, as-built drawings, site photos, and GIS data.

2. **Avoid Adverse Impacts on Other Properties.** In addition to those requirements in Chapter 21.34 of the Monterey Park Municipal Code, the permittee may not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by applicable law. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The City may stop work for any activities that violates this condition in whole or in part.
3. **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the foregoing, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threaten actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.
4. **Future Undergrounding Programs.** If other public utilities or communications providers in the PROW underground their facilities in the segment of the PROW where the permittee's SWF is located, the permittee must simultaneously underground its equipment, except the antennas and any other equipment that must be placed above ground to function. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function will not be exempt from this condition. Such undergrounding will occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
5. **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee, on its own initiative and at its sole cost and expense, must remove the separate or ground-mounted electric meter and enclosure. Before removing the electric meter, the permittee must obtain any encroachment and/or other permit(s) required to perform the

removal. Upon removal, the permittee must restore the affected area to its original condition that existed before installation of the equipment.

- B. **Modified Conditions; Authority.** The director may modify, add or remove conditions to any SWFEP as the director deems necessary or appropriate to: 1) protect and/ promote the public health, safety and welfare; 2) tailor the standard conditions in subsection (A) to the particular facts and circumstances associated with the deployment; and/or 3) memorialize any changes to the proposed deployment need for compliance with the municipal code, these regulations, generally applicable health and safety requirements and/or any other applicable laws. To the extent required by applicable law, the director will ensure that any different conditions applied to small wireless facilities are no more burdensome than those applied to other substantially similar infrastructure deployments.

SECTION 7. LOCATION REQUIREMENTS

- A. **Location Preferences.** This subsection sets out a hierarchy of preferred locations for SWFs in the public right-of-way. Applications that involve lesser-preferred locations may be approved so long as the applicant demonstrates by clear and convincing evidence that either 1) no more preferred locations or structures exist within 50 feet from the proposed site; or 2) any more preferred locations or structures within 50 feet would not be technically feasible. The City prefers SWFs in the public right-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:
1. Commercial or industrial districts on or along principal arterials;
 2. Commercial or industrial districts on or along minor arterials;
 3. Commercial or industrial districts on or along collector streets;
 4. Commercial or industrial districts on or along local streets;
 5. Residential districts on or along principal arterials;
 6. Residential districts on or along minor arterials;
 7. Residential districts on or along collector streets;
 8. Any district within 250 feet from any structure approved for a residential use.
- B. **Preferred Support Structures.** The City prefers SWFs in the public right-of-way to be installed on support structures, ordered from most preferred to least preferred, as follows:
1. Existing or replacement streetlight poles;
 2. Existing or replacement wood utility poles;

3. New, non-replacement streetlight poles;
4. Other new, non-replacement poles;
5. Strand-mounted between poles.

C. **Prohibited Support Structures.** The City prohibits SWFs to be installed on the following support structures:

1. Existing decorative poles;
2. Traffic signs, poles, cabinets and related devices;
3. Any utility pole scheduled for removal or relocation within 18 months from the time the director acts on the permit application;
4. New, non-replacement wood poles.

SECTION 8. DESIGN STANDARDS

All SWFs must be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes applicable regulations for human exposure to RF emissions.

A. **Height, Location, and Design Generally.** SWFs cannot exceed either (1) the minimum separation from electrical lines required by applicable safety regulations, plus four feet or (2) four feet above the existing support structure. In addition, SWFs cannot be located higher than 10% or 10 feet, whichever is greater, than the height otherwise permitted in the immediately adjacent zoning district.

1. **Streetlights.** Applicants that propose to install SWFs on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment. In the event that the existing streetlight can accommodate the installation of all fiber lines within the interior of the pole and all other city concealment requirements are met, then a replacement pole is not required. To mitigate any material changes in the street lighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.
2. **Wood Utility Poles.** Applicants that propose to install SWFs on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the

written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud unless technically infeasible. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole will be the minimum separation required by applicable health and safety regulations.

3. **Replacement Poles and Street Lights.** If an applicant proposes a replacement pole or street light to accommodate the SWF, the replacement must be in the same location as the street light or pole being replaced; unless the replacement will not meet all applicable standards, then replacement may be located in an alternative location that complies with the requirements herein.
4. **New, Non-Replacement Poles.** Applicants that propose to install SWFs on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter cannot exceed 12 inches and any base enclosure diameter cannot exceed 16 inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome.
 - a. The new pole must actually function for a purpose other than placement of a wireless facility (e.g. street light, utility pole, etc.).
 - b. The design must match the dimensions and design of existing and similar types of poles and antennas in the surrounding areas.

B. Antennas. The provisions in this subsection are generally applicable to all antennas.

1. All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome unless technically infeasible. For pole-top antennas, the shroud cannot exceed one and half-times the median pole diameter and must taper down to the pole. For side-arm antennas, the shroud must cover the cross arm and any cables, jumpers, wires or other connectors between the vertical riser and the antenna.
2. An antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure. All surfaces must be treated with graffiti-resistant sealant. All finishes are subject to the director's prior approval.

3. Side-mounted antennas, where permitted, cannot project: (A) more than 18 inches from the support structure; (B) over any roadway for vehicular travel; or (C) over any abutting private property. If applicable laws require a side-mounted antenna to project more than 18 inches from the support structure, the projection cannot be greater than required for compliance with such laws.

C. Accessory Equipment.

1. Installation Preferences. SWF accessory equipment must be enclosed in replacement poles or placed underground where technically feasible, and if not feasible, must be as small, short and unobtrusive as possible. Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates, through clear and convincing evidence in the written record, that installation at a more preferred location would be technically infeasible.
2. Undergrounded Accessory Equipment. All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow must be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants are not permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.
3. Pole-Mounted Accessory Equipment. The provisions in this subsection are applicable to all pole-mounted accessory equipment in connection with small wireless facilities and other infrastructure deployments.
 - a. Accessory Equipment Volume. Unless otherwise required by law, the cumulative volume for all accessory pole-mounted equipment for a single small wireless facility cannot exceed nine cubic feet in residential areas or 17 cubic feet in nonresidential areas.
 - b. Preferred Concealment Techniques. Applicants should propose to place any pole-mounted accessory equipment in the least conspicuous position under the circumstances presented by the proposed pole and location. Pole-mounted accessory equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations.
 - c. Minimum Vertical Clearance. The lowest point on any pole-mounted accessory equipment must be at least 10 feet above ground level adjacent to the pole. If applicable laws require any pole-mounted accessory equipment component to be placed less than 10 feet above

ground level, the clearance from ground level cannot be less than required for compliance with such laws.

- d. **Horizontal Projection.** Pole-mounted accessory equipment cannot project (i) more than 18 inches from the pole surface; (ii) over any roadway for vehicular travel; or (iii) over any abutting private property. All pole-mounted accessory equipment must be mounted flush to the pole surface. If applicable laws preclude flush-mounted equipment, the separation gap between the pole and the accessory equipment cannot be greater than required for compliance with such laws.
 - e. **Orientation.** Unless placed behind a street sign or some other concealment that dictates the equipment orientation on the pole, all pole-mounted accessory equipment should be oriented away from prominent views. In general, the proper orientation will likely be toward the street to reduce the overall profile when viewed from the nearest abutting properties. If orientation toward the street is not feasible, then the proper orientation will most likely be away from oncoming traffic. If more than one orientation would be technically feasible, the director may select the most appropriate orientation.
4. **Ground-Mounted or Base-Mounted Accessory Equipment.** Ground-mounted accessory equipment is discouraged unless all other options are demonstrated to be infeasible. The provisions in this subsection are applicable to all ground-mounted and base-mounted accessory equipment in connection with small wireless facilities.
- a. **Ground-Mounted Concealment.** On collector and local streets, the City prefers ground-mounted accessory equipment to be concealed within a landscaped median, parkway or similar location, behind or among landscape features and painted or wrapped in flat natural colors to blend with the landscaping. On arterial roads proposed ground-mounted accessory equipment should be the smallest possible cabinet of a substantially similar appearance to nearby existing ground-mounted equipment cabinets.
 - b. **Public Safety Visibility.** To promote and protect public health and safety and prevent potential hazards hidden behind large equipment cabinets, no individual ground-mounted accessory equipment cabinet may exceed four feet in height or width. Ground-mounted and base-mounted equipment cabinets cannot have any horizontal flat surfaces greater than 1.5 square inches to prevent litter or other objects from being left on such surfaces.
- D. **Utility Connections.** All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded

cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment must be routed through and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space.

1. No new overhead utility lines or service drops may be approved to a SWF.
 2. Spools and Coils. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables cannot be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
 3. Electric Meters. Small cells and other infrastructure deployments must use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. If the proposed project involves a ground-mounted equipment cabinet, an electric meter may be integrated with and recessed into the cabinet, but the director cannot approve a separate ground-mounted electric meter pedestal.
 4. Existing Conduit or Circuits. To reduce unnecessary wear and tear on the public rights-of-way, applicants are encouraged to use existing conduits and/or electric circuits whenever available and technically feasible. Access to any conduit and/or circuits owned by the city requires the director's prior written approval, which the director may withhold or condition as the director deems necessary or appropriate to protect the city's infrastructure and public health and safety, and to prevent interference with the city's municipal functions.
- E. **Landscaping.** Small wireless facilities cannot be installed (in whole or in part) within any tree drip line. Small wireless facilities may not displace any existing tree or landscape features unless: (A) such displaced tree or landscaping is replaced with native or drought-resistant trees, plants or other landscape features approved by the director and (B) the applicant submits and adheres to a landscape maintenance plan. Only International Society of Arboriculture certified workers under a licensed arborist's supervision may install the replacement tree. Any replacement tree must be substantially the same size as the damaged tree unless approved by the director. The permittee must, at all times, be responsible to maintain any replacement landscape features.
- F. **Signs.** All small wireless facilities that involve RF transmitters must include a sign that accurately identifies the site owner or operator, the site name or identification number, and a toll-free number to the network operations center. Small wireless facilities may not bear any other signs or advertisements unless expressly

approved by the city, required by law or recommended under FCC or other United States governmental agencies for compliance with RF emissions regulations.

- G. **Security.** Small wireless facilities may incorporate reasonable and appropriate site security measures, such as locks to prevent unauthorized access. The director cannot approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures.
- H. **Lights.** SWFs cannot include any lights that would be visible from publicly accessible areas, except as may be required under applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection will not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required by these regulations.
- I. **Noise.** SWFs and all associated antennas, accessory equipment and other improvements must comply with all applicable noise control standards and regulations in the municipal code.
- J. **Encroachments over Private Property.** SWFs may not encroach onto or over any private or other property outside the PROW without the property owner's express written consent.
- K. **Backup Power Sources.** Fossil-fuel based backup power sources are not permitted within the PROW; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.
- L. **Future Modifications.** Any modifications to existing facilities or collocations cannot defeat the concealment elements of the existing facility.