



# CITY of BRISBANE

## City Council Meeting Agenda

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Thursday, July 15, 2021 at 7:30 PM • Virtual Meeting

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*This meeting is compliant with the Governors Executive Order N-08-21 issued on June 21, 2021 allowing for deviation of teleconference rules required by the Brown Act. The purpose of this is to provide the safest environment for staff, Councilmembers and the public while allowing for public participation. The public may address the council using exclusively remote public comment options.*

*The Council may take action on any item listed in the agenda.*

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**Email:** [ipadilla@brisbaneca.org](mailto:ipadilla@brisbaneca.org)

**Text:** 628-219-2922

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Webinar ID: 991 9362 8666

Passcode: 123456

Call In Number: 1 (669) 900 9128

### **SPECIAL ASSISTANCE**

*If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*



**1. 7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE**

**2. ROLL CALL**

**3. ADOPTION OF AGENDA**

**4. AWARDS AND PRESENTATIONS**

- A. Presentation on New Hybrid Meeting Format
- B. Proclamation Recognizing July as Parks and Recreation Month
- C. Proclamation Recognizing Renee Marmion for her Service to the City
- D. Coastal Conservancy Grant Presentation

**5. ORAL COMMUNICATIONS NO. 1**

**6. CONSENT CALENDAR**

- E. Approve Minutes of City Council Meeting of April 1, 2021
- F. Approve Minutes of City Council Closed Session Meeting of April 15, 2021
- G. Approve Minutes of City Council Closed Session Meeting of May 6, 2021
- H. Accept Investment Report as of May 2021
- I. Adopt Resolution No. 2021-63 Confirming and Ratifying the Proclamations Declaring the Continued Existence of a Local Emergency in the City of Brisbane in Response to the COVID-19 Pandemic
- J. Adopt Ordinance No. 662, Waiving Second Reading, to Require the Safe Storage of Firearms in a Residence
- K. Affordable Housing Strategic Plan Request for Proposals and Consultant Selection  
  
(It is being recommended to authorize the Housing Subcommittee to select the successful affordable housing consultant, and authorize the City Manager to negotiate and sign a professional services agreement with the successful consultant)
- L. Acknowledge Drought Stage 1 Declaration
- M. Revoke Original Award of Contract and Approve award the contract to the second lowest bidder, Southwest Greens, for the Dog Park Restoration Project

N. Approve Resolutions No. 2021-58 and 2021-59 Establishing the Classification of Communications and Digital Media Coordinator and Amending the Master Pay Schedule

O. Approve Contract with San Mateo Credit Union for an ATM machine at City Hall

## **7. PUBLIC HEARING**

P. Sierra Point Landscaping and Lighting District

1. Hear Statement of Engineer of Record, Read Mayor's Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing
2. Consider adoption of Resolution No. 2021-60 overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 21/22

Q. City of Brisbane Local Stormwater Program Fees

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the NPDES Program
2. Consider adoption Resolution No. 2021-61, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2021-2022 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."

## **8. OLD BUSINESS**

R. Baylands Planning Process Update and Consideration of Preliminary Comments

(This item was discussed at the City Council Meeting of June 17, 2021 and discussion will be continued at this meeting.)

## **9. NEW BUSINESS**

S. Receive Quarry Development Project Presentation

T. Residential Objective Design and Development Standards (ODDS) Study Session

U. Consider Approval of Resolution No. 2021-62 "Declaring a Climate Emergency and Initiating Immediate and Accelerated Action to Address the Climate Crisis and Limit Global Warming to 1.5 Degrees Celsius

V. Discuss SB 1383 Implementation

(Senate Bill 1383 is a prescriptive organic waste reduction mandate)

## **10. STAFF REPORTS**

W. City Manager's Report on upcoming activities

## **11. MAYOR/COUNCIL MATTERS**

X. Creation of Ad-hoc Subcommittee for Transportation Demand Management Policy

(Due to the late hour this item was not discussed at the City Council Meeting of June 17, 2021 and is being continued at this meeting.)

Y. Designation of Voting Delegates and Alternates to the League of California Cities Annual Conference September 22-24, 2021

Z. Countywide Assignments and Subcommittee Reports

AA. City Council Meeting Schedule

BB. Written Communications

## **12. ORAL COMMUNICATIONS NO. 2**

## **13. ADJOURNMENT**

**File Attachments for Item:**

E. Approve Minutes of City Council Meeting of April 1, 2021

**BRISBANE CITY COUNCIL****ACTION MINUTES****BRISBANE JOINT CITY COUNCIL AND GUADALUPE  
VALLEY MUNICIPAL IMPROVEMENT MEETING****AGENDA****THURSDAY, APRIL 1, 2021***VIRTUAL MEETING***CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Cunningham greeted everyone an early Happy Earth Day which falls on April 22nd. She called the meeting to order and led the Pledge of Allegiance.

**ROLL CALL**

Councilmembers present: Councilmembers Davis, Lentz, Mackin, O'Connell and Mayor Cunningham

Councilmembers absent: None

Staff Present: City Manager Holstine, City Clerk Padilla, Interim City Attorney McMorro, Assistant City Manager Schillinger, Finance Director Yuen, Community Development Director Swiecki, City Engineer Breault, Public Works Deputy Director Kinser, Senior Planner Ayres, Engineering Technician Sage, Administrative Management Analyst Ibarra and Police Chief Macias

**ADOPTION OF AGENDA**

Mayor Cunningham mentioned that as noted in the amended agenda posted on March 31, 2021—the public hearing item will not be discussed and will be continued to a future City Council Meeting.

CM O'Connell made a motion, seconded by CM Mackin, to approve the agenda as it stands with the Public Hearing Item continued. The motion passes unanimously by all present.

Ayes: Councilmembers Davis, Lentz, Mackin, O'Connell and Mayor Cunningham

Noes: None

Absent: None

## AWARDS AND PRESENTATIONS

### A. Open Space Plan Presentation

Engineering Technician Sage presented on the Open Space Plan 20<sup>th</sup> Anniversary Report and provided an update on the City's habitat conservation plan, the Brisbane Acres, the Priority Preservation areas, and acquisitions. The Council thanked Engineering Technician Sage for the informative and interactive presentation.

## ORAL COMMUNICATIONS NO. 1

No members of the public wished to speak. City Clerk Padilla noted that correspondence was received from Dana Dillworth and Sherry Goodwin regarding Public Hearing Item E which will not be discussed that evening.

## CONSENT CALENDAR

**B. Approve Minutes of City Council Closed Session Meeting of March 18, 2021**

**C. Accept Investment Report as of February 2021**

**D. Approve Resolutions No. 2021-26 and 2021-27 Establishing the Classification of CCAG Stormwater Program Director and Amending the Master Pay Schedule**

CM O'Connell made a motion, seconded by CM Mackin, to approve Consent Calendar Items B-D. The motion passes unanimously by all present.

Ayes: Councilmembers Davis, Lentz, Mackin, O'Connell and Mayor Cunningham

Noes: None

Absent: None

## PUBLIC HEARING

**E. Consider Introduction of Ordinance 579- Proposed Amendment of Titles 15 and 17 of the Brisbane Municipal Code Pertaining to the Regulation of Grading**

*(This item will be continued to a future City Council Meeting and will not be discussed)*

## OLD BUSINESS

**F. Short Term Rentals Ordinance Implementation Update**

Community Development Swiecki reported that staff needed direction from Council whether to authorize collection of back taxes, in addition to active enforcement for Short term rentals operating without a permit and that going forward, Host Compliance will also be proceeding

with tax collection for all operating Short Term Rentals, whether or not they have a city permit.

After some Council questions, Council directed staff to collect back taxes for Short term rentals operating without a permit and to work with Host Compliance going forward.

After further council questions and discussion, Chris Casey asked whether anyone has reached out to AirBnB.

**G. Consider Approval of an Agreement with Lechowicz and Tseng to complete the Water and Sewer Rate Study for the City of Brisbane and Guadalupe Valley Municipal Improvement District**

Assistant City Manager Schillinger reported that staff is recommending approval of an agreement with Lechowicz and Tseng to complete the Water and Sewer Rate Study for the City of Brisbane and Guadalupe Valley Municipal Improvement District. The focus of the study is the water and sewer rate needed to cover the on-going operations of the utility.

After some Council questions and comments, Catherine Tseng, Principal of Lechowicz & Tseng Municipal Consultants, introduced herself and her company.

After some Council discussion, CM O'Connell made a motion, seconded by CM Mackin, to approve an Agreement with Lechowicz and Tseng to complete the Water and Sewer Rate Study for the City of Brisbane and Guadalupe Valley Municipal Improvement District. The motion passes unanimously by all present.

Ayes: District Board Members/Councilmembers Davis, Lentz, Mackin, O'Connell and Mayor/Chair Cunningham

Noes: None

Absent: None

**H. Consider Approval of Resolution No. 2021-28 a Reimbursement Resolution for Water and Sewer 2021/22 Capital Improvement Plan**

Finance Director Yuen presented that adopting Resolution No. 2021-28 will express the official intent of the City regarding certain capital expenditures for the water and sewer system to be reimbursed with proceeds from future bond obligations.

After Council questions and discussion, CM O'Connell made a motion, seconded by CM Davis, to approve Resolution No. 2021-28 a Reimbursement Resolution for Water and Sewer 2021/22 Capital Improvement Plan.

Ayes: Councilmembers Davis, Lentz, Mackin, O'Connell and Mayor Cunningham

Noes: None

Absent: None



**STAFF REPORTS****I. City Manager's Report on upcoming activities**

City Manager Holstine reported on the latest Covid-19 updates, and city events. Police Chief Macias reported on the Police Department's anonymous tip line and web form.

**MAYOR/COUNCIL MATTERS****J. Countywide Assignments and Subcommittee Reports**

Councilmembers reported on their activities in the following assignments:

- Peninsula Clean Energy
- Affordable Housing Subcommittee
- Sierra Point Ad hoc Subcommittee
- Airport Land Use Committee
- Weed Abatement

**K. City Council Meeting Schedule**

The next City Council Meeting is scheduled for April 15, 2021.

**L. Written Communications**

The City Council received the following written correspondence between March 19 and April 1, 2021:

- Beth Grossman (3/30/21) Great Brisbane Artists' Evening of Sharing even in a Pandemic
- Sherry Goodwin (4/1/21) Letter for tonight's Council meeting
- Dana Dillworth (4/01/21) Grading Ordinance

**ORAL COMMUNICATIONS NO. 2**

Barbara Ebel commented that illegal short term rental units should be shutdown immediately.

**ADJOURNMENT**

The meeting was adjourned at 9:15 p.m.

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Ingrid Padilla

**File Attachments for Item:**

F. Approve Minutes of City Council Closed Session Meeting of April 15, 2021


**BRISBANE CITY COUNCIL**
**ACTION MINUTES**
**CITY OF BRISBANE CITY COUNCIL CLOSED SESSION MEETING AGENDA**
**THURSDAY, May 6, 2021**
***VIRTUAL MEETING***
**1. 6:30 P.M. CLOSED SESSION**
**A. Approval of the Closed Session Agenda**
**B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda**
**C. Adjournment into Closed Session**
**D. Conference with Legal Counsel--Anticipated Litigation**

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code, section 54956.9

Number of Cases: 3

**E. CONFERENCE WITH REAL PROPERTY NEGOTIATOR UNDER GOVERNMENT CODE SECTION 54956.8**

Property: Assessor's Parcel Number 007-160-040 (vacant property in the Sierra Point area)

City Negotiator: Clay Holstine, City Manager

Negotiating Party: Grand Sierra, a subsidiary of Universal Paragon Corporation

Under negotiation: Price and terms of payment

**F. CONFERENCE WITH REAL PROPERTY NEGOTIATOR UNDER GOVERNMENT CODE SECTION 54956.8**

Property: 25 Park Place, Brisbane, CA

City Negotiator: Clay Holstine, City Manager

Negotiating Party: Elena Court

Under negotiation: Price and terms of payment

## **2. ADJOURNMENT**

Mayor Cunningham called the Closed Session Meeting to order at 7:05P.M. Mayor Cunningham adjourned the meeting into Closed Session. No members of the public attended the meeting. Mayor Cunningham adjourned the Closed Session Meeting of April 15, 2021 at 7:28 P.M.

### **REPORT OUT OF CLOSED SESSION**

Interim City Attorney McMorow reported that Council gave staff direction regarding Closed Session Item E and denied Closed Session Item D regarding Liability Claim.

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Ingrid Padilla  
City Clerk

G.

**File Attachments for Item:**

G. Approve Minutes of City Council Closed Session Meeting of May 6, 2021


**BRISBANE CITY COUNCIL**
**ACTION MINUTES**
**CITY OF BRISBANE CITY COUNCIL CLOSED SESSION MEETING AGENDA**
**THURSDAY, May 6, 2021**
***VIRTUAL MEETING***
**1. 6:30 P.M. CLOSED SESSION**
**A. Approval of the Closed Session Agenda**
**B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda**
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Property: 25 Park Place, Brisbane, CA

City Negotiator: Clay Holstine, City Manager

Negotiating Party: Elena Court

Under negotiation: Price and terms of payment

**2. ADJOURNMENT**

Mayor Cunningham called the Closed Session Meeting to order at 6:34 P.M. It was noted that the City Council received 2 correspondences from Dana Dillworth regarding Item E. Mayor Cunningham adjourned the meeting into Closed Session. No members of the public attended the meeting. Mayor Cunningham adjourned the Closed Session Meeting of May 6, 2021 at 7:51 P.M.

**REPORT OUT OF CLOSED SESSION**

Interim City Attorney McMorrow reported that Council gave staff direction regarding Closed Session Items D, E and F but no action was taken.

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Ingrid Padilla  
City Clerk



**File Attachments for Item:**

H. Accept Investment Report as of May 2021

**CITY OF BRISBANE  
CASH BALANCES & INVESTMENTS  
SOURCE OF FUNDING  
May 31, 2021**

NAME OF DEPOSITORY	INVESTMENT TYPE	DATE OF INVESTMENT	FACE VALUE OF INVESTMENT	CARRY VALUE OF INVESTMENT	MARKET VALUE OF INVESTMENT	COUPON INTEREST RATE %	MATURITY DATE	RATING/ COLLATERAL
WELLS FARGO	Checking A/C		\$ 7,099,082	\$ 7,099,082	\$ 7,099,082	0.000		
STATE FUND (LAIF)	Deposit on call	continuous	\$ 14,041,031	\$ 14,041,031	\$ 14,041,031	0.290	on call	no rating
<b>Other Investments</b>								
	Capital One National Association	11/23/2016	\$ 250,000	\$ 250,000	\$ 252,323	2.000	11/23/2021	
	Wells Fargo	11/30/2016	\$ 250,000	\$ 250,000	\$ 252,385	2.000	11/30/2021	
	Sallie Mae Bank	5/9/2019	\$ 245,000	\$ 245,000	\$ 250,466	2.550	05/09/2022	
	Morgan Stanley	6/6/2019	\$ 245,000	\$ 245,000	\$ 250,848	2.550	06/06/2022	
	Comenity Capital Bank	4/28/2019	\$ 248,000	\$ 248,000	\$ 259,643	2.650	04/28/2023	
	Morgan Stanley	5/2/2019	\$ 245,000	\$ 245,000	\$ 256,561	2.650	05/02/2023	
	Goldman Sachs	5/1/2019	\$ 246,000	\$ 246,000	\$ 262,964	2.750	05/01/2024	
BNY Mellon	Treasury Obligations	continuous	\$ 7,899,615	\$ 7,899,615	\$ 7,899,615	0.010	on call	110% collateral
Sub-total			\$ 9,628,615	\$ 9,628,615	\$ 9,684,804			
U.S. Bank	2014 BGPGA Bond (330)	Improvements	Fed Treas Obl		10031			
		Reserve Fund	Fed Treas Obl	\$ 1	10032			
		Revenue Fund	Fed Treas Obl	\$ -	10034			
		Expense Fund	Fed Treas Obl	\$ -	10035			
		Principal	Fed Treas Obl	\$ 1	10036			
		Interest Fund	Fed Treas Obl	\$ 0	10037			
U.S. Bank	2015 Utility Capital (545)	Improvements	Fed Treas Obl	\$ 0	10031			
		Reserve	Fed Treas Obl	\$ 0	10032			
		Expense Fund	Fed Treas Obl	\$ 0	10035			
PARS	OPEB Trust	Trust Cash	Investments	\$ 3,994,948	13050			
PARS	Retirement Trust	Trust Cash	Investments	\$ 1,398,727	13050			
Sub-total	Cash with Fiscal Agents			\$ 5,393,677				
Total other investments			\$ 9,628,615	\$ 15,022,292	\$ 9,684,804			
<b>TOTAL INVESTMENTS &amp; CASH BALANCES</b>			\$ 30,768,728	\$ 36,162,405	\$ 30,824,917			

Outstanding Loans to Department Heads

	Date of loan	Amount	Amount Remaining	Interest Rate
Stuart Schillinger	4/1/2002	318,750	\$ 318,750	Based on Sales Price
Clay Holstine (1)	7/8/2008	300,000	\$ -	Paid off 12/28/2016
Clay Holstine (2)	9/10/2008	200,000	\$ 200,000	Secured by other funds
Randy Breault	10/22/2001	320,000	\$ 30,925	2.47%

FFCB - Federal Farm Credit Bank  
FHLB - Federal Home Loan Bank  
FHLM - Federal Home Loan Mortgage Corporation  
FNMA - Federal National Mortgage Association

Two year Treasury	0.14%	
Weighted Interest	0.27%	
Weighted maturity	0.09	Years

**TREASURER'S CERTIFICATE**

These are all the securities in which the city funds, including all trust funds and oversight agencies funds, are invested and that (excluding approved deferred compensation plans) all these investments are in securities as permitted by adopted city policy.

It is also certified that enough liquid resources (including maturities and anticipated revenues) are available to meet the next six months' cash flow.

*Carolina Yuen*  
CITY TREASURER

**File Attachments for Item:**

I. Adopt Resolution No. 2021-63 Confirming and Ratifying the Proclamations Declaring the Continued Existence of a Local Emergency in the City of Brisbane in Response to the COVID-19 Pandemic



## **CITY COUNCIL AGENDA REPORT**

**Meeting Date: July 15, 2021**

**From: Clay Holstine, City Manager**

**Subject: Resolution Confirming and Ratifying the Proclamations Declaring the Continued Existence of a Local Emergency in the City of Brisbane in Response to the COVID-19 Pandemic**

Recommendation: Adopt the attached resolution.

### Background

The COVID-19 Coronavirus has been declared a pandemic by the World Health Organization and has prompted various government agencies to take action in response. In March 2020, the Governor declared a Statewide Emergency, the County Board of Supervisors declared a County wide State of Emergency and the City Manager, as Emergency Services Director, proclaimed a local emergency on March 16, 2020. On March 19, 2020, the City Council ratified and confirmed the Director of Emergency Service's proclamation of a local emergency which allowed staff to expeditiously respond to the emergency circumstances caused by the pandemic.

Since that time, the City Council has extended the local emergency numerous times as State law requires that such local emergencies be reviewed every 60 days. The last extension was May 6, 2021. Notwithstanding that most of the restrictions that were imposed since March 2020 have been lifted, the Governor has not rescinded the Statewide Emergency. In light of that staff continues to recommend that the local emergency, for now, remain in place.

### Discussion

Government Code Section 8630(c) requires that, "the governing body shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency." Because the City Council will not meet in regular session until July 15, 2021 and the declaration of local emergency would otherwise expire on July 5, 2021, the City Manager, in his role as Director of Emergency Services, proclaimed on July 3, 2021 and July 10, 2021, the continued existence of the local emergency as a result of the COVID-19 pandemic.

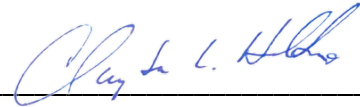
At this time, staff is recommending that the City Council adopt a resolution ratifying the Director of Emergency Services' proclamations continuing the existence of a local emergency in response to the COVID-19 pandemic, and directing staff to continue to respond appropriately to the local emergency. Staff is optimistic that this will be the last time that Council will need to adopt such a resolution in response to the COVID-19 pandemic.

### Financial Impact

There is no direct financial impact from City Council taking this action. The attached resolution, however, will put the City in a better position to recover funds that are expended in response to the COVID-19 pandemic.

### Attachment:

1. Proclamations Declaring the Continued Existence of a Local Emergency
2. Resolution Confirming and Ratifying the Proclamations of the Continued Existence of a Local Emergency in the City of Brisbane in Response to the COVID-19 Pandemic



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Clay Holstine, City Manager

## Proclamation of Continuation of Local Emergency by Director of Emergency Services

**WHEREAS**, Section 2.28.060 of the City of Brisbane Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency, or to proclaim the continued existence of a local emergency, when said City is affected or likely to be affected by a public calamity and the City Council is not in session, and;

**WHEREAS**, the Director of Emergency Services of the City of Brisbane does hereby find;

Conditions of extreme peril to the safety of persons and property have arisen within the City, caused by the COVID-19 pandemic which began on about March 16, 2020; and

These conditions were, and are likely to continue to be, beyond the control of the services, personnel, equipment, and facilities of the City; and

The Brisbane City Council ratified earlier proclamations of Local Emergency by the Director of Emergency Services, declared a Local Emergency, and on several occasions continued the declaration of the Local Emergency, which declaration has not been rescinded; and

Government Code, Section 8630 requires local agencies that have declared local emergencies to review the existence of such emergencies every 60 days to determine whether the local emergency continues to exist; and

The City Council of the City Brisbane most recently extended the local emergency on May 6, 2021; and

The City Council of the City of Brisbane is not scheduled to meet in regular session until July 15, 2021 and cannot immediately be called into session; and

Conditions of extreme peril to the safety of persons and property continue to exist within the City, caused by the COVID-19 pandemic.

**NOW, THEREFORE, IT IS HEREBY PROCLAIMED** that a local emergency due to the COVID 19 pandemic continues to exist throughout the City; and

**IT IS FURTHER PROCLAIMED AND ORDERED** that during the existence of the local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, and resolutions of this City, and by the City of Brisbane Emergency Operations Plan, as previously approved by the City Council.

This emergency proclamation shall expire on July 10, 2021 unless a further emergency proclamation is issued by the Director of Emergency Services by that date.

Dated: July 3, 2021



Clayton Holstine, Director of Emergency Services

### Proclamation of Continuation of Local Emergency by Director of Emergency Services

**WHEREAS**, Section 2.28.060 of the City of Brisbane Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency, or to proclaim the continued existence of a local emergency, when said City is affected or likely to be affected by a public calamity and the City Council is not in session, and;

**WHEREAS**, the Director of Emergency Services of the City of Brisbane does hereby find;

Conditions of extreme peril to the safety of persons and property have arisen within the City, caused by the COVID-19 pandemic which began on about March 16, 2020; and

These conditions were, and are likely to continue to be, beyond the control of the services, personnel, equipment, and facilities of the City; and

The Brisbane City Council ratified earlier proclamations of Local Emergency by the Director of Emergency Services, declared a Local Emergency, and on several occasions continued the declaration of the Local Emergency, which declaration has not been rescinded; and

Government Code, Section 8630 requires local agencies that have declared local emergencies to review the existence of such emergencies every 60 days to determine whether the local emergency continues to exist; and

The City Council of the City of Brisbane most recently extended the local emergency on May 6, 2021; and

The Director of Emergency Services extended the local emergency by proclamation on July 3, 2021 because the City Council of the City of Brisbane is not scheduled to meet in regular session until July 15, 2021 and cannot immediately be called into session; and


Conditions of extreme peril to the safety of persons and property continue to exist within the City, caused by the COVID-19 pandemic.

**NOW, THEREFORE, IT IS HEREBY PROCLAIMED** that a local emergency due to the COVID 19 pandemic continues to exist throughout the City; and

**IT IS FURTHER PROCLAIMED AND ORDERED** that during the existence of the local emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, by ordinances, and resolutions of this City, and by the City of Brisbane Emergency Operations Plan, as previously approved by the City Council.

This emergency proclamation shall expire on July 16, 2021 unless confirmed and ratified by the governing body of the City of Brisbane on or before July 15, 2021.

Dated: July 10, 2021

  
\_\_\_\_\_  
Clayton Holstine, Director of Emergency Services



## RESOLUTION NO. 2021-63

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE RATIFYING THE PROCLAMATION OF THE DIRECTOR OF EMERGENCY SERVICES TO EXTEND THE LOCAL EMERGENCY AND CONTINUING THE EXISTENCE OF A LOCAL EMERGENCY

**WHEREAS**, Section 2.28.060 of the Brisbane Municipal Code empowers the City Manager/Director of Emergency Services to proclaim a local emergency if the City Council is not in session and requires the City Council to take action to ratify the proclamation thereafter; and

**WHEREAS**, conditions of extreme peril to the health, safety and welfare of persons have arisen in the world, the nation, the State, the County of San Mateo and the City of Brisbane due to the following:

A novel coronavirus (named COVID-19 by the World Health Organization) was first detected in December 2019. The Center for Disease Control and Prevention (CDC) has stated that COVID-19 is a serious public health threat, based on current information. Cases of COVID-19 have been diagnosed throughout the world, the United States, the State of California, the County of San Mateo and the City of Brisbane.

The exact modes of transmission of COVID-19, the factors facilitating human to human transmission, the extent of asymptomatic viral shedding, the groups most at risk of serious illness, the attack rate, and the case fatality rate all remain active areas of investigation. There are now approved vaccine or specific anti-viral treatment for COVID-19 but not all persons have chosen to be vaccinated and there is no approved vaccine for children 11 years old or younger.

Due to COVID-19 pandemic, in March 2020 the Governor of the State of California declared a State of Emergency for the State and the City of Brisbane's Director of Emergency Services declared a Local Emergency on March 16, 2020 and the City Council of the City of Brisbane ratified the Proclamation of a Local Emergency on March 19, 2020; and

**WHEREAS**, the City Council of the City of Brisbane has extended the Local Emergency on several occasions, most recently on May 6, 2021, extending the Local Emergency for an additional 60 days; and

**WHEREAS**, the City Manager, acting as the Director of Emergency Services, did proclaim on July 3, 2021, and on July 10, 2021 the continued existence of a Local Emergency because the City Council would not be in regular session until July 15, 2021; and

**WHEREAS**, for the reasons expressed above, conditions of extreme peril and a serious threat to the public health, safety and welfare have arisen, and continue to exist in the City of Brisbane; and

**WHEREAS**, the City Council does hereby find that the above described conditions of

extreme peril and serious threat to the public health, safety, and welfare did warrant and necessitate the existence of a Local Emergency in the City of Brisbane and those conditions continue at this time.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF BRISBANE DOES RESOLVE, DECLARE, DETERMINE, AND ORDER THE FOLLOWING:**

Section 1. During the existence of the Local Emergency, the powers, functions, and duties of the Director of Emergency Services and the Emergency Organization of the City shall be those prescribed by State law, ordinances and resolutions of the City of Brisbane, and by the City of Brisbane Emergency Operation Plan.

Section 2. The City Council ratifies the proclamations of the Director of Emergency Services to extend the Local Emergency.

Section 3. The Local Emergency shall continue to exist until the City Council proclaims its termination or the Local Emergency is not extended as provided by law.

Section 4. This resolution is effective immediately upon its passage and adoption.

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Karen Cunningham, Mayor

PASSED, APPROVED AND ADOPTED by the Brisbane City Council at a regular meeting on July 15, 2021.

I hereby certify that the foregoing resolution was adopted by the City Council at a regular meeting held on July 15, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Ingrid Padilla, City Clerk

Approved as to form:




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Thomas McMorrow, Interim City Attorney

**File Attachments for Item:**

J. Adopt Ordinance No. 662, Waiving Second Reading, to Require the Safe Storage of Firearms in a Residence

**MEMO****Meeting Date: July 15, 2021****From: Ingrid Padilla, City Clerk****Subject: Adopt Ordinance No. 662, Waiving Second Reading, to Require the Safe Storage of Firearms in a Residence**

The Ordinance listed above was introduced at the City Council Meeting of June 17, 2021 and is on this agenda for consideration of adoption.

Attachment 1: Staff Report from the City Council Meeting of June 17, 2021



## CITY COUNCIL AGENDA REPORT

**Meeting Date: June 17, 2021**

**From: Thomas McMorrow, City Attorney and Lisa Macias, Police Chief**

**Subject: Ordinance to Require the Safe Storage of Firearms in a Residence**

### **Recommendation:**

Introduce an Ordinance to require the safe storage of firearms in a residence.

### **Background**

Having a loaded gun in a home is associated with an increased risk of gun-related injury and death according to multiple studies.

The New England Journal of Medicine reports that residing in a home where a gun is kept increased an individual's risk of death by homicide significantly according to a study conducted by an author affiliated with Massachusetts General Hospital and Harvard Medical School. Other study—including national studies—came to the same or similar conclusions.

Children are particularly at risk of injury and death from firearms when firearms are not safely secured in their own homes or in the homes they visit. According to national data, children and young adults constitute 38% of all firearm deaths and non-fatal injuries. More than 75% of guns used in suicide attempts and unintentional injuries of children and young adults were stored in the residence of the victim, a relative, or a friend. Nearly all of accidental shooting deaths among children occur in the home, and most of these deaths occur when children are playing with an unsecured loaded gun their parents' absence.

Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.

In San Mateo County, in the past 10 or so years, there have been more than 300 gun-related deaths. From information gathered at County gun "buy-back" events, a majority of persons turning in the guns report they have kept the gun hidden in a discrete location or kept the gun loaded, notwithstanding that these methods are not considered "safe storage." Many of the persons who surrendered their guns did so for "safety reasons" and a majority of those who inherited a gun did not know how to store properly the gun.

San Mateo County, many cities in San Mateo County, and many cities throughout the Bay Area have already adopted a Safe Storage of Firearms Ordinance, and, to staff's knowledge, such ordinances have not been challenged as infringing on any rights under the Second Amendment.

Using the County Ordinance as a model, staff has drafted a Safe Storage of Firearms Ordinance and it is attached.

### **Discussion**

Applying trigger locks or using lock boxes when storing firearms in a home reduces the risk of injury or death from a firearm. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner's knowledge or permission. This simple safety measure significantly decreases the risk that a firearm will be used, for example, to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where firearms are stored.

Under the proposed Ordinance, safe storage of firearms in a residence would require that the firearm be kept in a "locked container" or disabled with a trigger lock.

Violations of the ordinance would typically result in an administrative citation (*e.g.*, when a violation is observed as part of other enforcement activity officers would issue an administrative citation with a fine).

### **Council's Ad-Hoc Committee Recommendation**

Council appointed an ad hoc committee (Council members Lentz and Macklin) to review this proposed Ordinance. It did so on June 9 and the committee recommends its introduction and adoption.

Also, in the past, when the County or neighboring cities have undertaken firearm buyback programs, the Police Department has provided personnel to assist with the paperwork necessary for these programs to work. The committee also requested the Police Chief to inform the City Council should the County or neighboring cities undertake another firearm buyback program to determine if the City has an interest in contributing funds, as well as personnel, in that effort.

### **Attachment 1: Ordinance No. 662 Safe Storage of Firearms in a Residence**




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Thomas McMorrow, City Attorney

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Clay Holstine, City Manager




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Lisa Macias, Police Chief

**ATTACHMENT 1****ORDINANCE NO. 662****AN ORDINANCE OF THE CITY OF BRISBANE ADDING CHAPTER 8.52 TO THE BRISBANE MUNICIPAL CODE TO REQUIRE THE SAFE STORAGE OF FIREARMS IN A RESIDENCE**

The City Council of the City of Brisbane ordains as follows:

**Section 1. Findings**

- A. Having a loaded gun in a home is associated with an increased risk of gun-related injury and death. According to a report in the New England Journal of Medicine, residing in a home where a gun is kept increased an individual's risk of death by homicide significantly. A similar national study reached the same conclusion.
- B. Firearm injuries have a significant public health impact. According to a recent study, researchers estimate that gun related violence costs the American economy at least \$229 billion every year, including \$8.6 billion in direct expenses, such as those for emergency and medical care. In California alone, the direct costs of hospital use for firearm assault injuries was estimated in 2010 to be \$87.4 million, 85% of these costs were borne by taxpayers. It is reasonable to believe that in the intervening 11 years, those costs have continued to increase.
- C. Children are particularly at risk of injury and death from firearms when firearms are not safely secured in their own homes or in the homes they visit. According to national data, children and young adults constitute 38% of all firearm deaths and non-fatal injuries. More than 75% of guns used in suicide attempts and unintentional injuries of children and young adults were stored in the residence of the victim, a relative, or a friend. Nearly all of accidental shooting deaths among children occur in the home, and most of these deaths occur when children are playing with an unsecured loaded gun their parents' absence.
- D. Applying trigger locks or using lock boxes when storing firearms in the home reduces the risk of firearm injury and death. Keeping a firearm locked when it is not being carried ensures that it cannot be accessed and used by others without the owner's knowledge or permission. This simple measure significantly decreases the risk that the gun will be used to commit suicide, homicide, or inflict injury, whether intentionally or unintentionally. Safe storage measures have a demonstrated protective effect in homes with children and teenagers where guns are stored.
- E. Local community action is needed to prevent gun violence. In San Mateo County, in the past 10 or so years, there have been more than 300 gun-related deaths. From information gathered at County gun "buy-back" events, a majority of persons turning in the guns report they have kept the gun hidden in a discrete location or kept the gun loaded, notwithstanding that these methods are not considered "safe storage". Many of



the persons who surrendered their guns did so for “safety reasons” and a majority of those who inherited a gun did not know how to store properly the gun.

- F. San Mateo County, many cities in San Mateo County, and many cities throughout the Bay Area have already adopted a Safe Storage of Firearms Ordinance, and such ordinances have not been challenged as infringing on any rights under the Second Amendment.

Section 2. A new Chapter 8.52 is added to the Brisbane Municipal Code as follows:

**“Chapter 8.52 Safe Storage of Firearms.**

**Section 8.52.010 Definitions**

- A. “Firearm” shall mean a firearm as defined in California Penal Code, section 16520.
- B. “Locked Container” shall mean a locked container as defined in California Penal Code, section 16850, listed on the California Department of Justice Bureau of Firearms roster of approved firearm safety devices. A locked container does not include a bag or other container made of fabric or other penetrable material, such as a purse, backpack, or gym bag.
- C. “Residence” shall mean any structure intended or used for human habitation including but not limited to single family residences, apartments, condominiums, accessory dwelling units, rooms in boarding houses, hotels, motels, short term rentals, and recreational vehicles.
- D. “Trigger lock” means a trigger lock that is listed on the California Department of Justice’s roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference either to the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under California Penal Code, section 23635.

**Section 8.52.020 Safe Storage of Firearms in a Residence Required**

Except when carried on a person, no person shall keep a Firearm in any Residence unless the Firearm is stored in a Locked Container or is disabled with a Trigger Lock.

**Section 8.52.030 Penalty**

- A. A violation of Section 8.52.020 shall be subject to enforcement as provided in Chapters 1.14 (Code Enforcement), 1.16 (Administrative Citations) or 1.18 (Administrative Compliance Orders).
- B. To encourage reporting of lost or stolen Firearms, a person who complies with California Penal Code, section 25250 by reporting the loss of theft of a Firearm that the person owns or possesses to a local law enforcement agency within five days from the time the

person knows or reasonably should have known that the Firearm had been lost or stolen shall not be subject to subsection A of this Section 8.52.020.”

### Section 3. Effective Date

This Ordinance shall be in effect 30 days after its adoption.

Karen Cunningham, Mayor

Attest:

Ingrid Padilla, City Clerk

I hereby certify that the foregoing Ordinance was duly adopted and passed by the City Council of the City of Brisbane in a regular meeting held on July 15, 2021 by the following vote:

AYES:

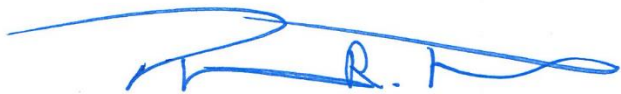
NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:




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Thomas McMorrow, City Attorney

**File Attachments for Item:**

K. Affordable Housing Strategic Plan Request for Proposals and Consultant Selection

(It is being recommended to authorize the Housing Subcommittee to select the successful affordable housing consultant, and authorize the City Manager to negotiate and sign a professional services agreement with the successful consultant)



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Affordable Housing Strategic Plan Request for Proposals and Consultant Selection

### Community Goal/Result

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community

### Purpose

To develop an affordable housing strategic plan that will provide affordable housing policies and investment strategies tailored to the City's present and future affordable housing needs.

### Recommendation

That the Council authorize the Housing Subcommittee to select the successful affordable housing consultant, and authorize the City Manager to negotiate and sign a professional services agreement with the successful consultant.

### Background

At the May 6, 2021 City Council meeting, Council authorized the release of an RFP for qualified consultants to prepare an affordable housing strategic plan and authorized the City Council Housing Subcommittee (Council Members Davis and Lentz) to make a recommendation for consultant selection to the full City Council. The May 6, 2021 staff report is attached for reference.

The RFP (attached) was released on June 4, 2021, and proposals were received by the July 2, 2021 deadline from the following firms:

- BAE Urban Economics
- ECONorthwest
- Keyser Marston Associates
- Michael Baker International
- Seifel Consulting Inc.

Consultant interviews with the Housing Subcommittee are scheduled for the week of July 19, 2021.

## Discussion

The Council will not meet again until September due to the summer break. Considering the importance of advancing the affordable housing strategic planning process in light of the upcoming Baylands Specific Plan process and the City's Housing Element update, staff recommends that the consultant selection and execution of a professional services agreement move forward in a timely manner based on the Housing Subcommittee's recommendation. The Subcommittee and staff will evaluate responsive proposals based on the consultant's expertise and translatable experience, understanding of the housing, financing, and planning context in Brisbane, budget, and overall vision and approach to the work.

## Fiscal Impact

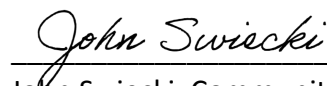
Proposed budgets in the proposals received range from approximately \$73,000 to \$180,000. There is approximately \$2 million available in the low and moderate income housing fund, which is anticipated to increase to approximately \$4 million when the Housing Authority's sale of the McLain property closes. Additionally, since much of the work scope is directly attributable to the Baylands, the City's reimbursement agreement with the Baylands developer (BDI) will enable some portion of the contract cost to be borne by the developer.

## Measure of Success

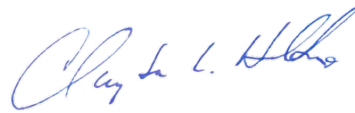
An affordable housing strategic plan prepared by a qualified consultant team that will identify the most efficient and effective affordable housing investment and planning strategies for Brisbane.

## Attachments

1. [May 6, 2021 Council staff report](#) (hyperlink)
2. [Affordable Housing RFP](#) (hyperlink)



John Swiecki, Community Development Director



Clay Holstine, City Manager



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** May 6, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Initiating a Request for Proposal to Develop a Citywide Affordable Housing Strategic Plan

### Community Goal/Result

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community

### Purpose

Initiate the process to develop an affordable housing strategic plan for the City of Brisbane.

### Recommendation

That the City Council authorize the City Manager to prepare and release a Request for Proposals (RFP) to qualified consultants to prepare an affordable housing strategic plan and authorize the City Council Housing Subcommittee to make a recommendation for consultant selection to the full City Council.

### Background

After the dissolution of Redevelopment Agencies by the State of California, cities in California lost a key funding source for the development and administration of affordable housing and other housing assistance programs. The City's remaining affordable housing funds, now housed within the Brisbane Housing Authority (BHA), largely result from sales of property with no on-going funding sources. Simultaneously, the development of affordable housing has been prioritized by the State of California in the eight-year Regional Housing Needs Allocation (RHNA) process for cities to address at a policy level the production of affordable housing. In Brisbane, the anticipated build out of 1,800-2,200 housing units as part of the Baylands Specific Plan presents unique opportunities for the development of affordable housing at a scale not achievable in Central Brisbane.

The City has no proactive affordable housing funding programs or priorities to address these various housing-related obligations and opportunities. On April 1, 2021 the Housing subcommittee (Council Members Davis and Lentz) discussed the need for the City to comprehensively and proactively manage its affordable housing obligations and opportunities, and recommended the City seek out a qualified consultant to develop an affordable housing strategic plan for the City.

## Discussion

Key components of the desired strategic plan I include:

### **1. Identifying short and long term city management responsibilities associated with the existing and future legally restricted affordable housing and exploring options for administering these duties.**

While the current stock of deed restricted units is relatively low, it will increase dramatically when the housing component of the Baylands develops and it is critical that these units are managed over time to ensure affordability requirements continue to be met.

### **2. Identify/evaluate project/programmatic options for utilizing the City's approximately \$4M balance affordable housing funds.**

There are numerous ways to utilize low/mod housing funds, and it is important for the community and Housing Authority to understand the range of options and establish priorities that best fit Brisbane's needs. Potential options to be evaluated in the forthcoming strategic plan should include but not be limited to :

- **Subsidize Affordable Housing Projects:** Provide gap financing (loans or grants) for 100% affordable housing projects.
- **Homebuyer Assistance:** Provide down payment assistance (loans or grants) for low and moderate income households to buy market rate homes.
- **ADU Construction Grants:** Provide construction grants or loans for ADUs in return for affordability restrictions.
- **Renter Assistance:** Provide financial assistance for renters at risk of losing housing via an annual revolving fund.
- **At Risk Property Acquisition:** Acquisition of existing low/mod units to ensure they remain affordable and are not converted to market rate housing over time.

### **3. Develop affordable housing strategies for the Baylands**

The Baylands offers a very different set of opportunities for establishing affordable housing than are present in the rest of Brisbane. It is critical that the City be proactive in developing an affordable housing strategy for the Baylands to ensure that it is well-defined in the specific plan and development agreement as appropriate.

### **4. Evaluate options to maintain a revenue stream for low/mod housing over time.**

While the loss of redevelopment eliminated the primary on going source of local affordable housing funds, there are other potential sources which can be explored.

### *Next Steps*

If authorized by the City Council, staff will work with the Council Housing Subcommittee to finalize the RFP. The Subcommittee would be involved in the consultant selection process and ultimately make a recommendation to the full City Council.

### **Fiscal Impact**

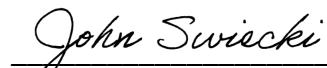
To be determined upon receipt of responses to RFP. A portion of the cost would be reimbursable under the City's existing reimbursement agreement with BDI for the Baylands Specific Plan and affordable housing funds can be used for the remainder.

### **Measure of Success**

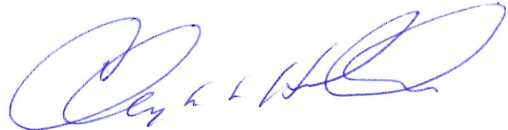
Development of a strategic plan for affordable housing plan that allows the City to identify on-going funding sources and prioritize investment in affordable housing programs that will have the highest benefit to the community.

### **Attachments**

None.



John Swiecki, Community Development Director



Clay Holstine, City Manager





# REQUEST FOR PROPOSALS

## AFFORDABLE HOUSING STRATEGIC PLAN

### **CITY OF BRISBANE**

#### **COMMUNITY DEVELOPMENT DEPARTMENT**

50 Park Place

Brisbane, CA 94005

Website: [brisbaneca.org](http://brisbaneca.org)

#### **PROPOSALS DUE:**

July 2, 2021

John A. Swiecki, AICP, Director



# REQUEST FOR PROPOSALS:

## AFFORDABLE HOUSING STRATEGIC PLAN

### PURPOSE

The City of Brisbane intends to hire a consultant to prepare an affordable housing strategic plan to ensure the City invests its current and anticipated future affordable housing revenues into affordable housing projects and programs that will have the greatest impact in the community, considering the unique opportunities and constraints for affordable housing in Brisbane. Proposed tasks to accomplish this have preliminarily been identified in the proposed work program below.

### DRAFT WORK PROGRAM

The work program will include, at a minimum:

1. Identifying short and long-term management responsibilities associated with the City's existing and future inventory of deed-restricted affordable housing units, and outline options for administering those responsibilities.
2. Developing affordable housing strategies specifically for the Baylands subarea of the City.
3. Identifying programmatic funding goals, objectives, and priorities for the City's current affordable housing fund balance of approximately \$4 million,
4. Defining and evaluating options for the City to establish an ongoing revenue stream for affordable housing development.
5. Review preliminary updated inclusionary and density bonus ordinance.
6. Community engagement at all phases of the plan's development.

Specific tasks are described in detail below under the "Scope of Work/Tasks" section of this RFP.

### PROPOSAL REQUIREMENTS

Consultants responding to this request must provide an electronic submittal of their written proposal by **5 p.m. on July 2, 2021**. Proposals must be submitted to Community Development Director John Swiecki at [jswiecki@brisbaneca.org](mailto:jswiecki@brisbaneca.org). Proposals larger than 10 MB in size should be uploaded to the City's FTP site at <https://www.hightail.com/u/city-of-brisbane-california>, with attention to John Swiecki. Questions on the RFP may be directed to Julia Ayres, Senior Planner at [jayres@brisbaneca.org](mailto:jayres@brisbaneca.org) or (415) 508-2129.

To be considered complete and responsive, Proposals should include the following information, at a minimum:

- **Project Understanding** – This section should demonstrate the consultant's understanding of the work program, defining approach to be used and an outline of key issues and unique challenges anticipated;
- **Work Program** – The core of the proposal, the work program should address all the tasks and deliverables described in this RFP, and any other tasks or issues that the consultant feels should be incorporated into the Scope of Work;
- **Project Staffing** – This section should discuss how the consultant would staff this project. Consultant project team members (including any sub-consultant staff) must be identified by name, location, and specific responsibilities on the project. Resumes for key staff must be included in an appendix;
- **Project Budget** – Include a project budget organized by task and by person or position, with the hourly rate and cost, and projected direct costs. Cost and value will be important considerations in the evaluation of all proposals;
- **Project Schedule** – The proposal must set forth a specific schedule for accomplishing the technical tasks outlined below, as well as engagement with the City Council's Affordable Housing subcommittee and the greater Brisbane community. The City's goal is to present a draft affordable housing plan to the City Council for review and adoption within six (6) months of executing a contract with the successful consultant;
- **Statement of Qualifications** – Describe the overall level of experience and areas of special expertise of your firm, team, and subconsultants (if any) that are relevant to the core components of this project; and
- **References** - Provide three references relevant to this project.

## SELECTION PROCESS

Following a review of these proposals, qualified candidate firms will be invited to participate in a selection interview the week of July 12, 2021. The interviews will be conducted by the City Council's Affordable Housing subcommittee and City staff from the City Manager's Office and Community Development Department. Once a preferred consultant has been identified by the subcommittee, final contract terms will be negotiated and a professional services agreement will be presented to the full City Council for approval.

## SCOPE OF WORK/TASKS

- 1. Identify short and long-term management responsibilities associated with the City's existing and future inventory of deed-restricted affordable housing units, and outline options for administering those responsibilities.**

The City directly oversees four deed-restricted affordable housing units that were developed through its inclusionary housing program or were transformed into affordable housing units through the City's First Time Homebuyer Program (silent second loan program for low/moderate income households to purchase market-rate units; currently inactive). There are currently eight additional low/moderate income deed-restricted units in the pipeline with approved land use entitlements that have not yet received building permits. With anticipated development in Central Brisbane, the City expects to add one to two deed-restricted units annually over the next eight year Housing Element cycle. While the City's inventory of active and pipeline deed-restricted units is relatively small, it will increase exponentially with development of the Baylands subarea (see below). Per the conditions of the deed restrictions, these properties require ongoing administrative actions on the part of City staff, including annual occupancy certification and active management or assistance in resale or refinancing of the units.

The City also has a ground lease with Bridge Housing for 15 affordable senior housing units (Visitation Gardens), which is professionally managed by Bridge. As part of the lease agreement and conditions of a development loan provided to Bridge from the previous Brisbane Redevelopment Agency, City staff liaises with Bridge staff on certain aspects of site management, including annual budget review, budget audit review, and other high level administrative tasks and obligations.

Due to turnover in City staff and a lack of clear or updated procedures for administering these various programs, this component of the affordable housing plan will clearly outline the various administrative responsibilities incumbent on the City. It will also evaluate the City's options for administering these responsibilities, including hiring of consultants specialized in administering such programs.

## **2. Develop affordable housing strategies specifically for the Baylands subarea of the City.**

The Baylands is an approximately 660-acre subarea of the City located directly east and north of Central (developed) Brisbane. This subarea is currently undergoing a specific planning process to allow for development of 1800-2200 residential units and up to 7 million square feet of commercial development. It is critical that the City be proactive in developing an affordable housing strategy for the Baylands to ensure that it is well-defined in the specific plan and development agreement between the City and developer, as appropriate.

This component of the affordable housing plan will evaluate what ratio of affordable housing units may be feasible for the site, due to the scale of development contemplated in the specific plan. The City's currently inclusionary housing requirement ranges from 10-20%, depending on the project size. It will also outline and evaluate the feasibility of

various affordable housing strategies appropriate to the Baylands subarea, which as a brand new neighborhood of the City will have very different affordable housing opportunities, both in terms of project scale and types of projects, compared to the developed core of Central Brisbane. Finally, this component of the affordable housing plan will evaluate how management of affordable units constructed as part of the Baylands project shall be achieved.

### **3. Identify programmatic funding goals, objectives, and priorities for the City's current affordable housing fund balance of approximately \$4 million.**

The City, through its Housing Authority, has a low/moderate income housing fund as a legacy of its Redevelopment Agency which was dissolved by the State in 2012. The approximate cash balance of this fund is \$4 million (as of June 2021; sale of a Housing Authority property is currently pending with escrow closing in mid-June 2021). The City wants to evaluate the most effective ways to program these immediately available funds. Potential options include but are not limited to:

- **Subsidize Affordable Housing Projects:** Provide gap financing (loans or grants) for 100% affordable housing projects in the City.
- **Homebuyer Assistance:** Provide down payment assistance (loans or grants) for low and moderate income households to buy market rate homes. The City had an active First Time Homebuyer program in the mid-2000's but stopped issuing new loans in 2010. Various issues have evolved with the viability of the First Time Homebuyer program in recent years as resales have come up.
- **ADU Construction Grants:** Provide construction grants or loans for accessory dwelling units (ADUs) in return for affordability restrictions on the constructed ADU.
- **Renter Assistance:** Provide financial assistance for renters at risk of losing housing via an annual revolving fund.
- **At-Risk Property Acquisition:** Acquisition of existing deed-restricted units at risk of conversion to market-rate housing to ensure they remain affordable. As noted, the City's inventory of deed-restricted units is fairly small.

This component of the affordable housing plan should evaluate these options and others, as deemed appropriate by the consultant, and identify the reach or impact of each considering the available \$4 million fund balance.

### **4. Evaluate options to maintain a revenue stream for affordable housing development.**

With the dissolution of the redevelopment agency, the City lost its primary source of affordable housing funding. Its current inclusionary housing ordinance does not include payment of in-lieu fees (pending updates to this ordinance would allow payment of an

in-lieu fee for rental development). The City participated in a commercial and market-rate residential nexus fee study in 2015, and received an updated feasibility study for a commercial nexus fee in 2020 that indicated some level of impact fees placed on certain commercial development types would be feasible based on market conditions at the time of the feasibility study.

This component of the affordable housing plan will evaluate the variety of ongoing affordable housing funding sources available to cities under current State law, including but not limited to the inclusionary housing in-lieu fees and nexus fees reference above, and recommend the most viable options for the City to pursue.

## **5. Review preliminary updated inclusionary and density bonus ordinance**

In 2019, the Brisbane Planning Commission considered draft updates to the City's Inclusionary Housing and Density Bonuses Ordinance, originally adopted in 2009. The Commission's study of the ordinance encompassed both discrete changes to comply with current State law regarding inclusionary rental housing, and a broader re-envisioning of the program in light of current and projected housing development patterns in the City. The Planning Commission ultimately recommended an updated ordinance for approval by the City Council. However, the City Council has not yet considered the draft ordinance.

Consultant review of the draft ordinance is incorporated into this work program to ensure that the Planning Commission's recommendations are consistent with the larger policy issues being addressed in the affordable housing strategic plan.

## **6. Engagement with community and City Council subcommittee**

The City expects a successful proposal to incorporate broader community engagement throughout the plan's preparation. Additionally, the City Council Affordable Housing subcommittee will be actively involved as a steering committee for all phases of the plan's preparation and the proposal should incorporate a minimum of two meetings with the subcommittee into the proposal's work program and budget.

## **DELIVERABLES**

At a minimum, the consultant's proposal shall include the following deliverables. Additionally, attendance of key staff at two City Council meetings shall be required. Additional deliverables or modified deliverables may be proposed as deemed appropriate by the consultant.



Task	Deliverable	Description
1	1.a	Inventory of short and long-term management responsibilities associated with the City's existing and future inventory of deed-restricted affordable housing units.
	1.b	Outline of options for City to administering identified management responsibilities.
2	2.a	Evaluation of feasibility of affordable housing development in the Baylands subarea, including feasible inclusionary housing requirements.
	2.b	Evaluation of the feasibility of affordable housing strategies appropriate to the Baylands subarea.
	2.c	Evaluation of management/administration of affordable units constructed as part of the Baylands project.
3	3.a	Conduct interviews with staff and City Council members and review current affordable housing policies, including the City's Housing Element and Inclusionary/Density Bonus ordinance.
	3.b	Outline and evaluation of current and potential affordable housing policies and strategies, including anticipated cost of each strategy.
4	4.a	Outline of current revenue sources for affordable housing development as permitted by State law, including recommended best practices based on the City's priorities identified in Tasks 2 and 3.
5	5.a	Written summary of recommendations for revisions to the draft inclusionary housing and density bonus ordinances for consideration by staff
	5.b	Review of final draft ordinance for prior to review by City Council
6	6.a	Community engagement plan identifying timing and methods of community engagement, keyed to all phases of the work program. The engagement plan should include at least two meetings with the City Council affordable housing subcommittee as the project steering committee. The proposal should also anticipate at least two meetings with the full City Council.

## BUDGET

The City Council has not established a not-to-exceed budget amount for this project. Budget proposals that maximize efficiency of the consultant and City's resources and balance the City's project goals with its parallel goals of fiscal efficiency will be a key evaluation factor in the City's review of proposals.

## SCHEDULE

The City expects consultant selection to occur in mid-July 2021, and a final draft affordable housing strategic plan to be ready for review and adoption by the full City Council within six (6) months of executing a contract with the successful consultant.

Proposals shall include a proposed schedule that incorporates all required tasks and deliverables within this timeframe. If in the consultant's professional opinion additional time may be necessary to complete all the required tasks and deliverables (including engagement with the community and Affordable Housing subcommittee), the proposed schedule may propose extending this timeframe accordingly.

## RESOURCES

The following documents may be referenced on the City's website in preparation of the consultant's response to this RFP:

- [City of Brisbane Housing Element 2015-2022](#)
- [Inclusionary Housing and Density Bonus Ordinance \(BMC Chapter 17.31\)](#)
- [Brisbane Baylands- project overview](#)



**File Attachments for Item:**

L. Acknowledge Drought Stage 1 Declaration



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Director of Public Works/City Engineer

**Subject:** Stage 1 Drought Determination

**Community Goal/Result:** Ecological Sustainability

### Purpose

This action will facilitate compliance with requirements promulgated by a governing authority for voluntary reductions during a water shortage, will assure the maximum beneficial use of city water supplies, and will enable implementation of the city's water drought response measures.

### Recommendation

Acknowledge the Director of Public Works/City Engineer's (Director) determination that a Stage 1 Drought has been triggered, and the associated response measures should be implemented.

### Background

Brisbane Municipal Code Chapter 8.41 authorizes the Director to determine when a particular stage of drought response actions should be implemented.

The San Francisco Public Utilities Commission, who own and operate Brisbane's sole source of water supply, has requested that all of its wholesale customers voluntarily reduce their use of outside (irrigation) water by 10%.

The State Water Resources and Control Board has urged all water systems to encourage customers to conserve water.

California's Governor has issued a Proclamation of a State of Emergency, which notes the requirements to mitigate effects of the drought on the Sacramento-San Joaquin Delta (amongst other counties and watersheds).

As of the end of June, the U.S. Drought Monitor's map indicated that San Mateo County is in a state of Extreme Drought.

### Discussion

**Drought Stage 1 response measures are required, and shall become effective July 20, 2021, and will remain in effect until the effective date of a different drought response stage or until the Director determines that no drought response stages are required.**

The drought response stage 1 measures listed below are found in the Water Shortage Contingency Plan approved by the Director, and are available on the City's website:

- Stop washing down paved surfaces, including but not limited to, sidewalks, driveways, parking lots, tennis courts or patios, except when necessary to address an immediate health, safety or sanitation need.
- Stop the application of potable water to outdoor landscapes in a manner that causes excessive runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or other hardscapes and structures.
- Do not irrigate residential and commercial landscapes between the hours of 9:00 a.m. and 6:00 p.m. or during rain events.
- Use a hand-held hose equipped with an automatic shut-off nozzle or bucket to water landscaped areas that are not irrigated by a landscape irrigation system.
- Irrigate nursery and commercial grower's products before 10:00 a.m. and after 6:00 p.m. Watering is permitted at any time with a hand-held hose equipped with an automatic shut-off nozzle, a bucket, or a drip/micro-irrigation system. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.
- Use only re-circulated or recycled water to operate ornamental fountains.
- Wash vehicles using a bucket, a hand-held hose with an automatic shut-off nozzle, a mobile high pressure/low volume wash system, or at a commercial site that re-circulates (i.e., reclaims) water on-site.
- Serve and refill water in restaurants and other food service establishments only upon request.
- Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.
- Use recycled water for construction purposes, if available.

No new, non-residential water meters may be issued unless the Director determines that such issuance will not impede the City's compliance with the required water use reductions.

Based on this determination, the city's utilities division will send a letter to every hotel and to every customer with a separate irrigation meter that will advise these parties of the requirements applicable to them. At this stage of drought response, the city's enforcement will be reactive, that is, complaint based.

### **Fiscal Impact**

A reduction in the use of water will mean a reduction in the amount of charges assessed against water consumption as billed from water meter reading. The Council's 2/1/18 decision to implement a Drought Contingency Charge is expected to mitigate these reduced charges so as to not have a detrimental effect on the utility fund.

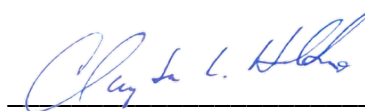
### **Measure of Success**

A reduction of non-essential water uses that will ensure sufficient water supplies to meet the basic needs of human consumption, sanitation and fire protection; and protect the health, safety, welfare and economic vitality of the city's customers.




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Randy Breault, Public Works Director




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Clay Holstine, City Manager

**File Attachments for Item:**

M. Revoke Original Award of Contract and Approve award the contract to the second lowest bidder, Southwest Greens, for the Dog Park Restoration Project



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Noreen Leek, Parks & Recreation Director

**Subject:** Revoke contract from ForeverLawn for the Dog Park Resurfacing Project, and award contract to Southwest Greens

### Community Goal/Result

Community Building

### Purpose

Maintain high-quality recreation facilities for community interaction.

### Recommendation

Revoke contract from ForeverLawn for the Dog Park Resurfacing Project, and award project contract to Southwest Greens.

### Background

In March 2021, staff published a project RFP for the resurfacing of the dog park and a total of three (3) proposals were received. The following table shows the results of the responsive bids in order of lowest to highest:

Vendor	Bid Amount
ForeverLawn	\$69,968.40
Southwest Greens	\$75,155.79
Bruno Landscape Management & Construction	\$79,013.50

In April 2021, City Council awarded the contract for resurfacing of the Dog Park to ForeverLawn, in the amount of \$69,968.40.

### Discussion

Since a notice to proceed was issued to ForeverLawn, the vendor has become progressively less responsive and has demonstrated a failure to perform. According to California Public Contract Code - PCC § 5106, if the public entity deems it is for its best interest, it may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest bidder. After consulting with the City's Legal Counsel, it is recommended that the City revoke the contract from ForeverLawn and award the project contract to the second lowest bidder, Southwest Greens.

After conferring with Southwest Greens, they are willing to honor their initial bid despite having surpassed the expiration date. Staff will work with the Southwest Greens team to finalize the resurfacing design, and incorporate previous feedback received from Council while ensuring ADA compliance.

**Fiscal Impact**

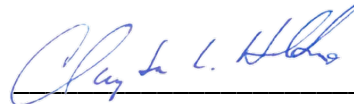
The initial contract awarded to ForeverLawn was in the amount of \$69,968.40. The contract from Southwest Greens is in the amount of \$75,155.79. The difference between the two is approximately \$5,200 which remains below the not to exceed amount set by Council of \$80,000 for the project.

**Attachments**

1. Southwest Greens Bid submittal packet
2. Dog Park Resurfacing Project RFP



Noreen Leek, Parks & Recreation Director



Clay Holstine, City Manager



# DOG PARK RESURFACING PROJECT

Bid submittal by:







Southwest Greens Northern CA West  
PO Box 4307  
Foster City, CA 94404  
(650)349.4885



March 26, 2021

Attn: Ms. Noreen Leek  
Parks & Recreation Director  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

To the City Staff of Brisbane,

Please accept the following information as Southwest Greens Northern CA West's Bid & Proposal for the city's Dog Park Resurfacing Project.

Southwest Greens Northern CA West (SWGNCW) is a local full service synthetic turf company; operating under its current ownership since June 2006. Our office is located in San Carlos, CA. The territory we service is from the Northern most tip of Marin County down to Pebble Beach along the west side of the peninsula.

Since our inception, SWGNCW continues to pride its self on designing synthetic turf amenity projects to meet our customers' specific needs, styles and budgets. Our in house crew installs all of our projects. We do not subcontract projects out.

Our approach to each project is to understand the needs and vision of the decision maker. To educate the consumer on the materials we procure, the process we go through to install the materials and the detail we put into our workmanship.

Over the years, Southwest Greens has been identified as an industry leader in high quality, made in the U.S.A. synthetic turf. Our list of repeat customers continues to grow as their household's needs change and evolve.

SWGNCW's interest in the Brisbane Dog Park Surfacing Project is both of personal interest and professional interest.

A personal interest because we are dog owners. We speak to potential customers about synthetic lawns for their family dogs (and children) repeatedly. We understand the benefit & luxury of having a place where dogs can be dogs; a specified area where a dog can run and let loose. A tired dog is a happy dog.

Our professional interest comes from the 14+ years of educating customers on synthetic turf materials, and our proven installation process. Quite possibly the most important part of our WHY is because our entire team experiences great satisfaction when at the end of a project we witness smiles spanning from ear to ear.

Enclosed within our bid packet, is a short list of projects near and dear to our heart. We've highlighted these particular projects because we view them as landmarks and pillars within our synthetic turf journey. The experience makes us who are today.

Throughout our packet you will notice lots of golf green amenities. This is because SWGNCW has worked consistently and passionately installing synthetic golf greens across the Greater Bay Area. Our company's success has been built on the foundation of quality workmanship and referrals.

The installation of a golf green requires a lot of precision. Beginning with knowing the lay of the land, ground preparation, patients during the installation process up to and including rolling the green out to speed for our customer to play / practice on. Synthetic lawns do not require the same level of precision as a golf green, however they do require proper ground preparation, consistent base compaction to mitigate against settling and adequate quantity of materials to ensure the turf holds up to the customer's expectations

SWGNCW's Conceptual Design is intended to be inviting for Brisbane's K9 Residents and their Owners. To maximize the use of this open space and create a comfortable place for the K9 Community to co-exist.

Knowing what we know about synthetic turf, installation, longevity, dogs and decision makers, we are including three turf styles to choose from (two different price points).

We know you will have questions; Southwest Greens is here to assist you.

Please enjoy the packet we have put together for your project and feel free to contact us. We look forward to hearing from you.

Professionally,

*Micki*

Michell Salamanca  
Co-Owner  
Southwest Greens Northern CA West  
mix@sw-greens.com / 415-606-3164

Marin

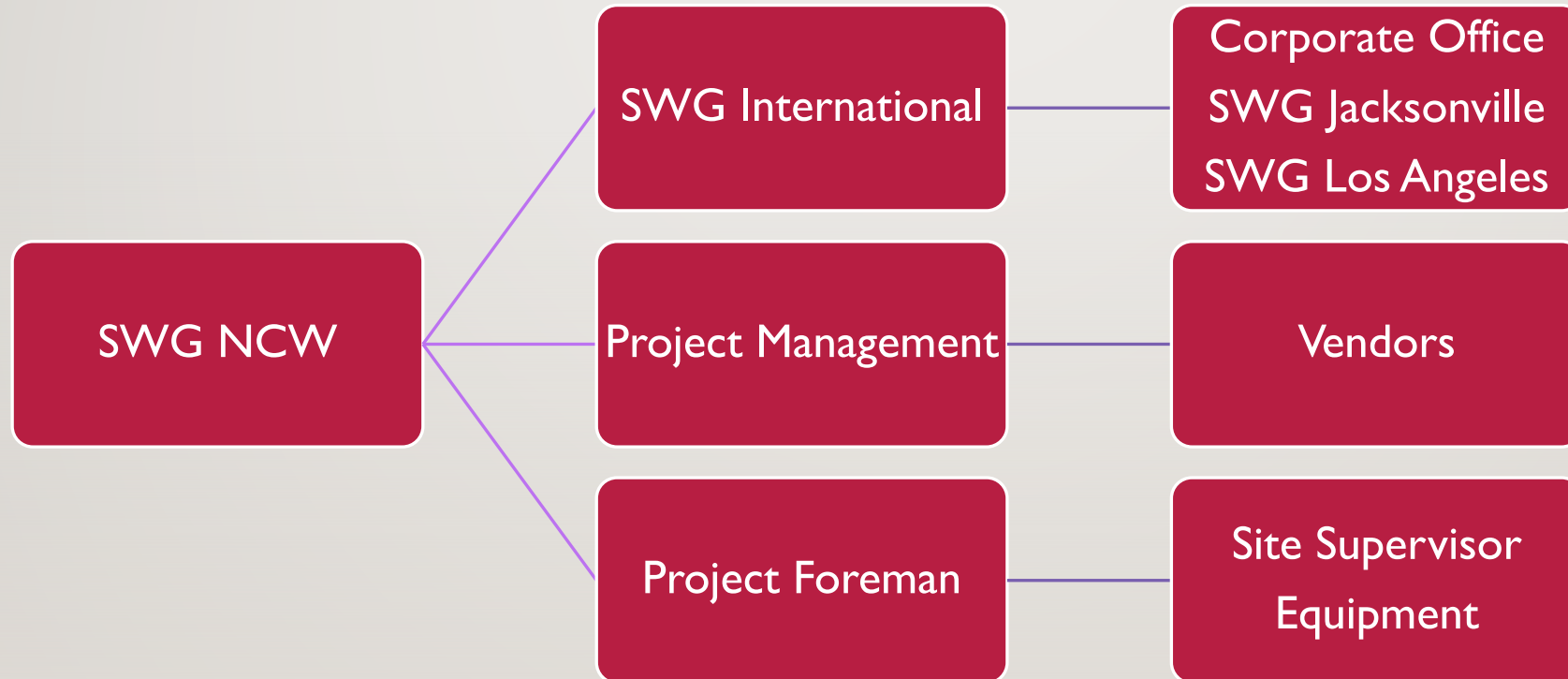
San Francisco

Silicon Valley

Monterey



# ORGANIZATION



## Southwest Greens Northern CA West

Adrian Rugerio, 6 years experience

Jose Salamanca, 14 years experience

Michell Salamanca, 14 years experience

## Project Foreman

Jose Salamanca (jose@southwestgreens.com)

Onsite Contact

Adrian Rugerio

Site Supervisor

## Southwest Greens International

Corporate Office

Southwest Greens Jacksonville, FL

Southwest Greens Los Angeles

## Vendors

Turf: Shaw Floors

Base Material: Graniterocl Transportation

Sand Infill: Graniterock Redwood City

Nailer Board: Hayward Lumber, Redwood City

Offsite Removal: Baker Brothers, San Carlos

## Project Management

Michell Salamanca (mix@sw-greens.com)

Point of Contact

Material Procurement

Project Schedule

# LINEAGE HIGHLIGHTS



2006

2009

2012

2015

2018

2021



# LINEAGE DETAIL

- 2006 became a Southwest Greens Dealer and entered the Synthetic Turf Industry Full Time
- 2008 installed our first rooftop synthetic turf amenity
- 2009 formed retail partnerships with local building material locations
- 2010 installed 2<sup>nd</sup> rooftop application on California Street in SF, installed our first 3000+ sq ft projects, designed turf for climbing wall in Atherton, CA
- 2012 SWG International was acquired by Shaw, A Berkshire Hathaway Company
- 2013 BOLT turf was released, J. Salamanca earned his CA Contractor's License (#983689), Installed large golf green projects at two Bay Area apartment complexes
- 2015 installed large croquet court requiring precise leveling over 3000 sq ft, 3<sup>rd</sup> (Google Campus, Mountain View) & 4<sup>th</sup> (Samsung AHQ, San Jose) roof top golf greens were installed
- 2016 Southwest Greens was recognized by Golf Digest Editor's Choice Award for Best Synthetic Putting Green
- 2017 Installed turf at Happy Tails Dog Day Care in Belmont, recipient of Golf Digest Editor's Choice Award for Best Synthetic Putting Green 2<sup>nd</sup> Year running
- 2018 recipient of Golf Digest Editor's Choice Award for Best Synthetic Putting Green
- 2019 became a member of the Synthetic Turf Council, recipient of Golf Digest Editor's Choice Award for best synthetic Putting Green 4<sup>th</sup> Year running
- 2020 earned Synthetic Turf Installer Certification, installed a glue down project at the Cathedral School for Boys in San Francisco, received Golf Digest Editor's Choice Award, 5<sup>th</sup> Year Straight
- 2021 Installed 225 linear feet of Commercial Grade Tee Line at Almaden Golf & Country Club, San Jose CA

# SCOPE OF WORK

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- Ground Preparation: to clear area of organic growth not part of the final design. Rototillers, Sod Cutters and Self Loading machines will be used.
- Installation of nailer boards
- Installation of compacted base materials. Recycled Class II Base rock, Virgin Base rock and Grey Fines
- Installation of synthetic turf in the shape and dimensions accepted by the city of Brisbane. Cut in, secured down to base and infill.
- Removal all equipment, turf and project waste from project site.
- Educate City of Brisbane on how to maintain and clean their new turf amenity
- Move out and onto make our next customer smile.

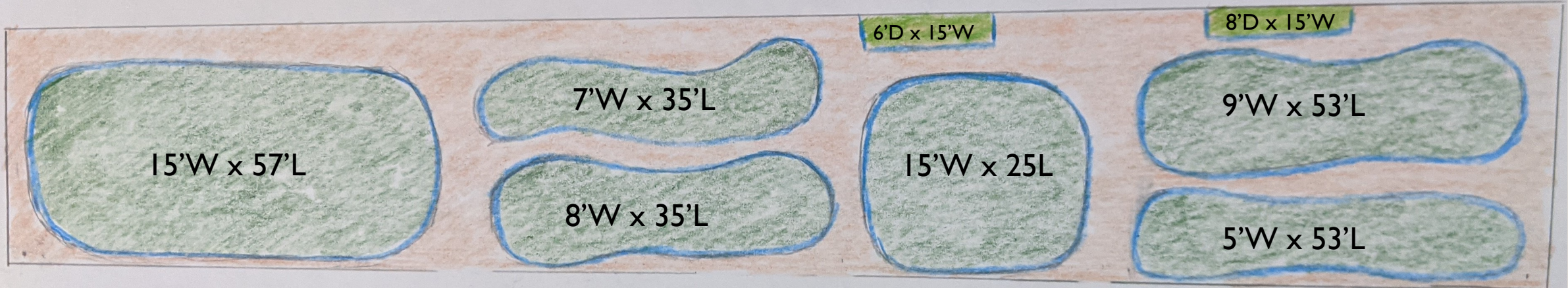


# CONCEPTUAL DESIGN

## Legend

- Composite Nailer Board
- Turf of choice
- Decomposed Granite
- K9 Owner Turf Area

Northeast



Southwest

# THEORY BEHIND THE DESIGN

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- To incorporate long patches of synthetic turf to fill in the defined dog park area
- To maximize turf usage
- To minimize seams
- A design where it will feel like there are multiple places to congregate, to run, to wrestle, to play fetch all while co-existing with fellow K9's and their Owners
- Offer commercial grade turfs for the City of Brisbane to choose from
- Install the amenity in a cost-effective manner while meeting the demands of functionality, usage and longevity
- Southwest Greens is open to designs should the proposed design not meet the majorities liking



# FINANCIAL

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## Cost of Project

- Two bids have been furnished. Scope of work is consistent. The difference is the style of turf listed.
- Project bids include preparing the area for it's new turf amenity
- Materials
- Labor
- Sales Tax

## Payment Schedule

- \$1000 deposit due at the time of acceptance
- Progress Payment #2 \$20,000 due on the first day SWG is onsite. Funds will be used to pay for border, base materials, offsite disposal & wages
- Progress Payment #3 \$20,000 due upon the completion of base work
- Final Payment \$30,000+ Net 5 days post completion





**Southwest Greens Northern CA West**  
 PO Box 4307  
 Foster City, CA 94404 US  
 650.349.4885  
 www.sw-greens.com

**ADDRESS**

Dog Park Resurfacing  
 City of Brisbane  
 50 Park Place  
 Brisbane, CA 94005

**Estimate 1637****DATE** 03/26/2021**EXPIRATION DATE** 05/31/2021

ACTIVITY	QTY	RATE	AMOUNT
Installation of Synthetic Turf in Dog Park. Quantity: 170 linear feet of turf material Turf Style: GB113 or GB093 Scope of work to include materials as listed, labor and equipment.			
Excavation & Ground Preparation for synthetic project installation.	4,200	1.50	6,300.00
Material: Composite Boarder set with durable spikes Installed by the linear foot.	692	7.00	4,844.00T
Installation of Composite Border. Labor & Equipment	692	7.00	4,844.00
Virgin Base Rock: 2 transfer trucks for mounding.	2	1,500.00	3,000.00T
Project Materials: 3" of compacted recycled baserock, fine layer of decomposed granite, sand infill, means to secure turf into base (6" spiral plastic spikes)	2,550	3.25	8,287.50T
Turf Material: GB113-303 or GB093. Sold by the linear foot	170	50.00	8,500.00T
Equipment & Labor required to design and construct the synthetic turf application from start to professional completion.	2,550	7.00	17,850.00
Turf Material: SKU: 106SW 15 ft goods. Sold by the linear foot.	14	50.00	700.00T
Additional materials to meet ADA requirements in owner waiting area. TBD	1	2,000.00	2,000.00T
Recycled base rock and decomposed granite for non turf surface	1,650	3.50	5,775.00T
Equipment & Labor required to construct the non turf areas with Base rock and decomposed granite.	1,650	5.00	8,250.00
Temporary Toilet facility for crew to use while onsite	1	350.00	350.00
Southwest Greens NorCal West has been installing turf in the greater SF Bay Area since 2006. Call our office for additional assistance (650) 349-4885. ~ micki	<b>SUBTOTAL</b>		70,700.50
	<b>TAX (9.25%)</b>		3,062.35
	<b>\$73,762.85</b>		



**Southwest Greens Northern CA West**  
 PO Box 4307  
 Foster City, CA 94404 US  
 650.349.4885  
 www.sw-greens.com

**ADDRESS**

Dog Park Resurfacing  
 City of Brisbane  
 50 Park Place  
 Brisbane, CA 94005

**Estimate 1642****DATE** 03/26/2021**EXPIRATION DATE** 05/31/2021

ACTIVITY	QTY	RATE	AMOUNT
Installation of Synthetic Turf in Dog Park. Quantity: 170 linear feet of turf material Turf Style: GB085-300 Scope of work to include materials as listed, labor and equipment.			
Excavation & Ground Preparation for synthetic project installation.	4,200	1.50	6,300.00
Material: Composite Boarder set with durable spikes Installed by the linear foot.	692	7.00	4,844.00T
Installation of Composite Border. Labor & Equipment	692	7.00	4,844.00
Virgin Base Rock: 2 transfer trucks	2	1,500.00	3,000.00T
Project Materials: 3" of compacted recycled baserock, fine layer of decomposed granite, sand infill, means to secure turf into base (6" spiral plastic spikes)	2,550	3.25	8,287.50T
Turf Material: GB085 1.125", 68 oz. Sold by the linear foot. 15' wide.	170	57.50	9,775.00T
Equipment & Labor required to design and construct the synthetic turf application from start to professional completion.	2,550	7.00	17,850.00
Turf Material: SKU: 106SW 15 ft goods. Sold by the linear foot.	14	50.00	700.00T
Additional materials to meet ADA requirements in owner waiting area. TBD	1	2,000.00	2,000.00T
Recycled base rock and decomposed granite for non turf surface	1,650	3.50	5,775.00T
Equipment & Labor required to construct the non turf areas with Base rock and decomposed granite.	1,650	5.00	8,250.00
Temporary Toilet facility for crew to use while onsite	1	350.00	350.00
Southwest Greens NorCal West has been installing turf in the greater SF Bay Area since 2006. Call our office for additional assistance (650) 349-4885. ~ micki	<b>SUBTOTAL</b>		71,975.50
	<b>TAX (9.25%)</b>		3,180.29
	<b>\$75,155.79</b>		

# REFERRALS

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- All Bay Landscape, Half Moon Bay
- Douglas Landscape, San Jose
- Lifescape Lifestyles, Morgan Hill
- Loral Landscape, San Mateo
- Moderna Homes, Menlo Park
- RGB Landscapes, Palo Alto
- SamScaping, Mountain View
- Bay Area Construction Company  
Personnel who have a Southwest Greens turf amenity:
  - South Bay Construction, San Jose
  - Blach Construction, San Jose



M.



64







DOGS ENJOY HANGING OUT ON SYNTHETIC LAWNS  
& THEIR OWNERS ENJOY IT TOO.





# REQUEST FOR PROPOSALS

## Dog Park Resurfacing

**Brisbane Parks & Recreation**

50 Park Place

Brisbane, CA 94005

p. 415.508.2140

Email: [nleek@brisbaneca.org](mailto:nleek@brisbaneca.org)



The City of Brisbane, CA is seeking proposals from qualified individuals, firms, vendors, and contractors (hereinafter referred to as Contractor) with demonstrated experience in developing dog parks and/or installing artificial turf and surfacing for recreational facilities. Prospective bidders are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required.

Selection will be made from responsive proposals that will best serve the interests of the City based on a combination of price, experience, availability, and capacity to perform the specified work.

Please submit your proposal using the format specified in this Request For Proposals (RFP). **PROPOSALS MUST BE RECEIVED BY FRIDAY MARCH 26, 2021 by no later than 1:00PM.** Any proposal received after the specified time and date will not be considered. Proposals may be submitted one of the following ways:

1. Electronically to [nleek@brisbaneca.org](mailto:nleek@brisbaneca.org) AND [snahass@brisbaneca.org](mailto:snahass@brisbaneca.org). *Note: An email will be sent to confirm receipt of the electronic proposal.*
2. Mailed to:  
ATTN: Noreen Leek  
Parks & Recreation Director  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

If mailed, it must be received by the City by no later than 1:00p.m. on March 26, 2021.

3. Dropped off in person at Brisbane City Hall, 50 Park Place, Brisbane, CA 94005 on Friday, March 26<sup>th</sup> between the hours of 9:00am-1:00pm. A staff person will be onsite to receive hard-copy proposals during that time frame only.

Questions regarding proposals should be directed to:

Noreen Leek  
(415) 508-2140  
[nleek@brisbaneca.org](mailto:nleek@brisbaneca.org)

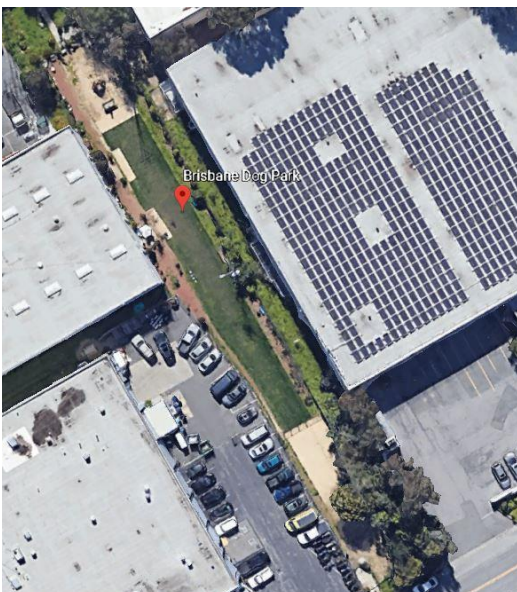


## INTRODUCTION

The Brisbane Dog Park is in the heart of the Crocker Industrial Park and shares a parking lot with Brisbane City Hall at 50 Park Place, Brisbane CA 94005. The City-owned facility is the only official dog park in City limits and serves as a social venue for dogs and owners alike. The parcel on which the dog park is located is a long and narrow strip of land between neighboring warehouses, with entrances to the dog park on either end. At each entrance, decomposed granite exists before a transition to grass. The existing facility incorporates a fenced area with amenities including seating, mutt mitt dispensers, trash receptacles, water access, and a K9 ramp.

A site visit will be held at the Brisbane Dog Park, 50 Park Place, Brisbane, CA 94005 on Thursday, March 18, 2021 at 11:00am for the purpose of acquainting all prospective bidders with a review of the site and contract documents. It is strongly advised that all prospective bidders attend the site visit. (Note: mask-wearing and social distancing will be required.) Note: Proposed bidders shall be responsible for visiting the site prior to bidding and the Contractor to whom the bid is awarded shall be responsible for having ascertained pertinent site conditions such as location, accessibility, and character of the site and extent of existing improvements thereon. Attention is directed to the location of the site, existing access conditions, work area constraints, transportation and storage of materials, and all other matters which may affect the work or cost thereof.

After City staff selects a proposal to recommend to the City Council, City Council will review and award the contract. The chosen Contractor will be required to provide to the City construction documents (including plans, base specifications, and special provisions) for the project.



## SCOPE OF WORK

Following a series of public meetings and after receiving community feedback, the City of Brisbane is pursuing alternative surfacing for the existing grass portion of the dog park. The overarching objective of this project is to enhance the dog park by providing a safer environment for pet socialization and exercise available for use year-round.

The City of Brisbane is now accepting proposals from qualified Contractors for the preparation and installation of new surfacing. The City is soliciting bids for conceptual designs and installation of base and surfacing (including excavation and sub grading) with a combination of dog-friendly (suitable) artificial turf and hardscape (decomposed granite) to replace the existing grass area. Surfacing should be all-weather, dog-friendly play surfaces that is long-lasting and that will hold up against heavy use and dog play. Surfacing should be safe, comfortable, antimicrobial where possible, permeable/drainable, low maintenance, and inviting for dogs as well as their owners. For the surface installed, the Contractor will be required to supply complete maintenance guidelines or manual.

Contractor is responsible for ensuring that the site drains properly. Should removal of soil be required, the Contractor will be responsible for testing and proper disposal of the soil. Some reasonable redistribution of soil onsite is allowable. Note: A grading permit is required if more than six (6) cubic yards are removed from the site.

This resurfacing project serves to replace the existing grass area of the park which is approximately 4,200 square feet. The City would prefer to incorporate as much dog-friendly artificial turf in this area as possible, with the remaining surface to be covered in decomposed granite or a similar alternative appropriate for the given use of the space. Please refer to Enclosure B for an aerial image of the facility with corresponding measurements of the area in question.

### OVERVIEW

- 1. Summary of Project:** To provide both design and construction services for the installation of new surfacing at the Brisbane Dog Park as described herein.
- 2. Design:** Although the design of the space is flexible, it should incorporate at least one large patch of dog-friendly artificial turf. The design proposal should consider minimizing haul-away costs by repurposing excavated materials for an above ground mound to create additional opportunities for dog play. Artificial turf patches should be surrounded by new decomposed granite that complements other portions of the dog park.
- 3. Plans and Specifications:** Once the contract is awarded, the Contractor is to prepare detailed design plans and specifications, as appropriate and necessary for this project. The City must review and approve such plans and specifications.
- 4. American's with Disabilities Act (ADA) Compliance:** The City has available a draft ADA Transition Plan for the Dog Park which proposed bidders should review. The Contractor will be responsible for full ADA compliance for this project. A Certified Access Specialist (CASP) should be engaged to review the draft ADA Transition plan to ensure that the design is ADA compliant.
- 5. Applicable Standard Specifications and Details:** The Contractor must complete the project in accordance with applicable City, State, and Federal laws, statutes, codes, and any other applicable standard specifications.
- 6. Approvals and Permits:** The Contractor will be responsible to obtain all required building permits and business licenses. An interim sediment and erosion control plan will be required for work



during the rainy season, identified in the Brisbane Municipal Code as October 15 to April 15 per the California Stormwater Best Management Practices Handbook for Construction Activity prepared for the Stormwater Quality Task Force. In addition to the sediment and erosion control plan, normal construction operations shall also conform to the California stormwater best management practices during construction.

**7. Progress Meetings:** Regular progress meetings with the Contractor, City, and other interested parties will be held throughout the life of the project. The frequency and location of these meetings will be established, by mutual agreement. The purposes of these meetings are to establish and maintain lines of communication, report on design, progress, discuss and resolve problem areas, review schedule and progress, review project costs/budgets, review quality control and such other matters related to the project. The Contractor shall complete all work included in the contract within 150 calendar days. The Contractor's schedule shall anticipate any limitations and plan the work accordingly. The contract calendar days will begin immediately after the Notice to Proceed is issued.

**8. Insurance Requirements:** Set forth in the Design-Build Agreement. (Enclosure A, No. 14)

**9. Payment and Faithful Performance Bond:** A payment bond and a bond for the faithful performance of the contract will be required of the successful bidder who is awarded the contract. Set forth in the Payment Bond and Faithful Performance Bond. (Enclosure B)

**10. Prevailing Wages:** The successful bidder must comply with the latest general prevailing rate of per diem wages as determined by the Director of Industrial Relations, State of California, Department of Industrial Relations. Set forth in the Design-Build Agreement. (Enclosure A, No. 15)

**NOTE:** All services shall be performed by the awarded Contractor or under the awarded Contractor's direct supervision, and all personnel shall possess the qualifications, permits, and licenses required by state and local law to perform such services. If the Contractor intends to subcontract, the bidder shall herein set forth the name and location of the place of business of each subcontractor who will perform work or render services to the bidder and describe the specific role of each.

## SUBMISSION REQUIREMENTS

In order to submit a responsive bid, the following information must be included in the proposal in the order listed:

1. A letter of interest, not to exceed two (2) pages.
2. Project Team: Organizational chart of resources including the Project Manager, subcontractors, and other key personnel, not to exceed two (2) pages.
3. Experience: Provide a listing of current and/or completed representative projects (at least three) including project name/location, brief description and results, completion date, project costs, and client name/contact. Contractors shall describe their experience with design and construction of artificial turf surfaces for recreation facilities and dog parks. Not to exceed ten (10) pages.
4. Scope: Set forth a detailed approach for completing the tasks described in this RFP and include deliverables. Affirm your proposed team's ability to start the project immediately after the notice to proceed and provide a project timeline. An initial concept design should be generated for City review. Not to exceed ten (10) pages.
5. Cost: A project budget outlined by task and deliverable-based fee schedule. Cost shall include all work to be performed and all costs for which the contractor (and

subcontractors) expect to be paid, divided according to the tasks and deliverables.  
Note: this is a City-funded project, estimated around \$80,000.

The proposal must be received before March 26, 2021 at 1:00p.m. Please see page two of this document for submission details.

## SCHEDULE

### Proposal submission deadline

City staff bid review

City Council award of contract

Notice to proceed issued to Contractor

**March 26, 2021**

March 29 - April 2, 2021

April 15, 2021

April 16, 2021

## EVALUATION & SELECTION PROCESS

The City will use a quality-based selection process and the bid will be awarded to the Contractor whose proposal is determined as providing the best value in meeting the interest of the City, given the scope of the project. Proposals will be evaluated by City staff based upon professional qualifications necessary for satisfactory performance; understanding of the project; approach to the project; capacity to accomplish the work in the proposed timeframe; past performance on contracts with government agencies; and quality of the proposal. Proposals shall remain firm for a period of ninety (90) days after the proposal due date. The City of Brisbane reserves the right to reject all proposals, refuse any or all proposal(s), to waive technicalities, and to accept whichever proposal(s) that may be in the best interest of the City, at its sole discretion.

City staff will evaluate all proposals deemed responsive and make a recommendation to City Council based on the below criteria and the percentage of their importance.

1. Professional qualifications and relevant experience **(25 percent)**
  - a. Project Manager, subcontractors, and key team members are qualified to perform the work categories/tasks on the project.
  - b. Contractor's knowledge of dog park surfacing installation.
  - c. Contractor's experience with this type of project.
  - d. Samples of previous work and references.
2. Project Understanding **(20 percent)**
  - a. Contractor has demonstrated an understanding of the nature and scope of project.
  - b. Contractor has provided comparable projects with which the Contractor has been involved.
3. Approach to the project **(20 percent)**
  - a. Contractor has recognized and identified special circumstances of the project.
  - b. Contractor has provided logical approach to tasks and issues of the project.
4. Project Schedule **(15 percent)**
  - a. Contractor has adequate staff for this project.
  - b. Current workload of the Contractor.
5. Quality of proposal **(20 percent)**

- a. Information conveyed, overall proposal quality, readability, and the technical expertise presented.

*\* **Clarification during evaluation and selection process:** During the evaluation process, the City has the right to request additional information for clarification to understand the Contractor's view and approach to the project and scope of the work. The City further reserves the right to make an award without further clarification of proposals reviewed. Any changes to a submitted proposal made before executing the contract will become part of the final Contractor contract.*

## GENERAL TERMS AND CONDITIONS

1. This RFP does not commit the City to award a contract, to pay any cost incurred in the preparation of a submittal to this request for proposals or in subsequent negotiations, or to procure or contract for the project.
2. At any time prior to the specified time and date set for the submission, a person/firm, or a designated representative, may withdraw a proposal that has been submitted.
3. The issuance of this RFP and the acceptance of a submittal do not constitute an agreement by the City that the City will award any contract. The City expressly reserves the right to:
  - Reject any or all proposals.
  - Reissue an RFP.
  - Extend the time frame for submission of the proposals by notification to all parties who have registered an interest in this RFP with the City.
  - Request more information from any or all proposers.
  - Waive any immaterial defect or informality.
  - Decline to go forward with the project. The City expressly reserves the right not to proceed to award a contract for this project.
  - Reject any proposal.
4. All services shall be provided in accordance with Enclosure "A," the City's Design-Build Agreement. Final terms of any agreement will be established during negotiations. Negotiations may be terminated by the City for failure to reach mutually acceptable terms.
5. Each Contractor/firm will be responsible for all costs incurred in preparing a response to this RFP.
6. All materials and documents submitted in response to this RFP will become the property of the City and will not be returned. Contractors/firms selected for further negotiations will be responsible for all costs incurred by it during negotiations whether or not such negotiations lead to a contract with the City.
7. Bidders are responsible for reviewing all portions of this RFP. A Bidder is to promptly notify the City, in writing, if a bidder discovers any ambiguity, discrepancy, omission or other error in the RFP. Any such notification should be directed to the City promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals.

## ENCLOSURES

Enclosure A	DRAFT Design-Build Agreement
Enclosure B	DRAFT Payment Bond and Faithful Performance Bond
Enclosure C	Aerial Map of Brisbane Dog Park
Enclosure D	Existing Facility Conditions

## ENCLOSURE A

### DESIGN-BUILD AGREEMENT

**THIS AGREEMENT**, dated \_\_\_\_\_, 2021 is made by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and \_\_\_\_\_ ("Contractor").

#### RECITALS

- A. City desires to retain Contractor to prepare conceptual designs for resurfacing of the existing grass area of the Brisbane Dog Park and to install the resurfacing of the existing area of the Brisbane Dog Park including sub grading, excavating, and installing base plus surface as described in the Contractor's responses to the City's Dog Park Resurfacing Request for Proposals ("RFP").
- B. Contractor is qualified to prepare the required conceptual design document and to install the resurfacing of the existing area of the Brisbane Dog Park..

#### AGREEMENT

1. **Scope of Services.** Subject to the direction and approval of City through its staff that City may provide from time to time, Contractor shall perform the services described in the scope of work outlined in the Contractor's responses to the RFP and incorporated herein by reference or as may be amended.

2. **Time of Performance.** The services of Contractor shall commence upon the execution of this Agreement and shall be satisfactorily completed within 150 calendar days. The Contractor's schedule shall anticipate any limitations and plan the work accordingly. The 150 calendar days will begin immediately after the Notice to Proceed is issued.

3. **Responsible Personnel.** The personnel acting on behalf of Contractor primarily responsible for performance of the services hereunder shall be as set forth within Contractor's proposal.

4. **Compensation.** As compensation for all services to be performed by Contractor under this Agreement, Contractor shall be paid the amounts set forth in \_\_\_\_\_ and incorporated herein by reference. In no event shall Contractor's total compensation exceed the agreed upon sum without additional authorization from City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to City at the time of payment.

5. **Method of Payment.** Contractor shall submit billings to City describing in detail the services provided and work performed for which payment is requested, the date the services/work were provided/performed, and the number of hours spent if applicable. Billings shall be submitted monthly, or at such other time as agreed upon between City and Contractor. City shall pay Contractor no later than 30 days after approval of the invoice by City. Such payment shall not be unreasonably withheld.

6. **Maintenance and Inspection of Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, time cards, and other records or documents relating to charges for services or expenditures charged to City, for a minimum of three (3) years from the date of final payment to Contractor under this Agreement and shall make the same available to City

or its authorized representatives for inspection and audit, at any time during regular business hours, upon written request by City. The right of inspection shall include the right to make extracts and copies.

7. **Assignment and Subcontracts.** Contractor acknowledges that Contractor's special skill and expertise is a material consideration for City entering into this Agreement. Contractor may subcontract a portion of the project to a predetermined sub-contractor as outlined in the proposal and agreed upon. Contractor shall not assign, subcontract or delegate to any other party the performance of any services or work to be rendered by Contractor or predetermined subcontractors without the prior written approval of City. If City consents to any subcontracting of work, Contractor shall be fully responsible to City for all acts or omissions of the subcontractor.

8. **Ownership of Documents.** Upon payment of fees and expenses due, all plans, studies, documents and other writings prepared by and for the Contractor in the course of performing its services under this Agreement, except working notes and internal documents, shall become the property of City upon payment to the Contractor for such work, and City shall have the sole right to use such materials in its discretion without further compensation to Contractor or to any other party. Contractor shall, at Contractor's expense, provide such reports, plans, studies, documents and other writings to City upon written request.

9. **Independent Contractor.** Contractor is, and at all times shall remain, an independent contractor, and not an agent, officer or employee of City. As such an independent contractor, neither Contractor nor any of Contractor's agents or employees shall be entitled to any salary, fringe benefits, worker's compensation, retirement contributions, sick leave, insurance or other benefit or right connected with employment by City, or any compensation other than as provided in this Agreement. Contractor shall have no power or authority to bind City to any contract or otherwise to incur any obligation or liability for, or on behalf, or in the name of City.

10. **Licenses.** Contractor represents and warrants to City that Contractor has all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required of Contractor to practice its profession. Construction plans must be stamped by a licensed engineer. Contractor shall, at its sole cost and expense, keep and maintain such licenses, permits, qualifications, insurance and approvals in full force and effect at all times during the term of this Agreement. Contractor shall maintain a City of Brisbane business license.

11. **Compliance with Laws.** Contractor shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations in connection with the performance of its services under this Agreement.

12. **Employment Eligibility.** At the request of City, Contractor shall furnish to City copies of Employment Eligibility Verifications (INS Form I-9) or other evidence satisfactory to City showing that any or all persons providing services under this Agreement for on behalf of Contractor is eligible to be employed in the United States. In the event Contractor is unable or unwilling to provide the employment eligibility verification within ten (10) days after City's request, City may require the immediate removal from the project of such workers as specified by City, and upon any failure by Contractor to do so, City shall be entitled to terminate this Agreement.

13. **Indemnity.** Contractor shall indemnify, defend, and hold City, its officers, officials, agents, employees and volunteers, harmless from and against any and all claims, demands, causes of action, losses, damages, injuries, expenses and liabilities, direct or indirect, including reasonable attorney's fees, to the extent actually caused by negligence or willful misconduct in the performance by Contractor of its services under this Agreement or its failure to comply with any of the its obligations contained in this Agreement, and City shall not be liable for any negligent acts or omissions or willful misconduct of Contractor. Contractor shall not be liable for the negligent acts or omissions of the City.

14. **Insurance.** Contractor, at its own expense, shall procure and maintain, for the duration of this Agreement, insurance policies, which satisfy the following requirements:

(a) Type of policies and coverage:

- (1) *General Liability Coverage.* Contractor shall maintain commercial general liability insurance in an amount not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage, providing coverage at least as broad as Insurance Services Office Commercial General Liability form CG 0001 (Ed. 11/88). If the form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
- (2) *Automobile Liability Coverage.* Contractor shall maintain automobile liability insurance in an amount not less than \$1,000,000 combined single limit for each occurrence, for bodily injury and property damage, providing coverage at least as broad as Insurance Services Office form CA 0001 (Ed. 12/90) Code 1 (any auto).
- (3) *Workers' Compensation and Employer's Liability Coverage.* Contractor shall maintain workers' compensation insurance as required by the State of California and employer's liability insurance in an amount not less than \$1,000,000 per occurrence, for any and all persons employed by Contractor in connection with the performance of services under this Agreement. In the alternative, Contractors may rely on a self-insurance program to provide this coverage so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or Contractors, if a program of self-insurance is provided, shall waive all rights of subrogation against City for loss arising from work performed by Contractors for City.
- (4) *Professional Liability Coverage.* Contractor shall maintain professional errors and omissions liability insurance in an amount not less than \$1,000,000 per occurrence, covering negligent acts, errors or omissions which may be committed by Contractor in the performance of its services under this Agreement.

(b) Endorsements: Each general liability and automobile liability insurance policy shall contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees, agents or volunteers.
- (2) For any claims related to the Project, Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, agents or volunteers shall be excess of Contractors' insurance and shall not contribute with it.



- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, its officers, officials, employees, agents or volunteers.
- (4) Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Contractor's insurance coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.
- (c) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- (d) Acceptability of Insurers. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII, unless otherwise approved by City in writing.
- (e) Verification of coverage. Contractor shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required by this Agreement. Certificates of such insurance shall be filed with City before commencement of work by Contractor. At the request of City, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Agreement.

**15. Industrial relations compliance and Prevailing wage requirements.**

Effective January 1, 2015, no contractor or subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>.

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

Effective April 1, 2015, All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>.

**16. Claims.**

- (a) A CHANGE ORDER shall mean a document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the work, or an adjustment in the contract price or the contract times, issued on or after the effective date of the agreement.
- (b) As provided in Article 1.5 of Chapter 1 of Part 3 of Division 2 of the Public Contract



Code, claims by the CONTRACTOR shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed with the OWNER promptly, and in no case later than 30 days after the close of the month during which extra cost is claimed to have been incurred. Any claim forwarded to OWNER shall be accompanied by a cover sheet prepared on CONTRACTOR's letterhead which includes the following personal certification of the claim:

I, \_\_\_\_\_, BEING THE \_\_\_\_\_, (TITLE) OF \_\_\_\_\_, (GENERAL CONTRACTOR), DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, AND DO PERSONALLY CERTIFY AND ATTEST THAT: I HAVE THOROUGHLY REVIEWED THE ATTACHED CLAIM FOR ADDITIONAL COMPENSATION AND/OR EXTENSION OF TIME, AND KNOW ITS CONTENTS, AND SAID CLAIM IS MADE IN GOOD FAITH; THE SUPPORTING DATA IS TRUTHFUL AND ACCURATE; THAT THE AMOUNT REQUESTED ACCURATELY REFLECTS THE CONTRACT ADJUSTMENT FOR WHICH THE CONTRACTOR BELIEVES THE OWNER IS LIABLE; AND FURTHER, THAT I AM FAMILIAR WITH CALIFORNIA PENAL CODE SECTION 72 AND CALIFORNIA GOVERNMENT CODE SECTION 12650, ET SEQ, PERTAINING TO FALSE CLAIMS, AND FURTHER KNOW AND UNDERSTAND THAT SUBMISSION OR CERTIFICATION OF A FALSE CLAIM MAY LEAD TO FINES, IMPRISONMENT AND OR OTHER SEVERE LEGAL CONSEQUENCES.

- (c) This certification must be signed by an officer of the party of the second part of the agreement. Unless so presented, the claim shall be deemed to have been waived.

17. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, addressed to the other party as follows:

To City  
City of Brisbane  
50 Park Lane  
Brisbane, CA 94005  
Attn.: City Manager

To Contractor                      TBD

18. **Litigation Expenses and Attorneys' Fees.** If any party to this Agreement commences any legal action against the other party to enforce or interpret this Agreement, the prevailing party shall be entitled to recover all costs and expenses that may be incurred in connection therewith, including court costs, expert witness fees, discovery expenses, and reasonable attorneys' fees.

19. **Termination of Agreement.** This Agreement may be terminated by any party, effective upon written notice, should the other party commit any material default in the performance of its obligations hereunder. This Agreement may also be terminated by either party, for any reason, upon fifteen (15) day's prior written notice to the other party. In the event this Agreement is terminated by City through no fault of Contractor, Contractor shall be compensated for all services performed to the date of termination.

20. **Equal Opportunity Employment.** Contractor warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment.

21. **Miscellaneous Provisions.**

- (a) Severability. Should any portion of this Agreement be declared void or unenforceable in a final decision by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be reasonably interpreted to implement the intention of the parties.
- (b) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes and cancels all prior agreements or understandings, whether written or verbal.
- (c) Amendments. This Agreement may be modified or amended only by a written document duly executed by both City and Contractor.
- (d) Waiver. The waiver of any breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same provision or any other provision of this Agreement.
- (e) Execution. Each party warrants that the individuals signing this Agreement on its behalf have the legal power and authority to do so and to bind the party to this Agreement.
- (f) Successors and Assigns. Subject to the restriction against assignment and subcontracting, this Agreement shall be inure to the benefit of and shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

THE CITY OF BRISBANE

CONTRACTOR

By: \_\_\_\_\_  
Clayton L. Holstine, City Manager

By: \_\_\_\_\_  
Printed Name

ATTEST:

\_\_\_\_\_  
Ingrid Padilla, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael Roush, Legal Counsel

## ENCLOSURE B

### PAYMENT BOND AND FAITHFUL PERFORMANCE BOND

Bond Number: \_\_\_\_\_

#### CONTRACTOR'S PAYMENT BOND

LET THE FOLLOWING BE KNOWN:

THAT WHEREAS, THE CITY OF BRISBANE, a municipal corporation of the State of California (hereinafter designated as "City") on \_\_\_\_\_, 2021, entered into a certain contract with \_\_\_\_\_, a \_\_\_\_\_ (designate type of business entity), hereinafter designated as the "Principal," namely, a Design-Build Agreement for the **DOG PARK RESURFACING PROJECT** for the work hereinafter briefly described, to wit:

- At the Brisbane Dog Park, the project includes the conceptual design and installation of base & surfacing (including excavation and sub grading) with a combination of dog-friendly (suitable) artificial turf and hardscape (decomposed granite or similar alternative) to replace the existing 4,200 square foot grass area. Surfacing should be long-lasting and safe, comfortable, antimicrobial where possible, permeable/drainable, low maintenance, and inviting for dogs as well as their owners. Contractor is responsible for deficiency corrections and ADA compliance relative to the scope of this project and the area noted for renovation. Contractor will be required to supply complete maintenance guidelines or manual.

More fully described in and required by said Design-Build Agreement, incorporated herein by reference, the award of which said Agreement was made to said Principal by the City Council of the City of Brisbane on \_\_\_\_\_, 2021, as will more fully appear by reference to the minutes of said Council of said City of said date.

WHEREAS, said Principal is required by Section 9550 of the California Civil Code to furnish a bond in connection with said Agreement.

NOW, THEREFORE, we, the Principal and \_\_\_\_\_, incorporated under the laws of the State of \_\_\_\_\_, and authorized to execute bonds and undertakings as sole surety, as Surety, are held and firmly bound unto the City in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his, her or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 9100 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to any work or labor performed or materials supplied by any such claimant, which said work, labor or materials are covered by the said Construction Agreement and any amendments, changes, change orders, additions, alterations, or modifications thereof, or for any amounts required to be deducted, withheld, or paid over to the Employment Development Department from the wages of employees of the Contractor and his or her subcontractors, pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court.

This bond shall insure to the benefit of any of the persons named in Section 9100 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to

recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the City and original Contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person entitled to file claims under Title 1 (commencing with Section 8000) of Part 6 of Division 4 of the California Civil Code, and has not been paid the full amount of his or her claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration, modification, rescission or attempted rescission, herein mentioned.

It is further stipulated and agreed that no final settlement between the City and the Contractor with reference to the work, shall abridge the right of any beneficiary hereunder whose claims may be unsatisfied.

This bond is executed and delivered to comply with the requirements of the City of Brisbane, and to comply with the provisions of Title of Part 6 of Division 4 of the Civil Code of the State of California.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 2021

PRINCIPAL

SURETY

(Insert Company Name)

\_\_\_\_\_

A \_\_\_\_\_ (designate type of entity)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

(Affix Corporate Seals; Attach Acknowledgments of both Principal and Surety signatures.)

Approved by Legal Counsel for the City of Brisbane on the \_\_\_\_\_ day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Michael Roush  
Legal Counsel for the City of Brisbane

Bond Number: \_\_\_\_\_

**FAITHFUL PERFORMANCE BOND**

WHEREAS, THE CITY OF BRISBANE, a municipal corporation of the State of California (hereinafter designated as "City") on entered into a Design-Build Agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated \_\_\_\_\_, 2021, and project identified as:

**DOG PARK RESURFACING PROJECT**

is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, the Principal and \_\_\_\_\_, incorporated under the laws of the State of \_\_\_\_\_ and authorized to execute bonds and undertakings as sole surety, are held and firmly bound unto the City of Brisbane, hereafter called "City," in the penal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of obligation is such that if the above bounded Principal, his, her or its subcontractors, heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and provisions in the said agreement and any alteration thereof made as therein provided, on this or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

As a condition precedent to satisfactory completion of said agreement, the above obligations to the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) lawful money of the United States, being not less than ten percent (10%) of the total bid of the Project, shall hold good for a period of one (1) year after the completion and acceptance of said work during which time if the above bounded Principal, his, her or its heirs, executors, administrators, successors, or assigns shall fail to make full, complete and satisfactory repair and replacement or totally protect the City from loss or damage made evident during said period of one year from the date of acceptance of said work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligations in the same sum of \_\_\_\_\_ dollar (\$ \_\_\_\_\_) lawful money of the United States, shall remain in full force and virtue; otherwise the above obligation shall be void.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and surety above named on

\_\_\_\_\_, 2021.

NOTE: to be signed by  
Principal and Surety and  
acknowledgment and notarial  
seal attached

(SEAL)

\_\_\_\_\_  
\_\_\_\_\_  
Principal  
\_\_\_\_\_

Surety

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Michael Roush  
Legal Counsel for the City of Brisbane

IMPORTANT: Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

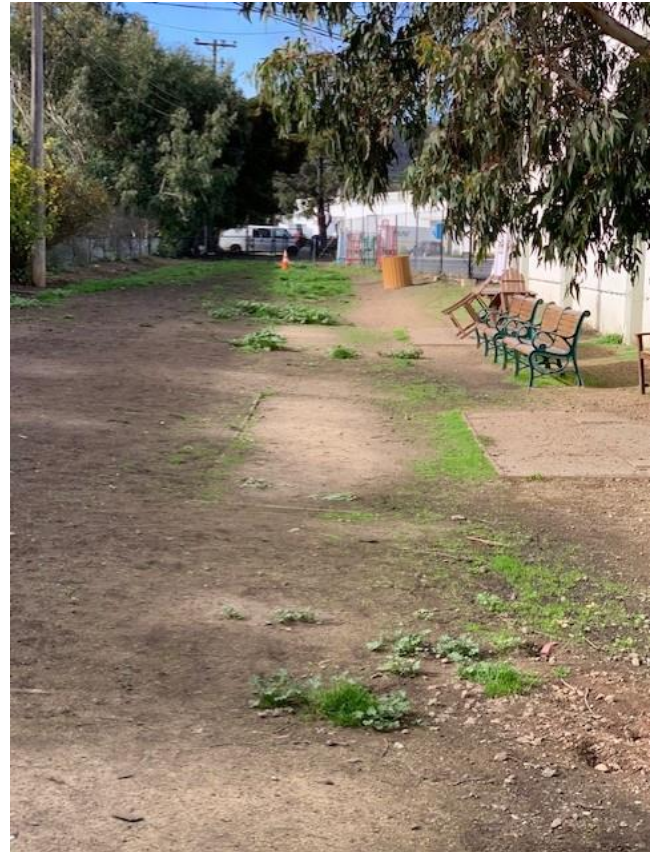


ENCLOSURE C  
AERIAL MAP OF BRISBANE DOG PARK





## ENCLOSURE D EXISTING FACILITY CONDITIONS





**File Attachments for Item:**

N. Approve Resolutions No. 2021-58 and 2021-59 Establishing the Classification of Communications and Digital Media Coordinator and Amending the Master Pay Schedule



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Abby Partin, Human Resources Administrator

**Subject:** Approval of Resolutions No. 2021-58 and 2021-59

Establishing the Classification of Communications and Digital Media Coordinator and Amending the Master Pay Schedule.

### Community Goal/Result

Community Building

Safety

Fiscally Prudent

### Purpose

Expand communication efforts by using more digital sources and alternative techniques to reach all segments of the community.

### Recommendation

Adopt Resolutions No. 2021-58 and 2021-59 by approving the following:

- Establish the Communications and Digital Media Coordinator classification;
- Amend the Master Pay Schedule; and
- Add Communications and Digital Media Coordinator to General Employees Association unit.

### Background

On May 6, 2021, staff presented to the City Council the mid-year budget which included a new position to the City's Communications program. Last year's fires and global pandemic provided a clear justification that our residents relied on the City to provide them with updates, via information sharing across various platforms and modes of communication. Events aforementioned also provided insight at how the City's current Communications program could grow in order to continue to support our adopted values, including Community Building and Safety.

### Discussion

The City's Communications program oversees print and electronic communication channels – the STAR, City website, Weekly Update, press releases, and social media platforms. Communications staff also works closely with the Parks and Recreation Department to ensure important community messages are reflected on the signboards located at the Community Park and at the Ridge, and the Office of Emergency Services to send out SMC Alerts during emergency situations. For social media, Communications staff utilize Facebook, Nextdoor, Instagram, Twitter, LinkedIn, and YouTube. Due to the information that's shared being important for the whole community to see, whether aged

18+ or 68+, it oftentimes needs to be re-packaged or re-formatted beforehand in order to reach community members on their platforms of choice. We have seen videos, whether livestreamed or pre-produced, get a high number of views from the public; being available to play back at a later time helps to drive this further. In order to continue providing timely, purposeful, and authentic communication, additional staffing support is needed.

The Communications Digital and Media Coordinator will be assisting the Communications Manager in the planning, development, implementation and administration of the City's communication plan and strategies.

Examples of the classification's duties are as follows:

- Producing videos (i.e. *Why I Work for Brisbane, Did You Know, State of the City*)
- Livestreaming/recording shorter city events
- Recording meetings by operating the cameras/equipment in the broadcast booth
- Helping oversee the upgrade to HD equipment
- Maintaining our YouTube channel and videos
- Providing visual enhancements of information/multimedia on the City's website
- Updating a social media content calendar
- Creating more stories for Instagram and Facebook

Staff provided the proposed job description to the General Employees Association unit for review and approval to include of the classification into the bargaining group.

### **Fiscal Impact**

The estimated cost of the new position is \$107,235, which has been incorporated in updated Fiscal Year 2021-22 budget, presented in May 2021.

### **Measure of Success**

The City is able to maintain a stable and high quality workforce.

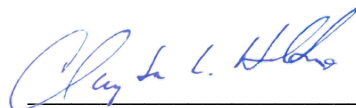
### **Attachments**

Resolution 2021-58

Resolution 2021-59



Abby Partin, Human Resources  
Administrator



Clay Holstine, City Manager

**RESOLUTION NO 2021- 58****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
AMENDING RESOLUTION 2001-11 TO INCLUDE THE CLASSIFICATION OF  
COMMUNICATIONS AND DIGITAL MEDIA COORDINATOR IN THE CLASS  
SPECIFICATION MANUAL**

**WHEREAS**, on February 13, 2001, the City Council approved Resolution 2001-11 establishing the Classifications and Pay Plan and approving the class descriptions included in Exhibit "A" of said resolution for development of the Class Specification Manual; and

**WHEREAS**, the City Manager has established the need for the new classification of Communications and Digital Media Coordinator; and

**WHEREAS**, the class description for Communications and Digital Media Coordinator was developed in cooperation with and has been approved by the City Manager; and

**WHEREAS**, this newly developed class description for Communications and Digital Media Coordinator meet the requirements established Rule 6.02b of the City of Brisbane Personnel Rules and Regulations for the Class Specification Manual.

**NOW, THEREFORE**, the City Council of the City of Brisbane resolves as follows:  
The class description for the classification of Communications and Digital Media Coordinator in Exhibit "A" is approved for inclusion in the Class Specification Manual.

---

Karen Cunningham, Mayor

I hereby certify that the foregoing Resolution No. 2021-58 was duly and regularly adopted at a regular meeting of the Brisbane City Council on July 15, 2021, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

---

Ingrid Padilla, City Clerk

**RESOLUTION NO 2021- 59****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE  
AMENDING THE MASTER PAY SCHEDULES FOR ALL EMPLOYEES**

**WHEREAS**, the City of Brisbane contracts with the California Public Employees' Retirement System (CalPERS) to provide retirement benefits for its employees; and

**WHEREAS**, pursuant to California Code of Regulations, Title 2, Section 570.5, CalPERS requires governing bodies of local agencies contracting with CalPERS to approve and adopt a publicly available pay schedule in accordance with public meeting laws; and

**WHEREAS**, the pay schedule must identify the position title for every employee position, the pay rate for each position title, and applicable time base for the pay rate; and

**WHEREAS**, the City Council of the City of Brisbane desires to approve and adopt a publicly available Master Pay Schedule, showing all established employee positions and pay rates, in accordance with the requirement of California Code of Regulations, Title 2 Section 570.5.

**NOW, THEREFORE**, the City Council of the City of Brisbane resolves as follows:  
The Master Pay Schedule is approved as set forth in Exhibit "B" and is incorporated by reference as though fully set forth herein.

---

Karen Cunningham, Mayor

I hereby certify that the foregoing Resolution No. 2021-59 was duly and regularly adopted at a regular meeting of the Brisbane City Council on July 15, 2021, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

---

Ingrid Padilla, City Clerk

## CITY OF BRISBANE

### COMMUNICATIONS & DIGITAL MEDIA COORDINATOR

#### **Definition**

Organizes and implements communication actions, activities, and messaging in order to grow City-owned pages and leverage the power of social media; produces videos and readies them for sharing across all owned platforms, including the City's website; maintains a content calendar to support strategic communications activities; and helps cultivate the City's relationships with the residents of Brisbane.

#### **Class Characteristics**

This classification is distinguished from all other classes by its responsibility for the day-to-day operation of communications programs, and by its coordinating, supervisory, and administrative duties for the assigned program.

#### **Supervision Received and Exercised**

Works directly with Communications Manager to assist in the planning, development, implementation, and administration of the City's communication plan and communication strategies.

**Examples of Important and Essential Duties** - *the duties described below are provided as examples and are not to be considered as exclusive or all inclusive:*

- Creates, reviews, edits, and/or distributes innovative and diverse communications tools in print or digital form, which may include flyers, brochures, ads, newsletters, graphics, and videos to expand visibility and awareness of emerging issues, programs, priorities, and progress on community, City Council and organizational goals, initiatives, and accomplishments.
- Develops compelling stories, messages, and visuals through a variety of mediums including video that attract and engage a digital audience while following the City's brand standards and communication style guidelines.
- Develops and executes editorial calendar for City-administered pages and website.
- Customizes outreach content and medium to each population/initiative as appropriate to enhance civic engagement.
- Optimizes City-administered pages within each platform to increase the visibility of the City's information and content.
- Records and broadcasts two meetings per month by operating the new HD cameras/hybrid meeting equipment in the Community Meeting Room's A/V booth.
- Provides visual enhancements of information and multimedia on the City's website.
- Provides timely responses to residents' and followers' queries and comments.
- Monitors the City's social media performance; uses data to develop and optimize marketing communications strategies.
- Takes photos and videos for City-administered sites and publications; maintains archives.
- Assists with production of monthly newsletter.
- Livestreams shorter city events.

#### **Qualifications**

##### **Knowledge of:**

- Techniques of effective, transparent, and timely communication and outreach.

- Structure and content of the English language, including spelling, punctuation, grammar, and rules of composition.
- Writing for digital platforms including web and social media.
- Photography and video techniques.
- Social media platforms and their respective participants (Facebook, Instagram, LinkedIn, Pinterest, YouTube, Twitter, etc.) and how they can be deployed in different scenarios.
- Social media best practices, content creation, online community engagement, and content management.
- Modern office procedures, methods, and computer equipment and software.
- Principles of outreach strategies and technologies, including social media and other web-based communication tools and technologies.
- Techniques for dealing effectively with the public and City staff, in person and over the telephone.

**Skill to:**

- Operate a variety of office equipment including computers and mobile equipment.
- Perform Word processing and database management with speed and accuracy.
- Work effectively and efficiently in a fast-paced environment, with time-sensitive situations and meet deadlines.

**Ability to:**

- Have a high attention to detail and coordinate multiple projects simultaneously while meeting project timelines.
- Respond to residents and address complaints/problems in a timely, accurate, courteous, respectful and friendly manner; understand the resident's needs and provide information by focusing on the customer.
- Communicate effectively, orally and in writing.
- Draft concise copy that conveys intended voice and tone.
- Foster an environment that embraces diversity, integrity, trust, and respect.
- Analyze situations quickly and objectively and determine proper course of action.
- Keep supervisor informed of all major issues and to recommend changes as appropriate.
- Work autonomously in developing and implementing communications plans and strategies.
- Attend evening meetings and/or work various shifts, including nights, weekends, and holidays.

**Education and Experience:** *Any combination of experience and education that would provide the required knowledge, skills, and abilities would be qualifying. A typical way to obtain the knowledge, skills, and abilities would be:*

**Education:** Bachelor's degree from an accredited college or university with major coursework in communications, marketing, journalism, web design, or a closely related field.

**Experience:** Minimum of three (3) years of increasingly responsible experience in multi-media/marketing communications or a related field; or equivalent technical training, education, and/or experience. Required experience to include content creation such as blogging, writing, and/or video, and photography. Practical experience in social media marketing or search engine optimization is desired. Additional experience in a professional or support capacity in a government department may be substituted for the required education on a year-for-year basis.

**Special Requirements:** In addition to the regular work schedule, this position may be required to work evenings and weekends for meetings or in situations of emergency for communications response and media monitoring.

Spanish and/or Chinese bilingual skills (speaking and writing) are highly desirable.

**Physical Demands:** Must possess the mobility to work in a standard office setting and use standard office equipment, including a computer, and to travel to different sites or locations and move up to 20 pounds; vision to read printed materials and computer screen; and hearing and speech to communicate in person and over the telephone.

Approved Date:

Resolution:

Revised Date:

Resolution:

Bargaining Unit: General Employees Association

Resolution:

Former Titles:

Abolished:



City of Brisbane Master Pay Schedule  
Approved per Resolution No. 2021-59

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Accounting Assistant I	\$ 25.46	\$ 26.74	\$ 28.08	\$ 29.48	\$ 30.96				7/5/2021	General Employees	Non-Exempt
Accounting Assistant II	\$ 28.03	\$ 29.44	\$ 30.91	\$ 32.45	\$ 34.07				7/5/2021	General Employees	Non-Exempt
Administrative Assistant	\$ 33.68	\$ 35.37	\$ 37.13	\$ 38.99	\$ 40.94				7/5/2021	General Employees	Non-Exempt
Administrative Management Analyst	\$ 42.87	\$ 45.00	\$ 47.27	\$ 49.62	\$ 52.11				7/5/2021	Confidential Employee	Exempt
Administrative Services Director	\$ 86.56	\$ 90.88	\$ 95.43	\$ 100.19	\$ 105.22				7/5/2021	Confidential Management	Exempt
Assistant Engineer I	\$ 39.22	\$ 41.19	\$ 43.24	\$ 45.41	\$ 47.67				7/5/2021	General Employees	Non-Exempt
Assistant Engineer II	\$ 43.14	\$ 45.29	\$ 47.56	\$ 49.94	\$ 52.44				7/5/2021	General Employees	Non-Exempt
Assistant City Manager	\$ 99.54	\$ 104.51	\$ 109.75	\$ 115.22	\$ 121.00				7/5/2021	Confidential Management	Exempt
Assistant to the City Manager	\$ 66.33	\$ 69.64	\$ 73.13	\$ 76.78	\$ 80.63				7/5/2021	Executive Management	Exempt
Associate Civil Engineer	\$ 51.37	\$ 53.93	\$ 56.63	\$ 59.46	\$ 62.44				7/5/2021	Mid-Management/Professional	Exempt
Associate Planner	\$ 45.38	\$ 47.66	\$ 50.05	\$ 52.55	\$ 55.18				7/5/2021	General Employees	Non-Exempt
Cashier	\$ 13.51	\$ 14.19	\$ 14.90	\$ 15.64	\$ 16.43				7/5/2021	Unrepresented	Non-Exempt
C/CAG Stormwater Program Director	\$ 67.86	\$ 71.25	\$ 74.82	\$ 78.56	\$ 82.49				7/5/2021	Mid-Management/Professional	Exempt
City Clerk	\$ 53.67	\$ 56.36	\$ 59.17	\$ 62.14	\$ 65.24				7/5/2021	Executive Management	Exempt
City Manager	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 126.66		7/5/2021	Unrepresented	Exempt
Code Enforcement Officer	\$ 36.60	\$ 38.43	\$ 40.35	\$ 42.36	\$ 44.49				7/5/2021	General Employees	Non-Exempt
Communications Digital and Media Coordinator	\$ 34.37	\$ 36.08	\$ 37.89	\$ 39.78	\$ 41.77					General Employees	Non-Exempt
Communications Manager	\$ 50.14	\$ 52.78	\$ 55.55	\$ 58.48	\$ 61.55				7/5/2021	Mid-Management/Professional	Exempt
Community Development Director	\$ 83.70	\$ 87.89	\$ 92.29	\$ 96.91	\$ 101.76				7/5/2021	Executive Management	Exempt
Community Development Technician	\$ 34.37	\$ 36.08	\$ 37.89	\$ 39.78	\$ 41.77				7/5/2021	General Employees	Non-Exempt
Community Services Officer	\$ 29.96	\$ 31.90	\$ 33.49	\$ 35.17	\$ 36.92				7/5/2021	General Employees	Non-Exempt
Council Member	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400.00			7/5/2021	Elected Position	
Crossing Guard	\$ 13.57	\$ 14.25	\$ 14.98	\$ 15.71	\$ 16.50				7/5/2021	Unrepresented	Non-Exempt
Deputy City Clerk/Executive Assistant	\$ 40.35	\$ 42.37	\$ 44.49	\$ 46.72	\$ 49.05				7/5/2021	Confidential	Exempt
Deputy Director of Public Works	\$ 75.81	\$ 79.60	\$ 83.59	\$ 87.77	\$ 92.15				7/5/2021	Mid-Management/Professional	Exempt
Deputy Finance Director	\$ 67.86	\$ 71.25	\$ 74.82	\$ 78.56	\$ 82.49				7/5/2021	Mid-Management/Professional	Exempt
Director of Marina/Aquatics Services	\$ 55.56	\$ 58.34	\$ 61.26	\$ 64.32	\$ 67.53				7/5/2021	Executive Management	Exempt
Engineering Technician	\$ 37.80	\$ 39.70	\$ 41.68	\$ 43.75	\$ 45.95				7/5/2021	General Employees	Non-Exempt
Executive Administrative Assistant	\$ 34.91	\$ 36.65	\$ 38.48	\$ 40.41	\$ 42.43				7/5/2021	General Employees	Non-Exempt
Facility Attendant	\$ 17.33	\$ 18.19	\$ 19.10	\$ 20.06	\$ 21.06				7/5/2021	Unrepresented	Non-Exempt
Finance Director	\$ 82.84	\$ 86.98	\$ 91.33	\$ 95.91	\$ 100.69				7/5/2021	Confidential Management	Exempt
Financial Services Manager	\$ 58.62	\$ 61.54	\$ 64.62	\$ 67.86	\$ 71.26				7/5/2021	Mid-Management/Professional	Exempt
Fire Captain	\$ 40.93	\$ 42.97	\$ 45.13	\$ 47.38	\$ 49.75				7/5/2021	IAFF Local 2400	Non-Exempt
Fire Prevention Officer	\$ 50.45	\$ 52.99	\$ 55.63	\$ 58.41	\$ 61.33				7/5/2021	IAFF Local 2400	Non-Exempt
Fire Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 23.85		7/5/2021	IAFF Local 2400	Non-Exempt
Firefighter	\$ 34.25	\$ 35.96	\$ 37.76	\$ 39.64	\$ 41.62				7/5/2021	IAFF Local 2400	Non-Exempt
Firefighter/Paramedic	\$ 34.25	\$ 35.96	\$ 37.76	\$ 39.64	\$ 41.62				7/5/2021	IAFF Local 2400	Non-Exempt
Habitat Restoration Aide	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 12.00		7/5/2021	Unrepresented	Non-Exempt
Habitat Restoration Lead Worker	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 15.00		7/5/2021	Unrepresented	Non-Exempt

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Harbormaster	\$ 47.27	\$ 49.62	\$ 52.11	\$ 54.71	\$ 57.45				7/5/2021	Mid-Management/Professional	Exempt
Head Lifeguard	\$ 20.77	\$ 21.82	\$ 22.90	\$ 24.06	\$ 25.25				7/5/2021	Unrepresented	Non-Exempt
History Project Asst	\$ 35.16	\$ 36.92	\$ 38.76	\$ 40.70	\$ 42.74				7/5/2021	Unrepresented	Non-Exempt
Human Resources Administrator	\$ 69.24	\$ 72.71	\$ 76.34	\$ 80.16	\$ 84.17				7/5/2021	Confidential	Exempt
Human Resources Technician	\$ 34.37	\$ 36.08	\$ 37.89	\$ 39.78	\$ 41.77				7/5/2021	General Employees	Non-Exempt
Information Technology & Systems Administrator	\$ 51.67	\$ 54.26	\$ 56.97	\$ 59.82	\$ 62.82				7/5/2021	Mid-Management/Professional	Exempt
Intern	\$ -	\$ -	\$ -	\$ -	\$ -			\$15.00 - \$20.00	7/5/2021	Unrepresented	Non-Exempt
Lifeguard	\$ 15.76	\$ 16.55	\$ 17.38	\$ 18.25	\$ 19.15				7/5/2021	Unrepresented	Non-Exempt
Management Analyst (Part-time)	\$ 38.87	\$ 40.83	\$ 42.86	\$ 45.00	\$ 47.25				7/5/2021	Unrepresented	Non-Exempt
Marina Maintenance Worker I	\$ 29.47	\$ 30.94	\$ 32.49	\$ 34.11	\$ 35.82				7/5/2021	General Employees	Non-Exempt
Marina Maintenance Worker II	\$ 32.41	\$ 34.03	\$ 35.74	\$ 37.51	\$ 39.39				7/5/2021	General Employees	Non-Exempt
Marina Maintenance Worker I ( Part-time)	\$ 30.05	\$ 31.55	\$ 33.13	\$ 34.80	\$ 36.54				7/5/2021	Unrepresented	Non-Exempt
Marina Maintenance Worker II ( Part-time)	\$ 33.04	\$ 34.73	\$ 36.43	\$ 38.23	\$ 40.18				7/5/2021	Unrepresented	Non-Exempt
Marina Services Director	\$ 51.93	\$ 54.53	\$ 57.26	\$ 60.11	\$ 63.13				7/5/2021	Executive Management	Exempt
Office Assistant	\$ 27.01	\$ 28.32	\$ 29.73	\$ 31.22	\$ 32.80				7/5/2021	General Employees	Non-Exempt
Office Assistant (Part-Time)	\$ 27.50	\$ 28.87	\$ 30.31	\$ 31.85	\$ 33.44				7/5/2021	Unrepresented	Non-Exempt
Office Specialist	\$ 31.66	\$ 33.24	\$ 34.91	\$ 36.65	\$ 38.48				7/5/2021	General Employees	Non-Exempt
Office Specialist (Part-Time)	\$ 32.30	\$ 33.90	\$ 35.60	\$ 37.39	\$ 39.26				7/5/2021	Unrepresented	Non-Exempt
Park/Beach/Recreation Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/5/2021	Appointed Position	
Parks & Recreation Director	\$ 79.82	\$ 83.82	\$ 88.00	\$ 92.39	\$ 97.02				7/5/2021	Executive Management	Exempt
Parks/Facilities Maintenance Worker I	\$ 29.47	\$ 30.94	\$ 32.49	\$ 34.11	\$ 35.82				7/5/2021	General Employees	Non-Exempt
Parks/Facilities Maintenance Worker I (Part-Time)	\$ 30.05	\$ 31.55	\$ 33.13	\$ 34.80	\$ 36.54				7/5/2021	Unrepresented	Non-Exempt
Parks/Facilities Maintenance Worker II	\$ 32.41	\$ 34.03	\$ 35.74	\$ 37.51	\$ 39.39				7/5/2021	General Employees	Non-Exempt
Payroll/Utility Billing Technician	\$ 34.37	\$ 36.08	\$ 37.89	\$ 39.78	\$ 41.77				7/5/2021	General Employees	Non-Exempt
Planning Commissioner	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100.00			7/5/2021	Appointed Position	
Police Chief	\$ 97.69	\$ 102.57	\$ 107.69	\$ 113.09	\$ 118.73				7/5/2021	Police Chief	Exempt
Police Commander	\$ 88.06	\$ 92.47	\$ 97.10	\$ 101.95	\$ 107.05				7/5/2021	Police Commander	Exempt
Police Officer	\$ 45.65	\$ 47.93	\$ 50.33	\$ 52.85	\$ 55.49				7/5/2021	Brisbane Police Officers Association*	Non-Exempt
Police Officer - 40 hour shift (Detective/SRO)	\$ 47.93	\$ 50.33	\$ 52.85	\$ 55.49	\$ 58.26				7/5/2021	Brisbane Police Officers Association*	Non-Exempt
Police Sergeant	\$ 55.00	\$ 57.75	\$ 60.64	\$ 63.67	\$ 66.85				7/5/2021	Brisbane Police Officers Association*	Non-Exempt
Police Trainee	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 33.12		7/5/2021	Unrepresented	Non-Exempt
Pre-School Teacher	\$ 17.43	\$ 18.31	\$ 19.22	\$ 20.19	\$ 21.20				7/5/2021	Unrepresented	Non-Exempt
Principal Analyst	\$ 59.97	\$ 62.98	\$ 66.12	\$ 69.41	\$ 72.89				7/5/2021	Confidential	Exempt
Principal Planner	\$ 63.87	\$ 67.06	\$ 70.42	\$ 73.94	\$ 77.64				7/5/2021	Mid-Management/Professional	Exempt
Program Manager - SMCWPPP	\$ 63.17	\$ 66.34	\$ 69.66	\$ 73.14	\$ 76.80				7/5/2021	Mid-Management/Professional	Exempt
Public Service Aide	\$ 15.51	\$ 16.29	\$ 17.09	\$ 17.94	\$ 18.85				7/5/2021	Unrepresented	Non-Exempt
Public Works Director/City Engineer	\$ 98.00	\$ 102.90	\$ 108.03	\$ 113.45	\$ 119.12				7/5/2021	Executive Management	Exempt
Public Works Inspector	\$ 48.36	\$ 50.79	\$ 53.32	\$ 55.98	\$ 58.79				7/5/2021	General Employees	Non-Exempt
Public Works Lead Maintenance Worker	\$ 38.90	\$ 40.84	\$ 42.87	\$ 45.03	\$ 47.27				7/5/2021	General Employees	Non-Exempt
Public Works Maintenance Worker I	\$ 29.47	\$ 30.94	\$ 32.49	\$ 34.11	\$ 35.82				7/5/2021	General Employees	Non-Exempt
Public Works Maintenance Worker I (Part-time)	\$ 30.05	\$ 31.55	\$ 33.13	\$ 34.80	\$ 36.54				7/5/2021	Unrepresented	Non-Exempt
Public Works Maintenance Worker II	\$ 32.41	\$ 34.03	\$ 35.74	\$ 37.51	\$ 39.39				7/5/2021	General Employees	Non-Exempt

Job Classification	Hourly Grade A	Hourly Grade B	Hourly Grade C	Hourly Grade D	Hourly Grade E	Monthly	Fixed Hourly	Hourly Range	Effective Date	Bargaining Group	FLSA Status
Public Works Superintendent	\$ 62.87	\$ 66.01	\$ 69.32	\$ 72.79	\$ 76.42				7/5/2021	Mid-Management/Professional	Exempt
Public Works Supervisor	\$ 48.05	\$ 50.46	\$ 52.98	\$ 55.63	\$ 58.41				7/5/2021	Mid-Management/Professional	Exempt
Public Works Team Leader	\$ 43.59	\$ 45.89	\$ 48.31	\$ 50.85	\$ 53.52				7/5/2021	Mid-Management/Professional	Exempt
Receptionist	\$ 26.97	\$ 28.32	\$ 29.73	\$ 31.22	\$ 32.80				7/5/2021	General Employees	Non-Exempt
Receptionist (Part-time)	\$ 27.50	\$ 28.87	\$ 30.31	\$ 31.85	\$ 33.44				7/5/2021	Unrepresented	Non-Exempt
Recreation Leader	\$ 17.40	\$ 18.27	\$ 19.19	\$ 20.14	\$ 21.15				7/5/2021	Unrepresented	Non-Exempt
Recreation Leader Aide	\$ 13.51	\$ 14.19	\$ 14.90	\$ 15.64	\$ 16.43				7/5/2021	Unrepresented	Non-Exempt
Recreation Manager	\$ 59.13	\$ 62.09	\$ 65.19	\$ 68.46	\$ 71.88				7/5/2021	Mid-Management/Professional	Exempt
Recreation Program Coordinator	\$ 29.92	\$ 31.92	\$ 33.52	\$ 35.19	\$ 36.95				7/5/2021	General Employees	Non-Exempt
Recreation Supervisor	\$ 43.68	\$ 45.89	\$ 48.17	\$ 50.57	\$ 53.11				7/5/2021	Mid-Management/Professional	Exempt
Regional Compliance Program Manager	\$ 50.14	\$ 52.78	\$ 55.55	\$ 58.48	\$ 61.55				7/5/2021	Mid-Management/Professional	Exempt
Reserve Police Officer	\$ 31.97	\$ 33.57	\$ 35.24	\$ 37.00	\$ 38.86				7/5/2021	Unrepresented	Non-Exempt
Senior Accounting Assistant	\$ 31.75	\$ 33.35	\$ 35.01	\$ 36.77	\$ 38.59				7/5/2021	General Employees	Non-Exempt
Senior Civil Engineer	\$ 63.17	\$ 66.34	\$ 69.66	\$ 73.14	\$ 76.80				7/5/2021	Mid-Management/Professional	Exempt
Senior Human Resources Analyst	\$ 47.90	\$ 50.29	\$ 52.81	\$ 55.44	\$ 58.21				7/5/2021	Confidential	Exempt
Senior Management Analyst	\$ 46.95	\$ 49.29	\$ 51.76	\$ 54.35	\$ 57.06				7/5/2021	Mid-Management/Professional	Exempt
Senior Planner	\$ 54.02	\$ 56.72	\$ 59.55	\$ 62.54	\$ 65.66				7/5/2021	Mid-Management/Professional	Exempt
Senior Recreation Leader	\$ 22.33	\$ 23.44	\$ 24.61	\$ 25.84	\$ 27.14				7/5/2021	Unrepresented	Non-Exempt
Sustainability Manager	\$ 50.14	\$ 52.78	\$ 55.55	\$ 58.48	\$ 61.55				7/5/2021	Mid-Management/Professional	Exempt
Special Assistant	\$ -	\$ -	\$ -	\$ -	\$ -			\$12.00-\$75.00	7/5/2021	Unrepresented	Non-Exempt
Spe Coun-Maj Dev Pro	\$ -	\$ -	\$ -	\$ -	\$ -		\$ 175.04		7/5/2021	Confidential Management	Exempt
Swim Instructor	\$ 17.19	\$ 18.05	\$ 18.96	\$ 19.91	\$ 20.91				7/5/2021	Unrepresented	Non-Exempt
Van Driver	\$ 17.19	\$ 18.05	\$ 18.96	\$ 19.91	\$ 20.91				7/5/2021	Unrepresented	Non-Exempt
Water Quality Technician	\$ 32.41	\$ 34.03	\$ 35.74	\$ 37.51	\$ 39.39				7/5/2021	General Employees	Non-Exempt

**File Attachments for Item:**

O. Approve Contract with San Mateo Credit Union for an ATM machine at City Hall



## CITY COUNCIL AGENDA REPORT

**Meeting Date: July 15, 2021**

**From: Clay Holstine, City Manager**

**Subject: ATM at City Hall**

### Background

Earlier this year when the City was officially informed by Bank of America that it was closing its Brisbane branch, City staff started pursuing options for the community to have 24 hour access to an ATM machine within the City.

Staff focused on city owned property as the City controls its uses. City Hall is centrally located, has available parking, is adjacent to the police station and provides a well-lit location with 24 hour public access.

San Mateo Credit Union indicated an interest and since May of this year staff has been working with the Credit Union on locating a machine on the outside of City Hall. The ATM will be accessed externally by the public, outside of City Hall, allowing for 24 hour access. The project will require some remodeling of the outside of the building and in the foyer that leads to the Council Chambers. San Mateo Credit Union has submitted an application for a building permit and will be responsible for costs of installing and maintaining the ATM.

The City Attorney's office has drafted a License Agreement with San Mateo Credit Union that the Credit Union is reviewing.

If City Council approves this item, it is anticipated that the ATM will be in operation by August.

### Recommendation

Authorize the City Manager to enter into a License Agreement with San Mateo Credit Union, in a form as approved by the City Attorney, to install and maintain an ATM machine at Brisbane City Hall.

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Clay Holstine, City Manager

**File Attachments for Item:**

P. Sierra Point Landscaping and Lighting District

1. Hear Statement of Engineer of Record, Read Mayor's Statement, Hear City Clerk Statement, Open Public Hearing to hear any testimony, Close Public Hearing
2. Consider adoption of Resolution No. 2021-60 overruling protests and ordering the improvements and confirming the diagram and assessments for Fiscal Year 21/22



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Karen Kinser, Deputy Director of Public Works

**Subject:** Public Hearing on Imposition of Fiscal Year 2021-2022 Tax Roll Charges for the Sierra Point Landscaping and Lighting District

### **Community Goal/Result** Economic Development

**Purpose** To complete the process via a public hearing for the imposition of annual tax roll charges that fund Sierra Point's Landscape and Lighting Assessment District, which provides for maintenance of the landscaping, irrigation and lighting installed in 1989.

### **Recommendation - The following procedures and actions are recommended:**

1. Statement of the Engineer of Record as to the nature of the project.
2. Mayor's statement and declaration that the Public Hearing is open (see Attachment 1).
3. Statement by the City Clerk verifying that the Certificate of Posting and the Resolution of Intention is on file (see Attachment 2), followed by the reading of any written protests by the City Clerk.
4. Hearing of oral testimony and comments.
5. Closure of Public Hearing.
6. By motion, adoption of Resolution No. 2021-60, Addressing Objections and Ordering the Improvements and Confirming the Diagram and Assessment for Fiscal Year 2021-2022 for the Sierra Point Landscaping and Lighting District.

### **Background**

At its June 17th meeting, the City Council adopted Resolution No. 2021-55, a Resolution of Preliminary Approval of Engineer's Report, and Resolution No. 2021-56, a Resolution of Intention to Order the Levy and Collection of Assessments Pursuant to the Landscaping and Lighting Act of 1972, pertaining to the Sierra Point Landscaping and Lighting District, Fiscal Year 2021-2022. The fiscal year 2021–2022 Engineer's Report maintains the previous year's assessment amount.

In accordance with state law, joint notice of both the public meeting and the public hearing was mailed to all affected property owners and was posted at City Hall, Brisbane Community

1

Public Hearing on Imposition of FY 21-22 Tax Roll Charges for the Sierra Point Landscaping and Lighting District

Center, Brisbane Public Library and Mission Blue Center. The preliminarily approved Engineer's Report is attached. As of July 1, 2021, no written protests had been received.

### Discussion

In addition to the routine maintenance provided within the district, the revenue funds non-annual projects such as deep root watering trees in drought years. In the coming fiscal year, aging and rusting light poles will be replaced and/or repaired and treated with rust inhibitor as needed.

Minor corrections to the Engineer's Report may be made by staff after adoption of the resolution if final county assessor data received after this action differs from draft data.

### Fiscal Impact

This is an annually occurring process that provides the funding mechanism for the work completed within the landscaping and lighting district. If the Council declines to order and levy the collection of assessments, there will be no identified revenue source for the work scheduled in this District. The FY 21-22 budget adopted by Council for Department 4009 (Sierra Point Landscaping and Lighting District) is in the amount of \$633,655. The assessments to be collected via the recommended action are \$591,719. The budgeted amount includes a \$41,936 supplement from fund reserves.

### Measure of Success

Continuing acceptable maintenance levels in the Sierra Point Landscape and Lighting District.

### Attachments

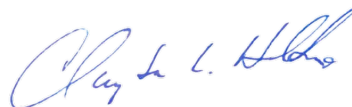
1. Opening Statement by the Mayor of the City of Brisbane
2. Clerk's Statement
3. Resolution No. 2021-60
4. Engineer's Report, including Zone 1 and Zone 2 Assessment Diagrams



Karen Kinser, Deputy Director of Public Works



Randy Breault, Director of Public Works



Clay Holstine, City Manager



**OPENING STATEMENT BY THE MAYOR  
OF THE CITY OF BRISBANE**

JULY 15, 2021

**SIERRA POINT LANDSCAPING AND LIGHTING DISTRICT**

This is the time and place set for hearing on the Engineer's Report and the levy and collection of the proposed assessment for Fiscal Year 2021-2022 for the Sierra Point Landscaping and Lighting District. These proceedings were undertaken pursuant to the Landscaping and Lighting Act of 1972.

The Engineer's Report prepared by the Engineer of Work consists of the proposed improvements, the boundaries of the Assessment District and any zones therein, the proposed diagram, the estimate of cost thereof and the proposed assessments upon assessable lots and parcels of land within the District. Any one of these items may be the subject of protests or endorsements.

You are asked to clearly identify yourself and the property owned by you so that your statements may be correctly recorded.

The hearing is declared open and I will ask the City Clerk to report on the various notices given in connection with the hearing.

**CLERK'S STATEMENT**

JULY 15, 2021

**SIERRA POINT  
LANDSCAPING AND LIGHTING DISTRICT**

Notices have been mailed and posted as required by the Landscaping and Lighting Act of 1972. Proofs of mailing and posting are on file in my office. A copy of the Engineer's Report prepared by the Engineer of Work was filed in my office on June 8, 2021 and has been open to public inspection since that time.

**RESOLUTION NO. 2021-60****A RESOLUTION OVERRULING PROTESTS AND ORDERING THE IMPROVEMENTS  
AND CONFIRMING THE DIAGRAM AND ASSESSMENTS****FISCAL YEAR 2021-2022****SIERRA POINT  
LANDSCAPING AND LIGHTING DISTRICT****RESOLVED**, by the City Council of the City of Brisbane, California, as follows:

**WHEREAS**, the Engineer's Report for Fiscal Year 2021-2022 for the Sierra Point Landscaping and Lighting District Pursuant to the Landscaping and Lighting Act of 1972 was duly made and filed with the Clerk of said City, whereupon said Clerk presented it to the City Council for its consideration;

**WHEREAS**, said Council thereupon duly considered said report and each and every part thereof and found that it contained all the matters and things called for by the provisions of said Act, including (1) plans and specifications of the existing improvements and the proposed new improvements; (2) estimate of costs; (3) diagram of the District; and (4) an assessment according to benefits; all of which were done in the form and manner required by said Act;

**WHEREAS**, said Council found that said report and each and every part thereof was sufficient in every particular detail and determined that it should stand as the report for all subsequent proceedings under said Act, and thereby Preliminarily Approved said report via Resolution 2021-55; whereupon said Council, pursuant to the requirements of said Act, appointed Thursday, the 15th day of July, 2021, at the hour of 7:30 p.m. of said day in the Brisbane Community Meeting Room, 50 Park Place, Brisbane, California, 94005 as the time and place for hearing protests in relation to the levy and collection of the proposed assessments for said improvements, including the maintenance or servicing, or both, thereof, for Fiscal Year 2021-2022 and directing said Clerk to give notice of said hearing as required by said Act;

**WHEREAS**, it appears that notices of said hearing were duly and regularly mailed, published and posted in the time, form and manner required by said Act, as evidenced by the Affidavits and Certificates on file with said Clerk, whereupon said hearing was duly and regularly held at the time and place stated in said notice;

**WHEREAS**, persons interested, objecting to said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district, or any zones therein, or to the proposed assessment or diagram or to the Engineer's estimate of costs thereof, filed written protests with the Clerk of said City at or before the conclusion of said hearing, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things were pertaining to the levy and

collection of the assessments for said improvements, including the maintenance or servicing, or both, thereof, were fully heard and considered by said Council; and

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED and ORDERED,**  
as follows:

1. That protests against said improvements, including the maintenance or servicing, or both, thereof, or to the extent of the assessment district or any zones therein, or to the proposed assessment or diagram, or to the Engineer's estimate of costs thereof, for Fiscal Year 2021-2022 be, and each of them are, hereby overruled.
2. That the public interest, convenience and necessity require and said Council does hereby order the levy and collection of assessments pursuant to said Act, for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, more particularly described in said Engineer's Report and made a part hereof by reference thereto.
3. That the Sierra Point Landscaping and Lighting District and the boundaries thereof benefited and to be assessed for said costs for the construction or installation of the improvements, including the maintenance or servicing, or both, thereof, are more particularly described by reference to a map thereof on file in the Office of the Clerk of said City. Said map indicates by a boundary line the extent of the territory included in said district and of any zone thereof and the general location of said District.
4. That the plans and specifications for the existing improvements and for the proposed improvements to be made within the assessment district or within any zone thereof contained in said report, be, and they are, hereby finally adopted and approved.
5. That the Engineer's estimate of the itemized and total costs and expenses of said improvements, maintenance and servicing thereof, and of the incidental expenses in connection therewith, contained in said report, be, and it is hereby, finally adopted and approved.
6. That the public interest and convenience require, and said Council does hereby order the improvements to be made as described in and in accordance with said Engineer's Report, reference to which is hereby made for a more particular description of said improvements.
7. That the diagram showing the exterior boundaries of the assessment district referred to and described in said Resolution No. 2021-55, and also the boundaries of any zones therein and the lines and dimensions of each lot or parcel of land within said District as such lot or parcel of land is shown on the County Assessor's maps for the fiscal year to which it applies, each of which lot or parcel of land has been given a separate number upon said diagram, as contained in said report, be, and it is hereby, finally approved and confirmed.

8. That the assessment of the total amount of the costs and expenses of the said improvements upon the several lots or parcels of land in said District in proportion to the estimated benefits to be received by such lots or parcels, respectively, from said improvements, and the maintenance or servicing, or both, thereof and of the expenses incidental thereto contained in said report be, and the same is hereby, finally approved and confirmed.

9. That said Engineer's Report for Fiscal Year 2021-2022 be, and the same is, hereby finally adopted and approved as a whole.

10. That the City Clerk shall forthwith file with the Auditor of San Mateo County the said assessment, together with said diagram thereto attached and made a part thereof, as confirmed by the City Council, with the certificate of such confirmation thereto attached and of the date thereof.

11. That the order for the levy and collection of assessment for the improvements and the final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in said Report, as modified, as hereinabove determined and ordered, is intended to and shall refer and apply to said Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with any resolution or order, if any, heretofore duly adopted or made by this Council.

12. That the San Mateo County Controller and the San Mateo County Tax Collector apply the Sierra Point Landscaping and Lighting District assessments to the tax roll and have the San Mateo County Tax Collector collect said assessments in the manner and form as with all other such assessments collected by the San Mateo County Tax Collector.

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Karen Cunningham, Mayor  
City of Brisbane

\* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution No. 2021-60 was adopted at a regular meeting of the City Council of the City of Brisbane on the 15th day of July, 2021 by the following vote:

AYES:

NOES:

ABSENT:

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Ingrid Padilla, City Clerk  
City of Brisbane

CITY OF BRISBANE

**SIERRA POINT**

**LANDSCAPING AND LIGHTING DISTRICT**

**ENGINEER'S REPORT**

on the  
Levy of an Assessment  
for the  
2021 - 2022 Fiscal Year

Prepared by

Karen Kinser, P.E.  
Deputy Director of Public Works

June 8, 2021

## I. BACKGROUND

In 1983, the Brisbane City Council determined to undertake proceedings under the provisions of Division 15, Part 2, of the California Streets and Highways Code, entitled “Landscaping and Lighting Act of 1972”, for the formation of an assessment district for the purpose of constructing, installing, maintaining and servicing the following facilities within said district:

- a) Public landscaping, including trees, shrubs, grass, other vegetation, and irrigation facilities.
- b) Public lighting facilities, including standards, poles, and electric current or energy.

The proposed district was designated the “Sierra Point Landscaping and Lighting District”.

This report was prepared as part of an annually occurring process to detail the assessment charges and district expenses covering the 2021 - 2022 fiscal year.

## II. PLANS AND SPECIFICATIONS

The original plans and specifications for this assessment district have been separately bound but are incorporated herein by this reference thereto.

## III. ESTIMATE OF COSTS

The costs of this assessment district for the 2021 - 2022 fiscal year are estimated to be as follows:

### **ZONE 1 & 2 CONSTRUCTION & MAINTENANCE COSTS**

		<b>FY 21/22</b>
	Employee costs	100,843
	Supplies and services	410,730
	Administrative costs	122,082
	<b>TOTAL ZONE 1 &amp; 2</b>	<b>\$633,655</b>

Supplies and services includes safety clothing, maintenance of vehicles and equipment, small tools and supplies, landscape and irrigation maintenance including materials, electricity, and water.

Administrative charges are indirect, overhead costs to manage the district.



A detailed breakdown of these costs is available to assessees upon request.

Costs associated with this assessment district for the 2021 - 2022 fiscal year are to be paid as follows:

**ZONE 1 & 2 FUNDING SOURCES**

		<b>FY 21/22</b>
	Assessment charges	591,719
	Supplement from Reserves	41,936
	<b>TOTAL ZONE 1 &amp; 2</b>	<b>\$633,655</b>

IV. DIAGRAM

The assessment diagrams for Zones 1 and 2 are attached hereto and are a part of this report.

V. ASSESSMENT

The assessments to be made against the assessable lots and parcels of land within this assessment district are attached hereto and are a part of this report.

Respectfully submitted,

Dated July 2, 2021



Karen Kinser, P.E.  
Deputy Director of Public Works

Filed in the office of the City Clerk of the City of Brisbane, San Mateo County, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Ingrid Padilla  
City Clerk

Filed in the office of the County Controller-Auditor of the County of San Mateo, California, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Juan Raigoza  
County Controller

**ASSESSMENT ROLL**

<u>ASSESSMENT NUMBER</u>	<u>ASSESSOR'S PARCEL NUMBER</u>	<u>PARCEL AREA, AC.</u>	<u>ASSESSMENT</u>
<u>ZONE 1</u>			
A 1	007—165—010	4.52	\$25,180
A 2	007—165—020	8.87	49,414
A 3	007—165—110	3.44	19,164
A 4	007—165—050	6.13	34,148
A 5	007—164—020	5.66	31,530
A 6	007—164—010	10.20	56,823
A 7	007—165—130	9.78	54,483
A 8	007—165—140	7.13	39,720
A 9	007—165—150	5.93	33,035
A 10	007—163—030	3.52	19,609
A 11	007—163—040	3.08	17,158
A 12	007—165—120	4.56	25,404
C 1	015—010—530	Note <sup>1</sup>	0
C 2	015—010—560	6.92	38,551
C 3	015—010—570	8.57	47,742
C 4	015—010—580	8.56	47,686
C 5	015—010—610	2.41	13,427
Subtotal Zone 1		99.29	\$553,074

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<sup>1</sup> Although previously assessed, this parcel is owned by California State Lands Commission, which is exempt from local assessments.

ZONE 2

B	1	None (placeholder only)		-0-
B	2	005—162—430 (Ptn)	15.2	7,189
B	3	005—162—300	66.5	31,456
B	4	005—162—400 (Ptn)	Note <sup>2</sup>	-0-
B	5	005—162—410 (Ptn)	0.2 <sup>3</sup>	-0-
B	6	005—162—390	Note <sup>4</sup>	-0-
B	7	005—162—420 (Ptn)	Note <sup>4</sup>	-0-
		Subtotal Zone 2	81.7	\$ 38,645
		Total	180.99	\$591,719

**METHOD OF ASSESSMENT SPREAD**

The amounts to be assessed against the parcels of property to pay the costs and expenses of the work and improvements shall be based on the estimated benefits to be derived by the various properties within the assessment district.

Construction and maintenance costs shall be segregated by zone, and then spread to the parcels within each zone in proportion to the area of the benefited parcels within the zone.

Incidental expenses shall be spread proportional to the area of benefited parcels within the assessment district.

Due to the County Auditor's requirement that individual parcel assessments be rounded to the nearest even cent, the total of said individual assessments may not exactly equal the total estimate of costs.

<sup>2</sup> This portion of this parcel is private land over which the public has been granted access for use as the street, Tunnel Avenue.

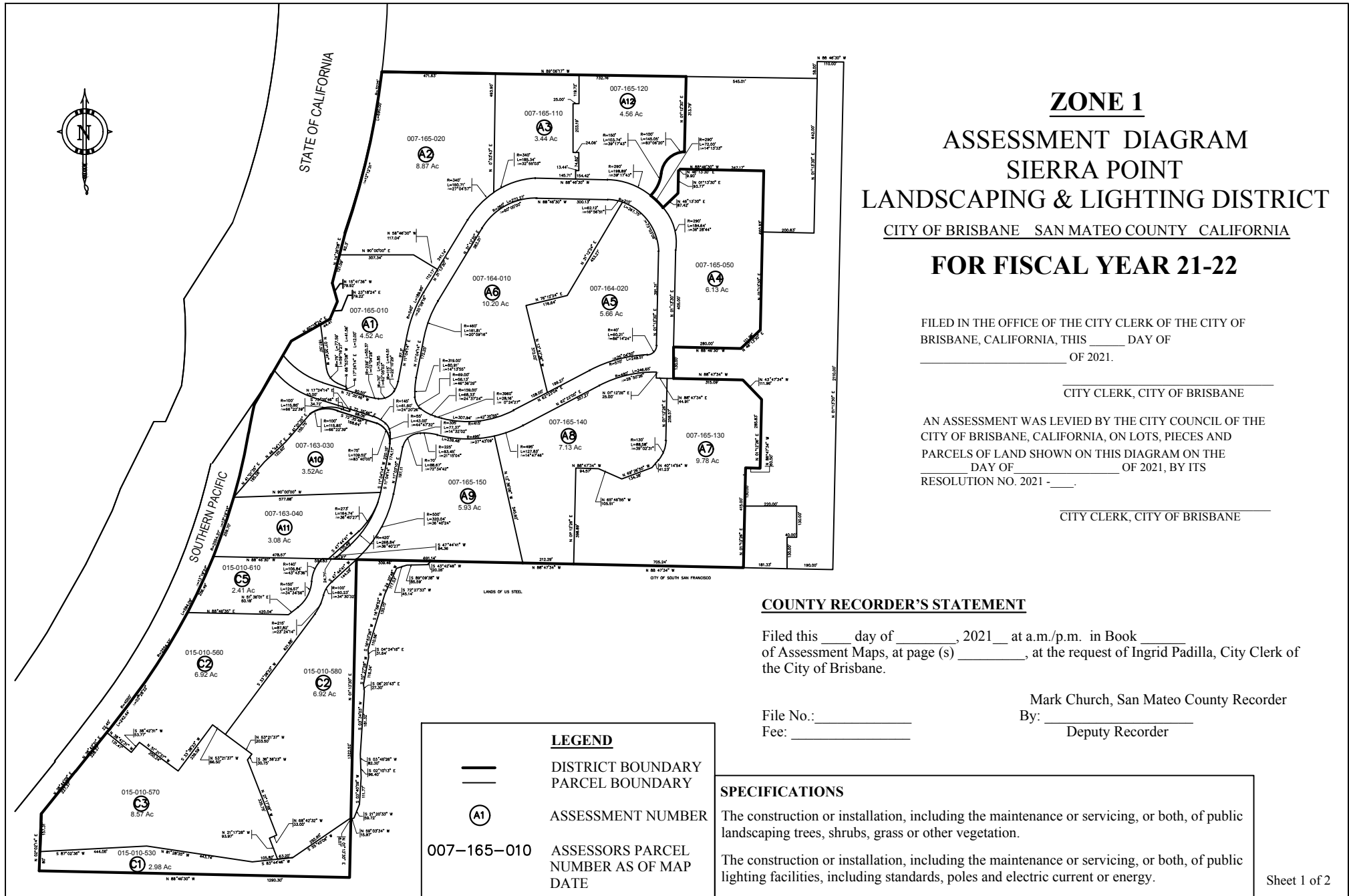
<sup>3</sup> No assessment has been imposed for a value less than \$100.

<sup>4</sup> B6 and B7 are publicly owned portions of Tunnel Avenue.

### NAMES AND ADDRESSES OF OWNERS

ASSESSMENT NUMBER	APN NUMBER	ASSESSEE
A-1	007-165-010	BP3 SF4 1000 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-2	007-165-020	BP3 SF5 3000 3500 Marina LLC 4380 La Jolla Village Dr. Suite 230 San Diego, CA 92122
A-3	007-165-110	SNH Brisbane Ca LLC 255 Washington St Newton, MA 02458
A-12	007-165-120	PPF OFF 7000 Marina Blvd LP C/O Morgan Stanley Real Estate Advisor 555 California St. 21 <sup>st</sup> Floor San Francisco, CA 94101
A-4	007-165-050	Grand Sierra Properties, Inc. 150 Executive Park Blvd. #4000 San Francisco, CA 94134
A-5	007-164-020	HCP Life Science REIT, Inc. 1920 Main St, Suite 1200 Irvine, CA 92614
A-6	007-164-010	HCP Life Science REIT, Inc. 1920 Main St, Suite 1200 Irvine, CA 92614
A-7 A-8 A-9	007-165-130 007-165-140 007-165-150	Slough Brisbane LLC 1920 Main St. Suite 1200 Irvine, CA 92614
A-10	007-163-030	Summit Hospitality 114 LLC 12600 Hill Country Blvd., #R-100 Austin, TX 78738
A-11	007-163-040	Bre Sh Brisbane Owner LLC PO Box A-3956 Chicago, IL 60690-3956

B-2 B-3 B-4 B-5	005-162-430 005-162-300 005-162-400 005-162-410	Oyster Point Properties, Inc. 150 Executive Park Blvd. #4200 San Francisco, CA 94134-3332
B-6 B-7	005-162-390 005-162-420	City of Brisbane 50 Park Place Brisbane, CA 94005
C-1	015-010-530	State of California C/O State Lands Commission Attn: Title Unit 100 Howe Ave., Ste. 100 Sacramento, CA 95825
C-2	015-010-560	HCP Life Sciences REIT, Inc. 3000 Meridian Boulevard #200 Franklin, TN 37067
C-3	015-010-570	ARE San Francisco No. 17 LLC C/O Deloitte & Touche Attn: Shanna Lehman PO Box 847 Carlsbad, CA 92018
C-4	015-010-580	Areus Inc. 1125 Trenton Harbourton Rd. Titusville, NJ 08560
C-5	015-010-610	GNS Shoreline LP 500 N Hurstbourne Pkwy Ste 200 Louisville, KY 40222



**ZONE 1**

**ASSESSMENT DIAGRAM**

**SIERRA POINT**

**LANDSCAPING & LIGHTING DISTRICT**

**CITY OF BRISBANE SAN MATEO COUNTY CALIFORNIA**

**FOR FISCAL YEAR 21-22**

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF  
BRISBANE, CALIFORNIA, THIS \_\_\_\_ DAY OF  
\_\_\_\_ OF 2021.

CITY CLERK, CITY OF BRISBANE

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL OF THE  
CITY OF BRISBANE, CALIFORNIA, ON LOTS, PIECES AND  
PARCELS OF LAND SHOWN ON THIS DIAGRAM ON THE  
\_\_\_\_ DAY OF \_\_\_\_ OF 2021, BY ITS  
RESOLUTION NO. 2021 - \_\_\_\_.

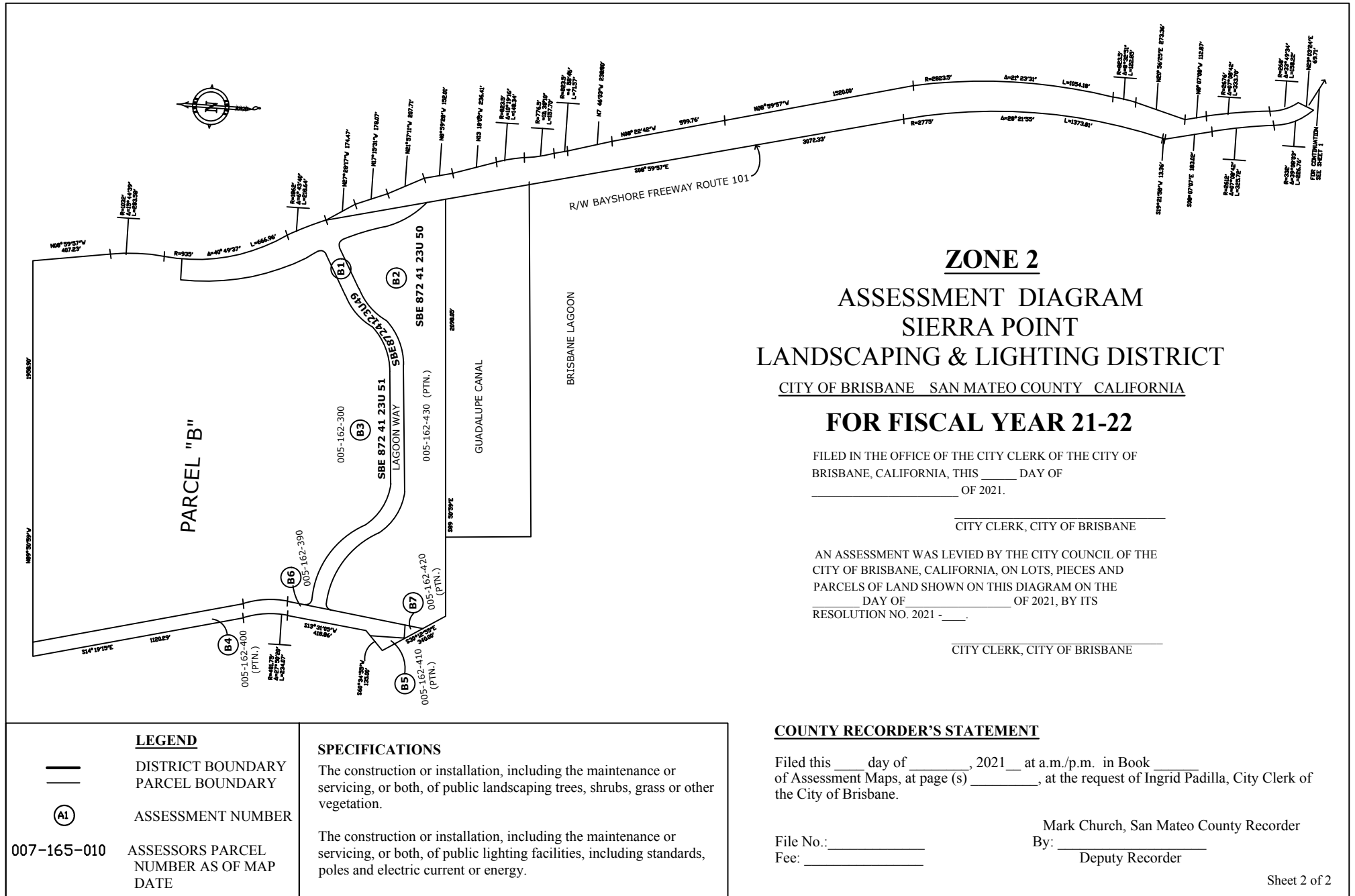
CITY CLERK, CITY OF BRISBANE

**COUNTY RECORDER'S STATEMENT**

Filed this \_\_\_\_ day of \_\_\_\_, 2021 \_\_ at a.m./p.m. in Book \_\_\_\_  
of Assessment Maps, at page (s) \_\_\_\_, at the request of Ingrid Padilla, City Clerk of  
the City of Brisbane.

File No.: \_\_\_\_  
Fee: \_\_\_\_

Mark Church, San Mateo County Recorder  
By: \_\_\_\_  
Deputy Recorder





**File Attachments for Item:****Q. City of Brisbane Local Stormwater Program Fees**

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, overrule any objections to the imposition of fees related to the NPDES Program
2. Consider adoption Resolution No. 2021-61, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2021-2022 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 15, 2021

**From:** Karen Kinser, Deputy Director of Public Works

**Subject:** City of Brisbane Local Stormwater Program Fees

### Community Goal/Result

Ecological Sustainability

### Purpose

To provide a public hearing and consider imposition of annual tax roll charges that fund Brisbane's Local Stormwater Program, which minimizes discharge of pollutants to San Francisco Bay in accordance with federally mandated permit requirements.

### Recommendation

1. Open the Public Hearing and take public comment. Close the Public Hearing, and if appropriate, address any objections to the imposition of fees related to the NPDES Program.
2. Adopt Resolution No. 2021-61, "A Resolution of the City Council of the City of Brisbane Imposing Charges for Funding the Local Brisbane Stormwater Program, Authorizing Placement of Said Charges on the 2021-2022 County Tax Roll, and Authorizing the County Tax Collector to Collect Such Charges."

### Background

In 1987, the Environmental Protection Agency, under amendments to the 1972 Clean Water Act, imposed regulations that mandate control and reduction of pollutants in stormwater runoff through the National Pollutant Discharge Elimination System (NPDES) permitting program. In the Bay Area, under the authority of the Porter-Cologne Water Quality Control Act, the San Francisco Bay Regional Water Quality Control Board (Water Board) issues and enforces municipal stormwater NPDES permits.

A revised Municipal Regional Stormwater Permit (MRP 2.0), which applies to all municipalities throughout San Mateo, Santa Clara, Alameda, and Contra Costa counties, as well as the cities of Fairfield, Suisun City, and Vallejo, was approved by the Water Board in late 2015. This permit mandates specific actions, implementation levels, and reporting requirements that each municipality must meet. Failure by municipalities to comply with these new permit requirements may result in significant enforcement action by the Water Board.

## Discussion

There are two programs that provide stormwater management locally; the **Countywide Stormwater General Program** (which assesses Basic Fees and Additional Fees) overseen by the City/County Association of Governments of San Mateo County (C/CAG), and the City of Brisbane's own **Local Stormwater Program**.

The proposed Resolution imposes charges only for the City of Brisbane Local Stormwater Program, and authorizes the County Tax Collector to place such charges on the property tax roll.

City Council Resolution 2005-29 previously authorized the San Mateo County Flood Control District to collect the Basic Fees of the Countywide Stormwater General Program directly from property owners in Brisbane. These charges are also placed on the property tax roll.

The City Council elected to pay the Additional Fees of the Countywide Stormwater General Program directly to C/CAG when these fees were first imposed, rather than placing these charges on the property tax roll. (Since its inception, the Additional Fee amount increases annually based on the Consumer Price Index; this year's amount is expected to be approximately \$10,588)

The total fee assessment (charges) per the 2021 Engineer's Report is approximately \$52,000. The annual charge per parcel is not changed from previous years. Based on previous years' actual collections, the estimate of fees that will be collected is \$52,000.

For detailed information on both of these overall programs, including the calculation of charges, please see the 2021 Engineer's Report, included as Attachment B.

## Fiscal Impact

The city's recommended local NPDES program budget for 2021-2022 is:	\$541,323
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The 2021 Engineer's Report for Stormwater Management Fees estimated a previous years' actual property tax revenue for the City's Local Stormwater Program of approximately:	\$52,000
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Revenues from solid waste franchise fees (designated for trash capture activities, both increased street cleaning and sweeping and maintenance of trash capture devices)	\$100,000
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Anticipated revenues from Measure M (\$10 vehicle registration fee)	\$22,000
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The budget shortfall for this program is therefore:	\$367,323
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The City's costs to maintain compliance with the various clean water requirements (frequently referred to as NPDES) have increased significantly since the Water Board's 2015 issuance of the Municipal Regional Permit (MRP 2.0).

The following general description indicates the large number of city employees who participate both in daily/weekly activities to comply with the MRP, and who also attend regular meetings with C/CAG to address permit requirements:

- Director of Public Works/City Engineer – overall permit compliance, illicit discharge control, construction controls, serves as Chairperson of C/CAG Stormwater Committee
- Regional Compliance/Maintenance Program Manager – facilities inspections, trash capture program, corporation yard site controls, and new MRP 2.0 requirements such as PCB and mercury regulations and green infrastructure requirements
- Senior Planner – new development controls, copper controls
- Deputy Director of Public Works (Utilities) – monitoring potable water discharges, storm drain maintenance
- Deputy Director of Public Works – street sweeping
- Team Leader (Buildings & Grounds) – pesticides toxicity control
- Team Leader (Utilities) – storm drain cleaning, potable water discharge monitoring
- Public Works Inspector – construction controls
- Administrative Assistant – assists with overall permit compliance, public information and outreach, compiles annual report

Pending implementation of the recently passed SB231 Stormwater Capture bill (D- Herzberg), Council may wish to pursue increasing assessments to begin to address the above listed shortfall.

### Measure of Success

Approval of the Engineer's Report will allow for the ongoing compliance with the California State Water Resources Control Boards Municipal Regional Permit.

### Attachments

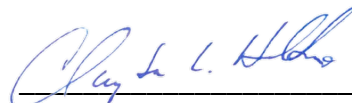
1. Resolution No. 2021-61
2. 2021 Engineer's Report for Stormwater Management Fees



Karen Kinser, Deputy Director of Public Works



Randy Breault, Director of Public Works/City Engineer



Clay Holstine, City Manager

## ATTACHMENT 1

### RESOLUTION NO. 2021-61

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE IMPOSING CHARGES FOR FUNDING THE LOCAL BRISBANE STORMWATER PROGRAM, AUTHORIZING PLACEMENT OF SAID CHARGES ON THE 2021-2022 COUNTY TAX ROLL, AND AUTHORIZING THE COUNTY TAX COLLECTOR TO COLLECT SUCH CHARGES**

**WHEREAS**, the Environmental Protection Agency, under the 1987 amendments to the Federal Clean Water Act, imposed regulations that mandate local governments to control and reduce the amount of storm water pollutant runoff into receiving waters; and

**WHEREAS**, under the authority of the California Porter-Cologne Water Quality Control Act, the State Water Resources Control Board has delegated authority to its Regional Water Quality Control Boards to invoke permitting requirements upon counties and cities; and

**WHEREAS**, in 1993 and 1999, the San Francisco Bay Regional Water Quality Control Board issued countywide National Pollutant Discharge Elimination System (NPDES) stormwater permits to all municipalities within San Mateo County; and

**WHEREAS**, in fall of 2015, the San Francisco Bay Regional Water Quality Control Board issued a new NPDES stormwater permit, the Municipal Regional Stormwater Permit MRP 2.0 that applies to all municipalities within San Mateo County and other portions of the Bay Area; and

**WHEREAS**, the efforts for the control of stormwater pollution under the Municipal Regional Stormwater Permit require a Local Brisbane Stormwater Program; and

**WHEREAS**, Section 5471 of the California Health and Safety Code and Section 13.06.060 of the City's Storm Water Ordinance authorize imposition of charges for a Local Brisbane Stormwater Program; and

**WHEREAS**, said Local Brisbane Stormwater Program has been submitted to the City Council pursuant to the 2021 Engineer's Report for Stormwater Management Fees, which includes mandated tasks and associated costs, and an estimated amount to be collected of \$52,000; and

**WHEREAS**, the City held a public hearing to consider imposition of annual tax roll charges that fund the Local Brisbane Stormwater Program; and

**WHEREAS**, the San Mateo County Tax Collector has agreed to place such charges on the 2021-2022 County Tax Roll.

#### **NOW, THEREFORE, BE IT RESOLVED THAT**

1. The City Council of the City of Brisbane hereby adopts the 2021 Engineer's Report for Stormwater Management Fees as filed with the City Clerk and overrules any objections or protests to the Engineer's estimate of costs and user fee structure, or to the implementation of the stormwater management program described therein.

2. The County Controller is hereby authorized to place the City of Brisbane Local Stormwater Management Fees on the fiscal year 2021-2022 County Tax Roll, and that the County Tax Collector be and hereby is authorized to collect such charges in the same manner, by the same person, and at the same time as, together with and not separately from, the general taxes applicable to real property in the City of Brisbane, as follows:

Single Family (R-1&2)	\$9.48
Multi Family (R-3)	\$21.64
Commercial/Industrial (1)	\$19.94
Commercial/Industrial (2)	\$254.20
Vacant Land (3)	\$18.34
Vacant Land (4)	\$55.16
Vacant Land (5)	\$212.18
Vacant Land (6)	\$927.80

(1) Land use designation generally within Central Brisbane and Southwest Bayshore.

(2) Land use designation generally within all other areas except areas included in (1).

(3) Vacant land with an area less than 1 acre.

(4) Vacant land with an area greater than 1 acre but less than 5 acres.

(5) Vacant land with an area greater than 5 acres but less than 20 acres.

(6) Vacant land with an area greater than 20 acres.

3. The cost for such service, \$1.35 per parcel, is hereby authorized to be retained by the County from such collections, the balance of which is to be remitted to the City of Brisbane.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to forward a copy of this Resolution to the San Mateo County Board of Supervisors.

Regularly passed and adopted this 15th day of July, 2021.

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Karen Cunningham  
Mayor

I hereby certify that the foregoing Resolution No. 2021-61 was duly and regularly adopted at a regular meeting of the Brisbane City Council on July 15, 2021, by the following vote:

AYES:

NOES:

ABSENT:

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Ingrid Padilla  
City Clerk

## ATTACHMENT 2

### 2021 ENGINEER'S REPORT for STORMWATER MANAGEMENT FEES

#### **Purpose**

The purpose of this report is to define the City of Brisbane stormwater management program and the method utilized in determining the user fee structure to be applied by Assessor's Parcel Number (APN) and to appear on the County Tax Roll for Fiscal Year 2021-2022.

#### **History**

The Environmental Protection Agency, under the 1987 amendments to Section 402(p) of the Clean Water Act, imposed regulations mandating local governments manage stormwater discharges as a means of reducing pollution in public bodies of water. The California State Water Resources Control Board delegated enforcement authority to the Regional Water Quality Control Boards (RWQCB) to ensure compliance with the Clean Water Act. The San Francisco Bay RWQCB, under Section 13370 *et seq* of the California Water Code, requires the City of Brisbane and all other municipal stormwater dischargers in San Mateo, Santa Clara, Alameda, and Contra Costa counties, as well as the cities of Fairfield, Vallejo, and Suisun City to control significant sources of stormwater pollution as co-permittees under a Municipal Regional Stormwater Permit 2.0, referenced as Order R2-2015-0049 and National Pollutant Discharge Elimination System (NPDES) Permit No. CAS612008.

As a condition of the Municipal Regional Stormwater Permit, the City of Brisbane and other municipal stormwater dischargers are required to meet specific requirements in a variety of program areas that address the multiple potential pollutant sources that can impact a municipal storm drain system. Compliance efforts in San Mateo County are implemented in two ways: those that have countywide benefit or significance are implemented by the City/County Association of Governments of San Mateo County (C/CAG) through its San Mateo Countywide Water Pollution Prevention Program (Countywide Program), and those that are specific to a local jurisdiction are implemented through municipality-specific programs. Administration of Brisbane's local program is primarily managed by the City's Public Works Department.

### **STORMWATER MANAGEMENT PROGRAM**

#### **Background Information**

The process of urbanization increases rainwater runoff. As trees and grass are cleared, pervious ground cover is frequently replaced by impervious concrete, asphalt, or brick. Rainwater can no longer seep into the ground. If this stormwater is not properly managed, flooding may result. Often, municipal drainage systems are designed for flows resulting from pre-development runoff, and become undersized when impervious area is increased by building structures, driveways, and parking lots. Further, increased stormwater runoff makes areas not covered by impervious



materials more susceptible to erosion, and as a result, sediment may discharge to the storm drain system.

Stormwater runoff flowing over man-made surfaces such as roads and parking lots can also contribute to water quality degradation. The natural purification that occurs when water flows through the subsurface is lost. As rainwater flows over impervious surfaces, it can pick up pollutants such as engine oils, pesticides, fertilizers, and trace metals like lead, copper, or zinc. These contaminants are frequently toxic to humans and aquatic life.

Stormwater pollution can come from point and non-point sources. Point sources are attributable to a distinct point of discharge, such as a pipe into a water body. Point source pollution can include illegal storm drain connections at industrial facilities or cross connections between sanitary and storm sewer systems. Non-point source pollution, such as overland flow or sheet runoff, is not attributable to a distinct point of discharge, and is a major contributor to water quality degradation in California. Problems that magnify non-point source pollution include channel erosion, sedimentation due to construction and land development, hydrologic modification, physical habitat alteration, excessive or poorly timed application of pesticides and fertilizers, natural or engineered agricultural subsurface drainage, septic systems, livestock grazing, and urban runoff. Oil and grease from parking lots and driveways, nutrients, littering, animal waste, accidental spills, soil erosion and air pollution all contribute to non-point source discharges in urban areas. Urban runoff is the focus of stormwater pollution prevention regulations in Brisbane.

### **Program Structure**

The Municipal Regional Permit requirements implemented at both the Countywide Program and municipality-specific levels fall into seven main program areas, the central focus of each being summarized as follows:

1. Municipal Government Maintenance Activities - Ensure development and implementation of appropriate Best Management Practices by all municipalities to control and reduce non-stormwater discharges and polluted stormwater to storm drains and watercourses during operation, inspection, and routine repair and maintenance activities of municipal facilities and infrastructure.
2. New Development and Construction Controls – Use planning authorities to include appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address both soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff flows from new development and redevelopment projects. This goal is to be accomplished primarily through the implementation of low impact development techniques. Municipalities also implement a construction site inspection and control program at all construction sites, with follow-up and enforcement consistent with an enforcement response plan, to prevent construction site discharges of pollutants and impacts on beneficial uses of receiving waters.

### 3. Industrial, Commercial, and Illicit Discharge Controls

- A. Industrial and Commercial Site Controls – Implement an industrial and commercial site control program at all sites which could reasonably be considered to cause or contribute to pollution of stormwater runoff, with inspections and effective follow-up and enforcement to abate actual or potential pollution sources consistent with an enforcement response plan to prevent discharge of pollutants and impacts on beneficial uses of receiving waters.
  - B. Illicit Discharge Detection and Elimination – Implement illicit discharge prohibitions and ensure illicit discharges are detected and controlled. Municipalities shall develop and implement an illicit discharge program that includes an active surveillance component and a centralized complaint collection and follow-up component to target illicit discharge and non-stormwater sources.
4. Public Information and Outreach – Increase the knowledge of the target audiences regarding the impacts of stormwater pollution on receiving water and potential solutions to mitigate the problems caused, change the waste disposal and runoff pollution generation behavior of the target audiences by encouraging implementation of appropriate solutions, and involve various citizens in mitigating the impacts of stormwater pollution.
5. Water Quality Monitoring – Perform water quality monitoring activities to address specific management questions related to the health of San Francisco Bay and local receiving waters, including status and trends monitoring and pollutants of concern/long-term trends monitoring. Additional specific monitoring projects are required, including projects addressing water quality stressor/source identification, Best Management Practices effectiveness evaluations for stormwater treatment or hydrograph modification control, and geomorphic analyses to identify how and where creeks can be restored or protected to cost-effectively reduce the impacts of pollutants, increased flow rates, and increased durations of urban runoff.
6. Pollutants of Concern

- A. Pesticides Toxicity Control – Implement control programs to prevent the impairment of urban streams by pesticide-related toxicity. The control programs addresses municipalities' and others' use of pesticides within municipal jurisdictions that pose a threat to water quality and have the potential to enter the municipal storm drain system. Pesticides of concern include organophosphorous pesticides, pyrethroids, carbamates, and fipronil.
- B. Trash Load Reduction – Implement control measures and other actions to reduce trash loads from municipal storm sewers by 70% by 2017, and 100% or no adverse impacts to receiving waters from trash by 2022. This includes developing and implementing Short-Term Trash Load Reduction Plans, which includes installation and maintenance of trash capture devices within the storm drain system and cleanup and abatement progress on trash hot spots.

- C. Mercury and Polychlorinated Biphenyls (PCBs) – Initiate control programs for mercury and PCBs to implement the urban runoff requirements of the San Francisco Bay mercury and PCBs Total Maximum Daily Loads (TMDLs) and reduce mercury and PCB loads to make substantial progress toward achieving the urban runoff load allocations established in the mercury and PCBs TMDLs. These programs include pilot projects to investigate and abate mercury and PCB sources in drainages, including public rights-of-way, and stormwater conveyances with accumulated sediment that contain elevated mercury and PCB concentrations, to evaluate and enhance municipal sediment removal and management practices, to evaluate on-site stormwater treatment via retrofit, and diversion of dry weather and first flush flows to publicly owned treatment works.
  - D. Copper Controls – Implement control measures identified in the Regional Water Quality Control Board's Basin Plan to support approved copper site-specific objectives for San Francisco Bay. Control measures include managing waste generated from cleaning and treating copper architectural features, managing discharges from pools, spas, and fountains that contain copper-based chemicals, engage in efforts to reduce copper discharged from automobile brake pads to surface waters via urban runoff, and ensuring proper management of copper by industrial sources.
  - E. Polybrominated Diphenyl Ethers (PBDEs), Legacy Pesticides, and Selenium – Implement programs to gather concentration and loading information for PBDEs, legacy pesticides, and selenium to identify, assess, and manage controllable sources of these pollutants in urban runoff, if any.
7. Exempted and Conditionally Exempted Discharges – Implement programs to ensure discharges to the storm drain system with minimal pollutant concern, such as uncontaminated groundwater, diverted stream flows, and pumped groundwater from foundation drains are properly managed and monitored to eliminate adverse impacts to receiving waters.

## **COUNTYWIDE PROGRAM**

The Countywide Program centrally manages the efforts that provide overall benefits to the County and all cities and towns within the county involved with implementation of the Municipal Regional Permit requirements. The seven permit components described above delineate work tasks to be undertaken and completed during the 2021-2022 fiscal year.

The 2021-2022 NPDES Countywide Program Budget was adopted by C/CAG on June 10, 2021 in the amount of \$3,125,467. The City of Brisbane is required to contribute proportionate funding to the Countywide Program. This funding is divided into two categories, the Basic and the Additional Fees. The Basic Fee was established to fund the original Countywide Program activities when the NPDES permit was first adopted. The Additional Fees were established to fund additional Countywide Program activities required by the Regional Board subsequent to establishment of the Basic Fees.

The Basic and Additional Fees are calculated as follows:

**Basic Annual Charges:**

- Single Family Residence: \$3.9527/parcel
- Miscellaneous, Agriculture, Vacant and Condominium: \$1.72/parcel
- All Other Land Uses: \$3.44/parcel for the first 11,000 square feet plus \$0.3127 per 1,000 additional square feet of parcel area

**Additional Annual Charge (Adjusted Annually by Consumer Price Index):**

- Single Family Resident: \$3.6530/parcel
- Miscellaneous, Agriculture, Vacant and Condominium: \$1.9763/parcel
- All Other Land Uses: \$3.6530/parcel for the first 11,000 square feet plus \$0.3593 per 1,000 additional square feet of parcel area

The Countywide Program's Basic and Additional Fees for 2021-2022 that will be charged to the City of Brisbane are estimated at approximately \$9,115 and \$10,588, respectively. The City of Brisbane has historically authorized the Countywide Program to assess and collect the Basic Fees directly through separate property tax assessments, whereas the Additional Fees are paid to C/CAG out of the City's General Fund. This approach prevents the Additional Fees from being billed to property owners.

## **CITY OF BRISBANE LOCAL PROGRAM**

### **City Facilities**

The City of Brisbane is responsible for all public drainage facilities within its jurisdiction that collect stormwater and convey it to San Francisco Bay. Brisbane's facilities include the City's streets, curbs and gutters, catch basins, pipelines, culverts, and open channels.

Stormwater is collected from private property and public streets in two open channels; the Guadalupe Valley Municipal Improvement District (GVMID) Basin Channel and the Bayshore Storm Drain Basin Channel. This stormwater is generally conveyed through these channels to underground box culverts which ultimately outfall to the Bay. The GVMID Basin Channel outfall delivers stormwater via the Lagoon box culvert. This outfall receives water from most of Central Brisbane as well as the Guadalupe Valley and discharges this water into the Lagoon. Stormwater that enters the Lagoon eventually flows to the Bay through two box culverts under US 101. The Bayshore Storm Drain Basin Channel receives stormwater mainly from the undeveloped land in northern Brisbane as well as portions of Daly City and discharges this water to the Bay through a single box culvert under US 101. Stormwater from Sierra Point generally outfalls to the Bay through multiple culverts located along the perimeter of the Sierra Point Peninsula.

During normal rainfall, flooding potential in Brisbane is low. During heavy rains, however, localized flooding can and has occurred in some areas. Some trunk lines, drain pipes, catch basins and other structures are undersized, and additional catch basins are needed. The City's 2003 Storm Drainage Master Plan proposed Capital Improvement Projects to address these issues.

## **Local Program Elements**

The following is a description of City-specific actions that will be implemented to meet the Municipal Regional Stormwater Permit requirements that were generally described previously in this report. These descriptions detail the City-specific efforts that will be performed to address these requirements. Following this description is a summary of the City's stormwater budget for 2021-2022.

1. Municipal Government Maintenance Activities - This program is intended to prevent pollution of stormwater runoff through improvements in municipal government maintenance activities and associated programs. This program focuses on preventing non-stormwater discharges or polluted stormwater associated with street and road repair and maintenance activities, sidewalk/plaza maintenance and pavement washing, bridge and structure maintenance and graffiti removal, and implementing management measures at the City corporation yard. This program includes contractual street sweeping services, development and implementation of a Stormwater Pollution Prevention Plan for the corporation yard, management of the City's maintenance contractors, and participation in Countywide Program subcommittees and activities related to municipal maintenance.
2. New Development and Construction Controls – This program focuses on controlling stormwater pollution from construction sites, new developments, and redevelopment areas. Tasks include developing and implementing planning, inspection, and enforcement procedures, developing and implementing requirements for post-construction controls, inspecting stormwater treatment measures to ensure proper operation and maintenance, and providing education and training to construction site operators. The Municipal Regional Stormwater Permit require municipalities to ensure applicable new and redevelopment projects manage stormwater runoff using Low Impact Development techniques, primarily focused on harvesting and use, evapotranspiration, and infiltration to groundwater. This program includes implementation of planning procedures to ensure all applicable projects incorporate appropriate site design, source control, and stormwater treatment measures.
3. Industrial, Commercial, and Illicit Discharge Controls
  - a. Industrial and Commercial Site Controls – This element of the program is designed to control pollutants discharged to municipal storm drains from commercial and industrial facilities. Specific focus is placed upon facility inspection, providing information and assistance to facility managers about reducing pollutants in stormwater from these facilities, and implementing escalating enforcement responses for instances of non-compliance. This program includes staff participation in Countywide Program subcommittees and compliance with the requirements to develop and implement an information/inspection program, in coordination with existing County Health department commercial/industrial inspection programs.

- b. Illicit Discharge Detection and Elimination – This program element focuses on identifying and eliminating illicit discharges to the storm drain system by identifying major outfalls, conducting inspections of the storm drain system, identifying and eliminating illicit connections, inspecting for evidence of illegal dumping and tracking illicit discharges to their sources, providing information to the public about proper disposal alternatives, and implementing an effective enforcement response plan. This program includes staff participation in Countywide Program activities, City staff monitoring of illicit discharges in coordination with County Hazardous Waste Inspectors, and compliance with inspection procedures and enforcement activities.
- 4. Public Information and Outreach – This program is intended to inform the public about sources of stormwater pollution, how it reaches local waterways, types of common activities that contribute to stormwater pollution, its effects on receiving waters, and to encourage public involvement in reducing the amount of pollutants entering the City's storm drain system. The public information component of this program overlaps with other program elements described below. This program includes participation in Countywide Program activities, dissemination of educational materials, including the preparation of periodic notices to be placed in the local media, and the planning and implementation of local community volunteer activities.
- 5. Water Quality Monitoring – This element of the program on the City level is to support Countywide Program staff in performing required monitoring activities as part of a Regional Monitoring Collaborative with other Bay Area stormwater permittees. This program element includes participation in Countywide Program activities and providing input to Countywide Program staff on proposed monitoring activities and programs.
- 6. Pollutants of Concern
  - a. Pesticides Toxicity Control – This element of the program includes implementation of the City's adopted Integrated Pest Management resolution and ensuring less toxic methods of pest control in all City operations, including activities performed through contractors. City staff also provides outreach materials on less-toxic methods of pest control to the public. This program element includes participation in Countywide Program activities and supporting the Our Water Our World program implementation in local retailers selling pest control materials.
  - b. Trash Load Reduction – This element of the program includes developing and implementing Short and Long-Term Trash Load Reduction plans, identification and annual cleanup/assessment of one trash hot spot, and implementation of various control measures to reduce trash loadings in the City's storm drain system. This program also includes participation in Countywide Program's trash control subcommittee.

- c. Mercury and Polychlorinated Biphenyls (PCBs) – This program element includes providing support to Countywide Program staff on implementation of the required programs and pilot projects for addressing mercury and PCBs. These program elements are primarily managed at the Countywide Program level; however this program element includes funding for City staff participation in relevant Pollutant of Concern subcommittees and activities. The City will investigate opportunities for Green Infrastructure installations to meet our portion of San Mateo County's mercury reduction goals.
  - d. Copper Controls – This program element includes participation and support of Countywide Program efforts directed at regional copper management issues, such as the statewide Brake Pad Partnership, and implementation of local planning, inspection, education, and enforcement efforts to address stormwater discharges from any permitted architectural copper installations or pool, spa, and fountain discharges containing copper algaecides. This program includes City participation in Countywide Program subcommittees and activities related to copper controls.
  - e. Polybrominated Diphenyl Ethers (PBDEs), Legacy Pesticides, and Selenium – This program is primarily managed at the Countywide Program level and includes City staff participation in relevant Countywide Program subcommittees and activities.
7. Exempted and Conditionally Exempted Discharges – This program element includes management and oversight of exempted and conditionally exempted discharges to the City's storm drain system to ensure compliance with permit conditions. This includes City staff implementing management measures for potable water discharges to the storm drain system and ensuring appropriate conditions of approval on new and redevelopment projects to properly manage any exempted or conditionally exempted discharges. This program includes City participation in Countywide Program subcommittees and activities related to exempted and conditionally exempted discharges.
  8. Establish Program and Collect Fees – Implementation of the program requires the City's Finance Department to manage the NPDES Fund and the County Flood Control District to collect the City's Local Program fee in the same manner as the Countywide Program fee. This program includes the Additional Annual Fee collected by C/CAG and funded from the City's General Fund.

#### **Summary of Budget Department 6140 (NPDES)**

1. Salaries and Benefits	\$ 303,588
2. Services and Supplies (excluding anticipated Additional Fees)	\$ 99,012
3. Annual C/CAG NPDES Additional Fees (from General Fund)	\$ 10,588
4. Indirect Costs	<u>\$ 128,135</u>
TOTAL	\$ 541,323



## **USER FEE FORMULA**

### **Method**

The City of Brisbane developed a formula for calculating stormwater fees that remains unchanged since it was first utilized after stormwater fees were authorized by the Council in July 1994. The user fee formula is based on two distinct concepts: (1) an administrative fee should be shared equally by all parcels to cover program administration costs; and (2) an assessment fee should be charged in proportion to the storm drainage service utilized and the amount of pollutants or sediment generated by each type of parcel. Average parcel square footage and assumptions explained below regarding the types of land uses for each zone were used to develop an equitable assessment fee structure.

Generally speaking, residential properties contribute equal amounts of water to the storm drain system. For this reason, the formula charges single-family residential properties a uniform user fee based on estimated runoff from an average single-family property. This practice is common in other cities and is equitable because these properties benefit equally from City-wide services such as public streets, sidewalks and parking.

On average, 50% impervious cover per parcel is generally accepted as the typical impervious area for a single-family residential dwelling. Using an average single-family parcel area of 4,823 square feet and 50% impervious cover, a standard impervious area of 2,411 square feet was defined as an Equivalent Single-family Unit (ESU). In determining the assessment portion of the stormwater user fee for the various parcels in the City, the following formula is used:

$$\text{User Fee} = \text{Single Family Fee} \times (\text{Number of ESUs})$$

The impervious area for non-residential properties and vacant land was devised by use of runoff area and general land characteristics and use. As shown on Exhibit A, entitled "Storm Drain Program Rate Analysis," small commercial and industrial land uses are estimated to have approximately 100% runoff area, large commercial and industrial land uses are estimated to have approximately 80% runoff area, and vacant land is estimated to have 20-50% runoff area, as opposed to single family residential properties, which are estimated to have approximately 50% impervious area. These estimates, along with the other land use runoff area estimates on the attachment, are all consistent with the general runoff coefficients used in standard engineering practices.

For the storm drain user fee formula, current land use classifications are generally consolidated into the following four categories and further broken down to group commercial/industrial and vacant land by average lot size:

1. Single-Family Residential (R-1 and R-2) - This classification is based upon 50% impervious area which equate to a runoff coefficient of 0.5.

2. Multi-Family High Density (R-3) - All the remaining residential classifications are based upon the assumption that the higher density properties, which generally consist of the apartments along San Bruno and Visitacion Avenues and the trailer park, have approximately 100% impervious surface area, as opposed to 50% for single-family properties. This 100% impervious surface area equates to a runoff coefficient of 1.0.

3. Commercial/Industrial (1) & (2) - These classifications are based upon the assumption that most small commercial/industrial land uses in Brisbane (Commercial (1)) have a 100% impervious surface area and larger commercial/industrial land uses, (Commercial (2)) have an 80% impervious surface area, as opposed to 50% for single-family properties. These impervious surface areas equate to runoff coefficients of 1.0 for Commercial (1) and 0.8 for Commercial (2).

4. Vacant Land (3), (4), (5) & (6) - Vacant Land (3) accounts for smaller lots with an area less than 1 acre and with increased runoff coefficients. Vacant Land (4) accounts for mid-sized lots with an area greater than 1 acre but less than 5 acres. Vacant Land (5) accounts for larger lots with an area greater than 5 acres but less than 20 acres. Vacant Land (6) accounts for larger lots with an area greater than 20 acres. These classifications are based upon the assumptions that the smaller parcels have higher runoff coefficients based upon their size and proximity and the larger parcels have little or no impervious surfaces and a typical runoff coefficient of 0.2 to 0.5, as opposed to 0.5 for single-family properties.

In developing the total ESUs, the following uses were designated exempt from fee collection: City Government Activities, Federal and State Government Activities, and Unclassified.

As previously indicated, the City's user fee formula remains unchanged from inception. The charges per parcel include an administrative fee of \$4.50 and the additional fee per ESU of \$4.98. The following table details the total annual charges per parcel based on land use type, which remain unchanged from previous years:

	<u>ESU</u>	<u>Annual Charge</u> <u>Per Parcel**</u>
Single Family Residential	1.00	\$9.48
Multi-Family High Density Residential	3.44	\$21.64
Commercial/Industrial (1)	3.10	\$19.94
Commercial/Industrial (2)	50.14	\$254.20
Vacant Land (3)*	2.78	\$18.34
Vacant Land (4)*	10.17	\$55.16
Vacant Land (5)*	41.70	\$212.18
Vacant Land (6)*	185.40	\$927.80

(1) Land use designation generally within Central Brisbane and Southwest Bayshore

(2) Land use designation generally within all other areas except areas included in (1)

(3) Vacant land with an area less than 1 acre.

(4) Vacant land with an area greater than 1 acre but less than 5 acres.

(5) Vacant land with an area greater than 5 acres but less than 20 acres.

(6) Vacant land with an area greater than 20 acres.

\* Additional vacant land designations were added to equally distribute charges based upon land area and runoff generated. The vacant land areas were divided into groups so that the average parcel size more closely reflected the parcel area and distribution within that designation. This was done by creating new limits as identified in notes 3 through 6 inclusive so that a parcel in the “Acres” was not charged the same as a parcel in the Baylands or in Northwest Bayshore sub-areas.

\*\* Annual charge includes an administrative fee of \$4.50 per parcel.

Please note annual charges have been rounded by \$0.01 in some cases to allow fees to be evenly divided into semi-annual tax bills received by property owners.

### **Fee Summary**

Exhibit A, entitled "User Classification Fee Summary," presents the anticipated fees to be collected for fiscal year 2021-2022. These fees remain unchanged from previous years. As shown, the anticipated income from special assessments is \$52,018.02 which funds nearly half of the services and supplies category of the 2021-2022 NPDES budget

**EXHIBIT A to 2021 ENGINEER'S REPORT FOR STORMWATER MANAGEMENT FEES**  
**STORM DRAIN PROGRAM RATE ANALYSIS**

CATEGORY	# OF PARCELS	TOT. AREA (ACRES)	AVG. AREA (SF)	RUNOFF COEFF.	RUNOFF AREA (SF)	ESU PER CATEGORY
SINGLE FAMILY RESIDENTIAL (R-1)	1,566	109.15	3,036	0.5	1,518	1.00
MULTI-FAMILY RESIDENTIAL (R-3)	45	6.48	6,273	1.0	6,273	3.44
COMMERCIAL/ INDUSTRIAL (1)	172	23.46	5,941	1.0	5,941	3.10
COMMERCIAL/ INDUSTRIAL (2)	73	238.45	142,286	0.8	113,829	50.14
VACANT LAND (3)	109	24.29	9,707	0.5	4,854	2.78
VACANT LAND (4)	33	37.76	49,843	0.4	19,937	10.17
VACANT LAND (5)	14	71.73	223,183	0.3	66,955	41.70
VACANT LAND (6)	8	277.95	1,513,438	0.2	302,688	185.40
<b>TOTALS</b>	<b>2,020</b>	<b>789.27</b>				

(1) LAND USE DESIGNATION GENERALLY WITHIN CENTRAL BRISBANE, AND SOUTHWEST BAYSHORE

(2) LAND USE DESIGNATION GENERALLY WITHIN ALL OTHER AREAS EXCEPT AREAS INCLUDED IN (1)

(3) VACANT LAND WITH AN AREA LESS THAN 1 ACRE

(4) VACANT LAND WITH AN AREA GREATER THAN 1 ACRE BUT LESS THAN 5 ACRES

(5) VACANT LAND WITH AN AREA GREATER THAN 5 ACRES BUT LESS THAN 20 ACRES

(6) VACANT LAND WITH AN AREA GREATER THAN 20 ACRES

CATEGORY	# OF PARCELS	ADMIN. FEE	ESU	TOTAL ESUs	ASSMT/ PARCEL	ASSMT. FEE TOT.	TOT. FEE/ PARCEL	TOTAL FEES
SINGLE FAMILY RESIDENTIAL (R-1)	1566	\$7,047.00	1.00	1566.00	\$4.98	\$7,798.68	\$9.48	\$14,845.68
MULTI-FAMILY RESIDENTIAL (R-3)	45	\$202.50	3.44	154.80	\$17.14	\$771.30	\$21.64	\$973.80
COMMERCIAL/ INDUSTRIAL (1)	172	\$774.00	3.10	533.20	\$15.44	\$2,655.68	\$19.94	\$3,429.68
COMMERCIAL/ INDUSTRIAL (2)	73	\$328.50	50.14	3660.22	\$249.70	\$18,228.10	\$254.20	\$18,556.60
VACANT LAND (3)	109	\$490.50	2.78	303.02	\$13.84	\$1,508.56	\$18.34	\$1,999.06
VACANT LAND (4)	33	\$148.50	10.17	335.61	\$50.66	\$1,671.78	\$55.16	\$1,820.28
VACANT LAND (5)	14	\$63.00	41.70	583.80	\$207.68	\$2,907.52	\$212.18	\$2,970.52
VACANT LAND (6)	8	\$36.00	185.40	1483.20	\$923.30	\$7,386.40	\$927.80	\$7,422.40
<b>TOTALS</b>	<b>2,020</b>	<b>\$9,090.00</b>				<b>\$42,928.02</b>		<b>\$52,018.02</b>

TOTAL FEES = \$52,018.02  
 CARRY OVER (estimated) = \$0.00

ADMIN. FEE / PARCEL = \$4.50  
 ASSMT. FEE / ESU = \$4.98

**File Attachments for Item:**

R. Baylands Planning Process Update and Consideration of Preliminary Comments

(This item was discussed at the City Council Meeting of June 17, 2021 and discussion will be continued at this meeting.)

**MEMO****Meeting Date: July 15, 2021****From: Ingrid Padilla, City Clerk****Subject: Baylands Planning Process Update and Consideration of Preliminary Comments**

This item was discussed at the City Council Meeting of June 17, 2021. Council discussion is being continued at this meeting.

Attachment 1: Staff Report from the City Council Meeting of June 17, 2021



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 17, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Baylands Planning Process Update and Consideration of Preliminary Comments

### Community Goal/Result

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability.

Fiscally Prudent - Brisbane's fiscal vitality will reflect sound decisions which also speak to the values of the community.

Economic Development - Brisbane will work with the businesses and residents to provide for economic vitality/diversity.

### Purpose

Provide an update on the Baylands planning process and consider comments/suggestions by Baylands subcommittee councilmembers regarding project goals and objectives.

### Recommendation

Receive report and forward comments/suggestions to the developer (Baylands Development Inc., "BDI").

### Background

BDI submitted a preliminary draft of the Baylands Specific Plan to the City in spring 2021. A high-level overview of the preliminary plan is included as Attachment 1. Submission of this preliminary draft plan has triggered several levels of preliminary review by the City, which are ongoing.

City review steps include:

1. **City staff and consultant review of the preliminary plan to determine if it meets minimum legal and technical requirements to allow for processing.** State law establishes numerous legal and technical requirements regarding what information must be provided in a specific plan. While review of the preliminary plan to determine if it meets these requirements is ongoing, it appears that revisions will be required to meet minimum legal and technical requirements for the content of the specific plan. This ongoing review is not an evaluation of whether the plan (or any aspects of it) are acceptable or unacceptable from a policy standpoint. That evaluation will occur through the public process once the plan meets minimum content requirements and can be released for public review. No action will be taken by the City Council until both the Specific



Plan and its Final Environmental Impact Report have been prepared and reviewed by the public and City.

2. **City staff and consultant review to determine if the submittal includes an adequate description of the project and supporting information to allow for preparation of a Draft Environmental Impact Report (EIR).** As the City Council is aware, a project-level EIR is required for the Specific Plan. Completion of an adequate draft EIR requires a stable project description with a sufficient level of detail and supporting technical information to allow for meaningful environmental analysis. While the City's review is ongoing, some informational gaps have already been identified. Identifying the project objectives and clarifying aspects of the specific plan is needed for the City to develop an accurate project description for the draft EIR.
  
3. **City Council-level review of project objectives associated with the preliminary draft plan.** The City Council has demonstrated a deep commitment to proactively engaging with the developer in the Baylands planning process. Councilmembers Cunningham and Lentz have participated in this process through their roles on the Baylands Subcommittee, along with Planning Commissioner Sayasane. Other city appointed advisory members have also attended Baylands subcommittee meetings. Since the preliminary draft specific plan was submitted, the Baylands subcommittee has met several times with BDI to gain a better understanding of the preliminary plan and many of the broad goals and concepts which are foundational to the developer's proposal and project objectives. The subcommittee process was not intended or structured as a formal plan review process: rather it was intended to be venue for information sharing and dialogue. Based on this process, Councilmembers Cunningham and Lentz have identified a number of important project objectives and questions about the preliminary draft plan that they wanted to bring up to the full City Council. If the City Council shares these broad concerns, it would be appropriate for these comments to be forwarded to BDI for their consideration. This issue is discussed in more detail in the discussion section of this staff report below.

## Discussion

The City Council subcommittee members worked with the City's urban design and planning consultant (MIG) to define a list of observations/questions with the draft plan, as well as other goals or features they would encourage the developer to consider incorporating into the draft plan (see Attachment 2). This effort was focused on project objectives and was not intended as a detailed review of the preliminary plan. MIG will be making a presentation on these broad issues at tonight's meeting. It will be up to the full Council to determine which comments, if any, are provided at this stage to BDI for their consideration. Please note that the comments are intentionally presented in the form of observations and suggestions. Given the project will be subject to a formal public review process it would be premature and inappropriate for the City Council to offer comments at this point in time in the form of specific recommendations and/or requirements. The developer has the legal right to control the content of their proposed plan for the Baylands as it is submitted to the City for review. The city ultimately retains the right to approve, modify or deny the plan as submitted after considering the Final EIR on the plan and all public input and testimony.

### *Next Steps*

The results of the staff analysis discussed above, and any City Council comments will be forwarded to BDI. While the City Council's comments are advisory in nature, the legal and technical issues addressed in staff's completeness review noted above (items 1 & 2 in the background section of this report) must ultimately be addressed to allow the formal public specific plan review process and EIR preparation to commence.

### **Fiscal Impact**

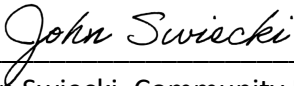
None.

### **Measure of Success**

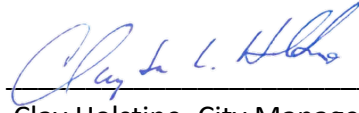
For the City Council to provide meaningful proactive input to BDI in the further refinement of the project description for the draft Baylands Specific Plan EIR.

### **Attachments**

1. Summary – Preliminary Draft Specific Plan
2. Suggested City Council Comments



John Swiecki, Community Development Director



Clay Holstine, City Manager

## Attachment 1

### Baylands Specific Plan Summary

The Baylands Specific Plan proposes development of 2,200 residential units; 6.5 million square feet of retail, office, service commercial, R&D, light industrial, and campus uses. An additional 500,000 square feet of hotel use is also proposed within the 684-acre Specific Plan area, along with open space, parks, and trails.

Per the requirements of the Brisbane General Plan and Measure JJ, residential uses are clustered in the northwestern portion of the site in proximity to the Bayshore Caltrain station west of the Caltrain right-of-way and north of the intersection of Bayshore Boulevard and Main Street. The majority of commercial development (4.5 million square feet) is located within the 201-acre western portion of the Baylands between Bayshore Boulevard and the Caltrain right-of-way, with 2.5 million square feet of commercial development proposed in a campus-like setting along the US 101 freeway in the 319-acre eastern portion of the site.

Buildings within the western portion of the site are proposed to be primarily low- to mid-rise (2-8 stories)<sup>1</sup>. However, 20+ story residential and commercial buildings are proposed along the west side of the Caltrain right-of-way from the Caltrain station south to Main Street. Buildings within the eastern portion of the site are proposed with a maximum of 4 stories.

Following introductory material, the Specific Plan describes BDI's plan for development of the Baylands in the following chapters:

- Site Assessment and Phasing
- Land Use & Community Design
- Conservation and Open Space
- Circulation
- Sustainability Framework
- Site Engineering
- Public Facilities Finances
- Implementation
- Hazardous Materials

The key provisions of each Specific Plan chapter are summarized below.

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<sup>1</sup> The Specific Plan addresses building heights in terms of the maximum number of stories rather than in feet.

## SITE ASSESSMENT AND PHASING

This Specific Plan chapter provides background information for the Baylands, including the project's location, existing conditions, land ownership, and history. This chapter also describes proposed phasing of development. In general, development is proposed to begin in the western portion of the Baylands, progressing from north to south once site remediation is completed. Development in the eastern, landfill portion of the Baylands will generally follow development of the western, railyard portion. Title 27 landfill closure will progress in phases as soil materials needed for remediation and development of the former railyard are exported from the landfill footprint to the western portion of the site.

## LAND USE & COMMUNITY DESIGN

The attached Specific Plan Figure 3.1 illustrates the proposed land use plan for the Baylands. Specific Plan Table 3.2 (also attached) quantifies the Specific Plan's land use and development program.

The Specific Plan does not include maximum residential densities or maximum floor area ratios for individual land use designations. Instead, it identifies the maximum number of dwelling units and commercial building square footages for the various districts illustrated in the attached Figures 3.2 through 3-10. As shown on the proposed land use plan and district land use "key maps," eleven land use designations are proposed. The Specific Plan distinguishes the various residential and non-residential land use designations indicated in Figure 3.1 from each other by the product types that are permitted. Each of the eleven land use designations and permitted product types addressed in the Specific Plan are described below.

- **Residential Land Use Designations**

- Low-Density Residential consists of a mix of the following product types:
  - Duplex/Single Family units include larger 3-story freestanding or paired units with an allowable 4<sup>th</sup> story deck and penthouse space. These units may be alley-loaded with individual garages and are only permitted within Low Density Residential land use designations.
  - Townhome units include 3-story townhomes of varying lot widths and depths, with an allowable 4<sup>th</sup> story roof deck and penthouse space. This style of housing provides parking below grade or in garages. Townhomes are proposed to be located facing streets or interior block courtyards. This style of housing is permitted within the Low- and Mid-Density Residential land use designations.
  - Multi-Family Low includes 2-3 story buildings with no more than 22 units per building. These may be designed as townhome units over single story flats or stacked townhomes, with an allowable 4<sup>th</sup> story roof deck and penthouse space. Parking is planned to be provided below grade.





FIGURE 3.1 LAND USE

	Land Use Category	Acres	Dwelling Units	Commercial BUA
<b>West</b>	Residential	55.0	2,200	
	Commercial	46.4		4,500,000
	Open Space	50.5		
	Other Uses *	11.4		
	Rights-of-Way	37.7		
	<b>Sub - Total</b>	<b>201.0</b>	<b>2,200</b>	<b>4,500,000</b>
<b>East</b>	Commercial	141.0		2,500,000
	Open Space	80.3		
	Industrial	24.1		
	Other Uses *	46.5		
	Rights-of-Way	27.1		
	<b>Sub - Total</b>	<b>319.0</b>		<b>2,500,000</b>
<b>Total Developable</b>		<b>266.5</b>		
<b>Total Open Space</b>		<b>130.8</b>		
<b>Total Other Uses</b>		<b>57.9</b>		
<b>Total Right-of-Ways</b>		<b>64.8</b>		
<b>TOTAL PROGRAMABLE</b>		<b>520.0</b>		
<b>Brisbane Lagoon</b>		<b>92.2</b>		
<b>California Land State Commission</b>		<b>29.6</b>		
<b>Recology</b>		<b>3.6</b>		
<b>Golden State Lumber</b>		<b>5.5</b>		
<b>Caltrain ROW</b>		<b>33.1</b>		
<b>TOTAL OUT-PARCELS</b>		<b>164.0</b>		
<b>TOTAL BAYLANDS</b>		<b>684.0</b>	<b>2,200</b>	<b>7,000,000</b>

\* Other Uses include buffer zones, water treatment/detention and sea level rise

**TABLE 3.2 LAND USE & DEVELOPMENT PROGRAM**



**FIGURE 3.2 DISTRICT CONCEPT**

Districts	Land Uses
Bayshore - Geneva north, Mixed-Use Area	High Density Comm. High Density Residential Mid Denity Residential Low-Density Residential
Roundhouse - Geneva south Residential	High-Density Residential Low-Density Residential
Icehouse Hill - South of Main St.	Mid-Density Commercial Project Amenities
Campus East - East Side	Low Density Commercial Industrial



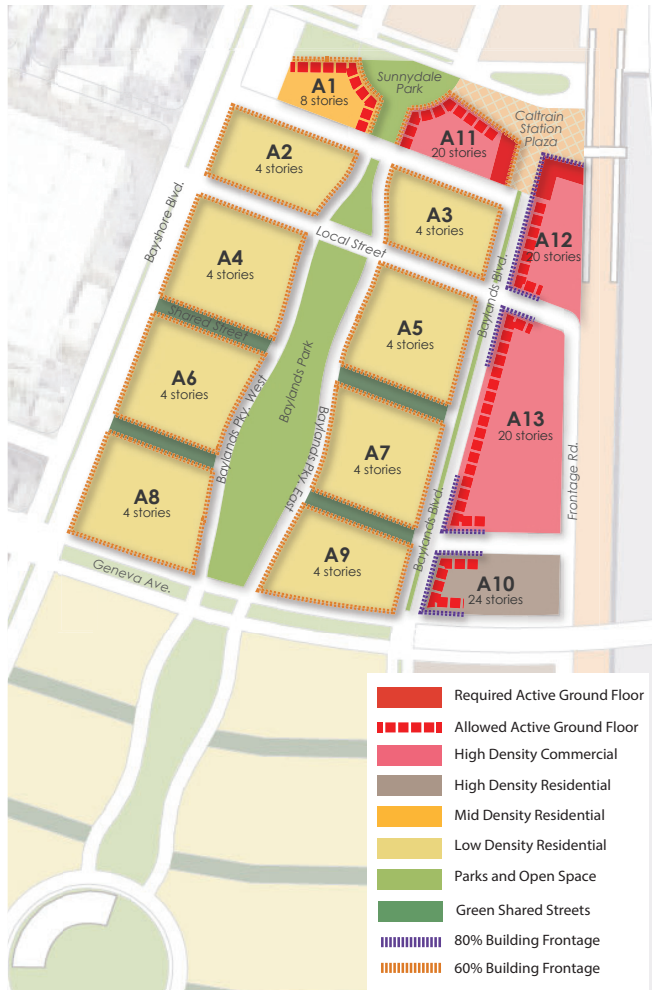


FIGURE 3.3 BAYSHORE LAND USE KEY MAP



FIGURE 3.4 BAYSHORE VEHICULAR ACCESS MAP

Block Number	Land Use	DUs per Block (max.)	Building Types Permitted
<b>A1</b>	Mid Density Res.	170	R-2,3,4
<b>A2</b>	Low Density Res.	55	R-3,4,5
<b>A3</b>	Low Density Res.	45	R-3,4,5
<b>A4</b>	Low Density Res.	70	R-3,4,5
<b>A5</b>	Low Density Res.	65	R-3,4,5
<b>A6</b>	Low Density Res.	65	R-3,4,5
<b>A7</b>	Low Density Res.	65	R-3,4,5
<b>A8</b>	Low Density Res.	80	R-3,4,5
<b>A9</b>	Low Density Res.	70	R-3,4,5
<b>A10</b>	High Density Res.	200	R-1,4
<b>District Max (not to be exceeded)</b>			
		700	

TABLE 3.6 BAYSHORE DISTRICT

Block Number	Land Use	Commercial BUA (ft²) (max.)	Building Types Permitted
<b>A11</b>	High Density Comm.	200,000	C-1,4
<b>A12</b>	High Density Comm.	450,000	C-1,4
<b>A13</b>	High Density Comm.	550,000	C-1,4
<b>District Max (not to be exceeded)</b>			
		1,100,000	

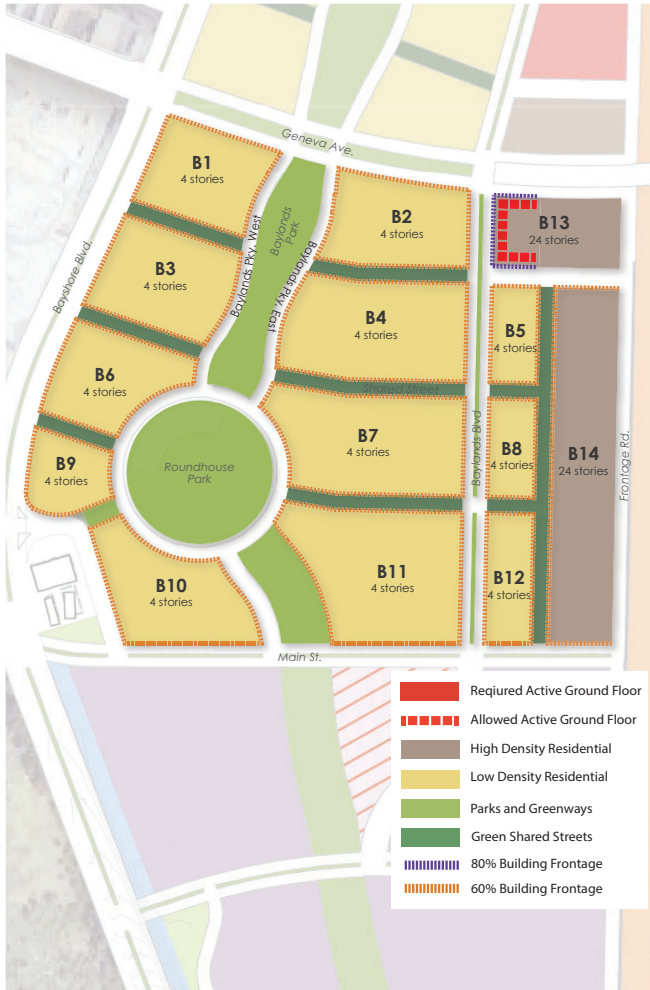


FIGURE 3.5 ROUNDHOUSE LAND USE KEY MAP

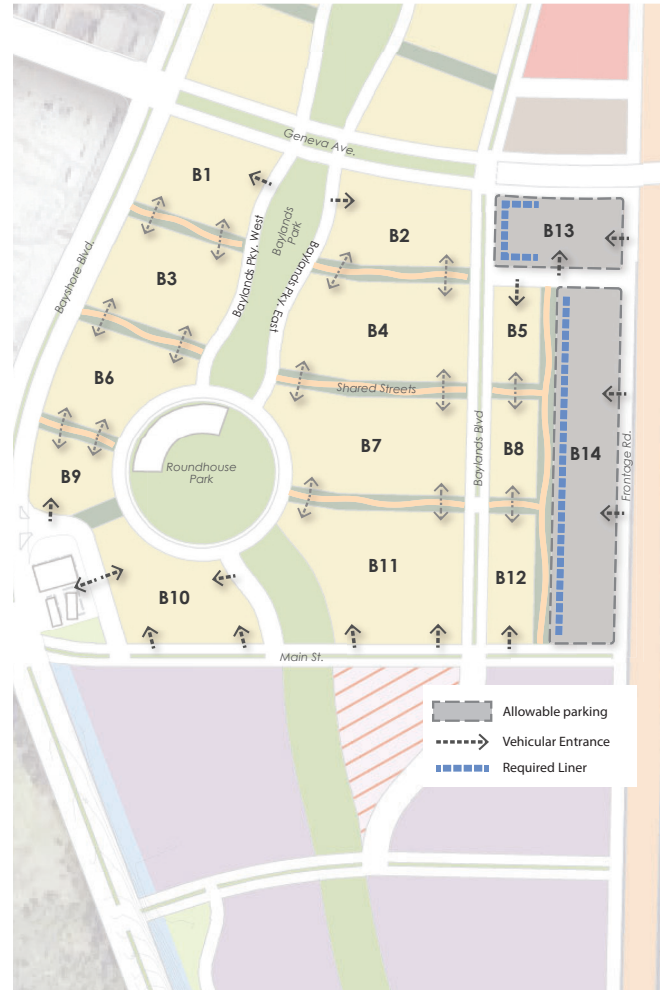


FIGURE 3.6 ROUNDHOUSE VEHICULAR ACCESS MAP

Block Number	Land Use	DUs per Block (max.)	Building Types Permitted
<b>B1</b>	Low Density Res.	75	R-3,4,5
<b>B2</b>	Low Density Res.	75	R-3,4,5
<b>B3</b>	Low Density Res.	80	R-3,4,5
<b>B4</b>	Low Density Res.	110	R-3,4,5
<b>B5</b>	Low Density Res.	35	R-3,4,5
<b>B6</b>	Low Density Res.	65	R-3,4,5
<b>B7</b>	Low Density Res.	115	R-3,4,5

TABLE 3.7 ROUNDHOUSE DISTRICT

Block Number	Land Use	DUs per Block (max.)	Building Types Permitted
<b>B8</b>	Low Density Res.	40	R-3,4,5
<b>B9</b>	Low Density Res.	40	R-3,4,5
<b>B10</b>	Low Density Res.	70	R-3,4,5
<b>B11</b>	Low Density Res.	130	R-3,4,5
<b>B12</b>	Low Density Res.	50	R-3,4,5
<b>B13</b>	High Density Res.	185	R-1,4
<b>B14</b>	High Density Res.	700	R-1,4
<b>District Max (not to be exceeded)</b>		1,500	



FIGURE 3.7 ICEHOUSE HILL LAND USE KEY MAP

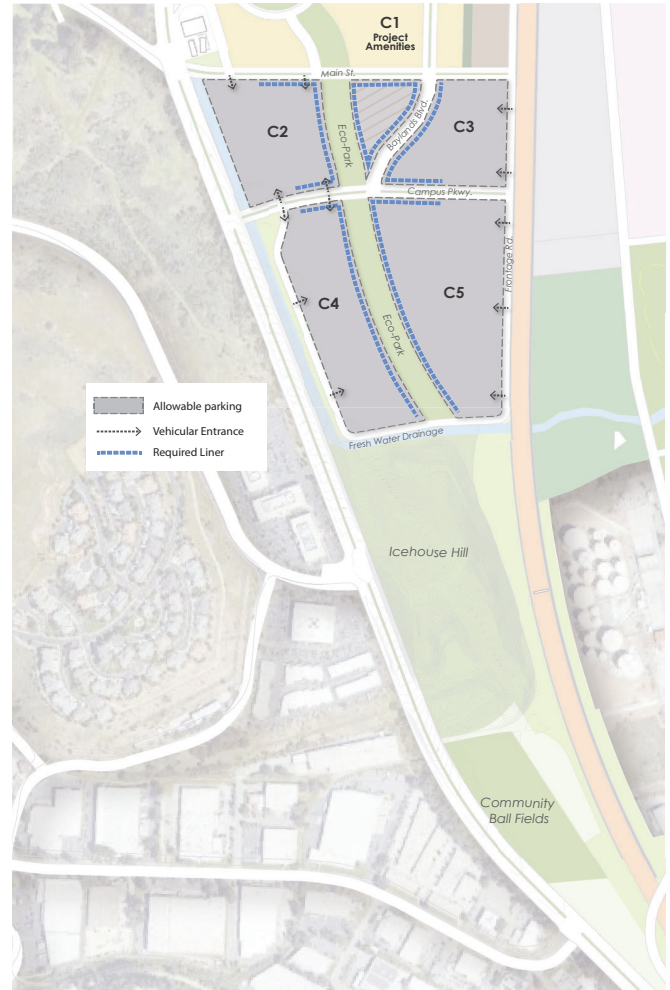


FIGURE 3.8 ICE HOUSE HILL VEHICULAR ACCESS MAP

Block Number	Land Use	Commercial BUA (ft²)(max.)	Building Types Permitted
<b>C1</b>	Mid Density Comm.		C-6
<b>C2</b>	Mid Density Comm.	800,000	C-2
<b>C3</b>	Mid Density Comm.	750,000	C-2
<b>C4</b>	Mid Density Comm.	1,000,000	C-2
<b>C5</b>	Mid Density Comm.	1,150,000	C-2
<b>District Max</b> (not to be exceeded)		3,400,000	

TABLE 3.8 ICEHOUSE HILL DISTRICT





FIGURE 3.9 EAST CAMPUS LAND USE KEY MAP



FIGURE 3.10 EAST CAMPUS VEHICULAR ACCESS MAP

Block Number	Land Use	Commercial BUA (ft²)(max.)	Building Types Permitted
<b>D1</b>	Industrial	40,000	C-5
<b>D2</b>	Industrial	170,000	C-5
<b>D3</b>	Low Density Comm	40,000	C-3
<b>D4</b>	Low Density Comm	75,000	C-3
<b>D5</b>	Low Density Comm	650,000	C-3
<b>D6</b>	Low Density Comm	1,000,000	C-3
<b>D7</b>	Low Density Comm	1,000,000	C-3
<b>District Max (not to be exceeded)</b>		2,500,000	

TABLE 3.9 EAST CAMPUS DISTRICT

This building type is only permitted within Low-Density Residential areas.

- Mid-Density Residential consists of a mix of the following product types:
  - Multi-Family Mid includes mid-rise buildings up to a maximum of 8 stories. This building type is generally located along major roads, such as Geneva Avenue and Bayshore Boulevard. Multi-Family Mid buildings are allowed in Mid- and High-Density Residential land use designations. Parking is proposed to be provided below grade or in single level podium above street level below residential dwelling units. This product type is proposed to have active ground floor retail and active pedestrian environments at specified locations.
  - Townhome units as described above.
- High-Density Residential consists of a mix of the following product types:
  - Multi-Family Mid includes mid-rise buildings up to a maximum of 8 stories generally located along major roads, such as Geneva Avenue and Bayshore Boulevard.
  - Multi-Family High provides for buildings with a maximum of 24 stories along a frontage road west of the Caltrain rail line. Structured parking within these residential towers is planned with access from the proposed frontage road. Multi-Family High buildings may have ground floor retail and active pedestrian environments at specified locations. This type of building is limited to the High-Density Residential land use designation.
- **Commercial and Industrial Land Use Designations**
  - Low-Density Commercial
    - Campus Low-Rise buildings have a maximum of 6 stories. Designed primarily for office use, these buildings may also provide ground floor retail and public services uses.
    - Hospitality buildings have a maximum of 22 stories, providing floor plates appropriate for a diversity of commercial uses. This building type is intended for use in the transit plaza area adjacent to the Bayshore Caltrain station.

- Mid-Density Commercial
  - Campus Low-Rise buildings as described above.
  - Campus Mid-Rise buildings have a maximum of 8 stories, providing for a range of commercial and office uses. Designed primarily for office use, these buildings may also provide have ground floor retail and public services uses. Campus Mid-Rise buildings are proposed to orient toward open space areas in a campus like setting.
  - Hospitality buildings as described above.
- High-Density Commercial
  - TOD Commercial buildings are proposed near the Caltrain Station to have a variety of commercial uses with a maximum height of 20 stories. Designed primarily for office use, these buildings may also provide have ground floor retail and public services uses.
  - Hospitality buildings as described above.
- Project Amenities
  - Amenity buildings up to a maximum of 3 stories are proposed to contain floorplates appropriate for amenities such as meeting rooms, recreation, restaurants, and clubhouse use.
- Industrial
  - Industrial buildings are proposed as 1-2 story buildings with large floor plates appropriate for a variety of utility, infrastructure, and industrial uses along the east side of the Caltrain right-of-way.
- **Other Land Use Designations**
  - Open Space
    - Open Space lands provide for a variety of habitat conservation and recreational functions. A total of 130.8 acres are designated open space, representing the required 25% of the Baylands 520-acre upland area.
  - Water Detention
    - Water detention areas are proposed to provide for appropriate drainage of the site. They are designed as landscaped basins that detain peak stormwater runoff flows. Detention basins are also designed to provide habitat conservation functions.
  - Buffer
    - Buffer areas are designated to provide for physical separation from the Kinder Morgan Tank Farm.

## CONSERVATION AND OPEN SPACE

The Conservation and Open Space chapter provides an open space plan consisting of active and passive recreational uses, habitat conservation and ecosystem improvements that would occur following site remediation and landfill closure, and “improvements to the quality of hydrologic systems.” A total of 130.8 of upland open space are proposed, representing 25.1 percent of the Baylands’ approximately 520-acre upland area. The existing Brisbane Lagoon will be preserved and expand over time as the result of sea level rise. The proposed open space plan is illustrated in the attached Specific Plan Figures 4.1.1, 4.1.2, and 4.3.3. Conceptual plans are provided in the Specific Plan for the various proposed urban plazas, active recreation areas, community greens, and ecological greenspaces. Included in the ecological greenspaces are plans for restoration of 37.8 acres of Visitacion Creek and wetland habitat creation within the proposed 29.3-acre Lagoon Park along the north side of the Brisbane Lagoon. The Specific Plan notes that an Open Space Phasing plan is forthcoming.

## CIRCULATION

The Circulation chapter provides a mobility plan for roadway and streetscapes, an “active transportation network” consisting of bicycle and pedestrian facilities, and a transit network. The Specific Plan provides for construction of the Geneva Avenue extension, including a bridge over the Caltrain rail line, but does not address future improvements to the Candlestick interchange on the US 101 freeway.

The Specific Plan states that a main goal of Baylands development is to “shape public space in a way that enables people to be less dependent on cars.” This goal is expressed through walking and bicycling networks that include shared-use paths, bike lanes, sidewalks, and “green streets,” which are curbside local streets within residential areas that prioritize pedestrians and bicyclists, while accommodating vehicular movements within a shared roadway (see illustration from the Specific Plan, below).

The Baylands mobility plan is illustrated in the following Specific Plan figures.

- Figure 5.4, Baylands Street Network by Functional Classification
- Figure 5.5, Baylands Pedestrian Network
- Figure 5.6, Baylands Bicycle and Micro-Mobility Network
- Figure 5.7, Baylands Transit and Shuttle Connections
- Illustration of a shared green street.

In addition, the Specific Plan proposes maximum parking ratios for residential product types ranging from 1.0 to 1.5 spaces per dwelling unit for multi-family products and 2.0 spaces per unit for duplex/single family dwelling units. Commercial parking is capped at a maximum of 2.0 to 3.0 spaces per 1,000 square feet of building area.





FIGURE 4.1.1 SITE OPEN SPACE &amp; OPEN AREA



FIGURE 4.1.2 KEY HABITAT AREAS AND ADJACENT HABITAT





FIGURE 4.3.3 LANDSCAPE TYPOLOGIES





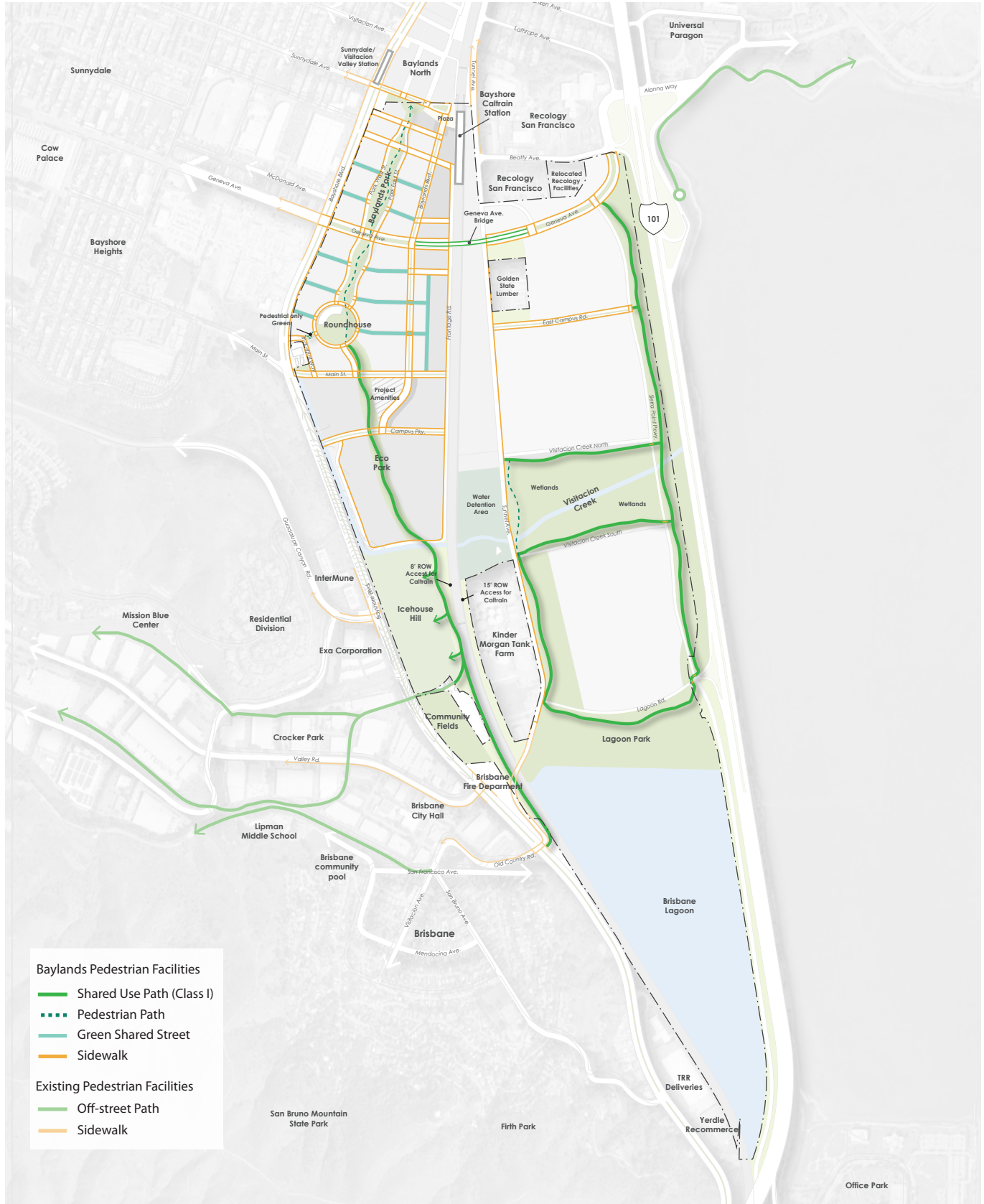
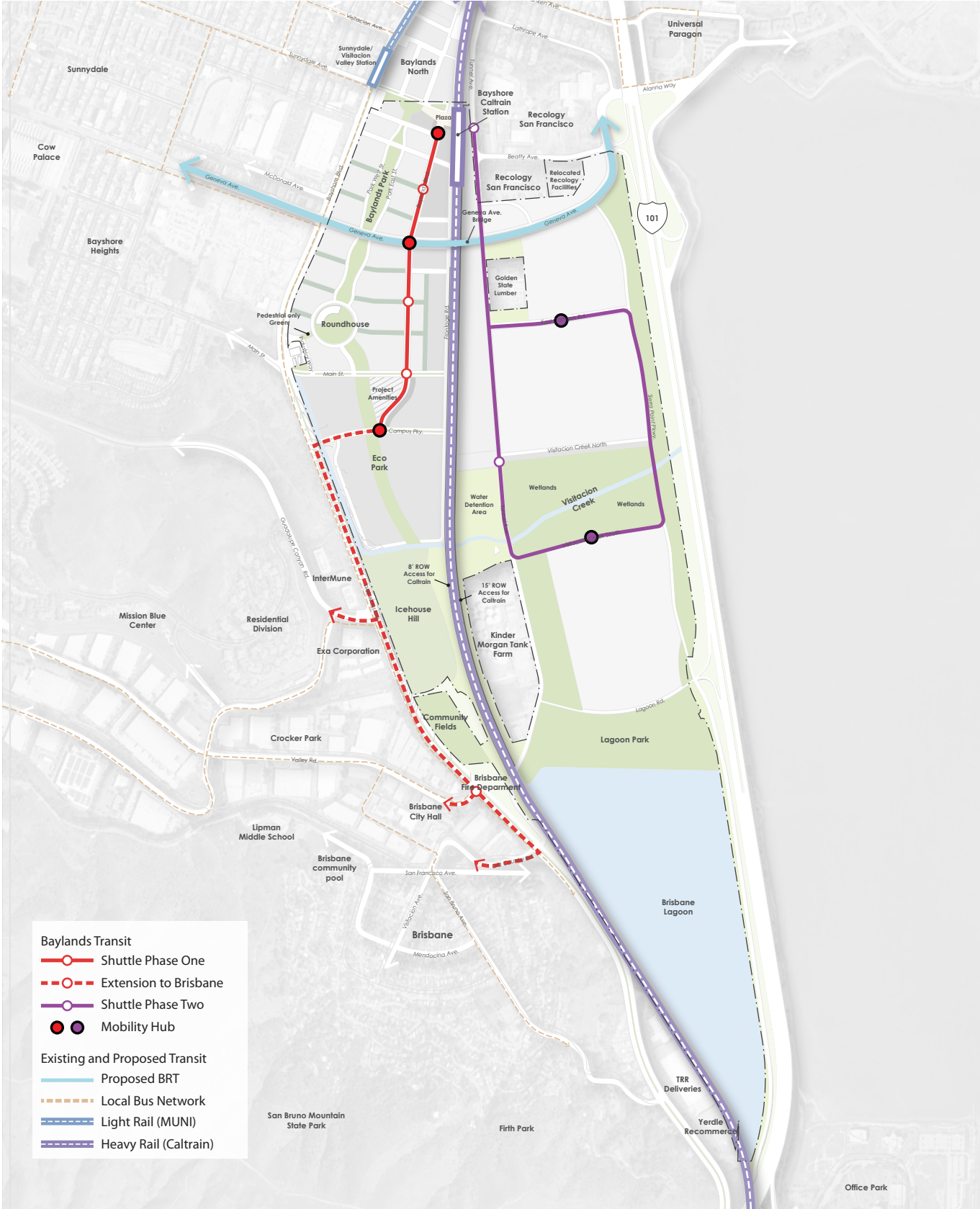


FIGURE 5.5: BAYLANDS PEDESTRIAN NETWORK





### FIGURE 5.7: BAYLANDS TRANSIT AND SHUTTLE CONNECTIONS





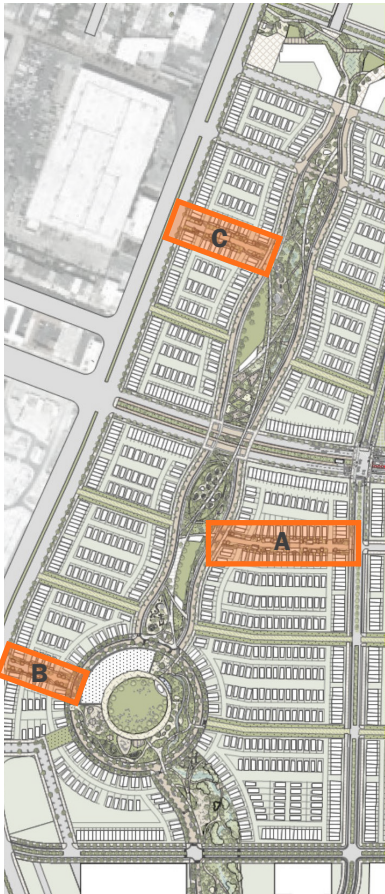
SITE PLAN A - GREEN SHARED STREET, NEIGHBORHOOD POCKETS WITH URBAN GATHERING (ILLUSTRATIVE ONLY)



SITE PLAN B - GREEN SHARED STREET, SUPERSTOOP (ILLUSTRATIVE ONLY)



SITE PLAN C - GREEN SHARED STREET, URBAN GATHERING (ILLUSTRATIVE ONLY)



KEY MAP

## SUSTAINABILITY FRAMEWORK

The Specific Plan recognizes the requirements set forth in the Brisbane General Plan and Measure JJ that Baylands development be consistent with the principles of the Sustainability Framework for the Brisbane Baylands.

Table 1, below, identifies each of the One Planet Principles addressed in the Sustainability Framework, the goal described by BDI in the Baylands Specific Plan related to each principle, and the various strategies proposed in the Specific Plan to achieve each goal.

**Table 1: Responsibilities for Developing Performance Standards Addressing One Planet's Ten Principles**

One Planet Principle <sup>2</sup>	Goal <sup>3</sup>	Proposed Sustainability Strategies
Zero Carbon Buildings	Making buildings and manufacturing energy efficient and supplying all energy with renewables.	<ul style="list-style-type: none"> <li>• All-electric high-performance buildings to minimize energy consumption.</li> <li>• Annual energy use and carbon emissions to be offset with large-scale onsite renewable energy generation and potential use of battery storage.</li> </ul>
Zero Waste	Reducing consumption, re-using and recycling to achieve zero waste and zero pollution.	<ul style="list-style-type: none"> <li>• Zero waste programs, including construction waste reduction, building operational waste and user product waste reduction, and sustainably managed food sources.</li> </ul>
Sustainable Transportation	Reducing the need to travel, encouraging walking, cycling, and low carbon transport.	<ul style="list-style-type: none"> <li>• Mixed-use high intensity development to vehicle travel, including residential and commercial development within walking distance of the Bayshore Caltrain station.</li> <li>• Improved access to the Bayshore Caltrain station.</li> <li>• Comprehensive network of pedestrian and bicycle facilities providing connectivity within the site and to the surrounding community.</li> <li>• Use of maximum allowable parking ratios to encourage use of transit and non-motorized travel, as well as to reduce the presence of automobiles within the site.</li> <li>• Electric vehicle charging infrastructure in key locations throughout the development to encourage use of electric rather than fossil fuel vehicles.</li> </ul>

<sup>2</sup> From *Sustainability Framework for the Baylands*.

<sup>3</sup> From *The Baylands Specific Plan*, April 2021.

One Planet Principle <sup>2</sup>	Goal <sup>3</sup>	Proposed Sustainability Strategies
Local and Sustainable Materials	Using materials from sustainable sources and promoting products which help people reduce consumption.	<ul style="list-style-type: none"> <li>• Track materials used in construction against sustainability metrics for health and embodied carbon.</li> <li>• Components will largely be manufactured off-site, improving quality/durability and reducing waste.</li> </ul>
Local and Sustainable Food	Promoting sustainable humane farming and healthy diets high in local, seasonal organic food and vegetable protein.	<ul style="list-style-type: none"> <li>• Weekly farmers market.</li> <li>• Provide for food truck operators at key central nodes within the Baylands.</li> <li>• Provide for community gardens as permitted per approved remediation plans.</li> </ul>
Sustainable Water	Using water efficiently, protecting local water resources and reducing flooding and drought.	<ul style="list-style-type: none"> <li>• Building water efficiency, including use of reclaimed water for building plumbing systems and outdoor landscape irrigation.</li> <li>• Use of efficient drip and “smart” irrigation systems.</li> <li>• Manage stormwater and protect structures from the 100-year flood event with consideration to projected sea level rise through 2100.</li> </ul>
Open Space and Habitat	Protecting and restoring land for the benefit of people and wildlife.	<ul style="list-style-type: none"> <li>• Site restoration and Title 27 landfill closure.</li> <li>• 25% of the total site area reserved for open space.</li> <li>• Preservation of the 92.2-acre lagoon.</li> <li>• Habitat conservation and enhancement as illustrated in Specific Plan Figures 4.1.2, and 4.3.3.</li> <li>• Adaptation to sea level rise as projected through 2100.</li> </ul>
Culture and Heritage	Nurturing local identity and heritage, empowering communities, and promoting a culture of sustainable living.	<ul style="list-style-type: none"> <li>• Restore the historic Roundhouse for community uses.</li> <li>• Provide interpretive signage in appropriate locations throughout the Baylands.</li> <li>• Provide a community clubhouse for use by residents for recreation and community gatherings.</li> <li>• Art in public places program.</li> </ul>
Economic Vitality with Equity and Ecology	Creating safe, equitable places to live and work which support local prosperity and international fair trade.	<ul style="list-style-type: none"> <li>• Development of an under-utilized, contaminated site into a “vibrant, diverse/mixed-use and sustainable new community.”</li> <li>• Commercial land use designations provide for tech and biotech uses and</li> </ul>

One Planet Principle <sup>2</sup>	Goal <sup>3</sup>	Proposed Sustainability Strategies
		allow for incubator space for start-up companies. • Provide an “appropriate mix of housing types.”
Recreation, Health, and Happiness	Encouraging active, social, meaningful lives to promote good health and wellbeing.	• Outdoor recreation areas as illustrated in Specific Plan Figure 4.1.1. • Recreation areas within residential site-specific residential developments. • Project-wide system of shared-use paths, bicycle facilities, and sidewalks, and “green streets.”

## SITE ENGINEERING

This chapter of the Specific Plan describes proposed grading, as well as proposed storm drainage, sanitary sewer, potable water, non-potable (recycled) water, and energy infrastructure needed for the Baylands.

### Grading

Site grading is anticipated to involve the movement of approximately 4,250,000 cubic yards of soil, including movement of approximately 2,400,000 cubic yards of soil from the existing landfill footprint to the former railyard area. Finished grades within the existing landfill footprint following completion of grading activities is planned to vary between 17 to 47 feet above mean sea level prior to settlement<sup>4</sup>. Finished grades within the existing landfill footprint will primarily vary from 8-15 feet in elevation adjacent to Bayshore Boulevard and portion of the Caltrain right-of-way to 25 feet above mean sea level for proposed development areas.

### Stormwater Drainage

The storm drainage concept for the Baylands emphasizes natural stormwater management using an improved Visitacion Creek, mitigation wetlands, stormwater detention, and stormwater treatment. A combination of underground storm drains and naturalized open channels will be used to accommodate stormwater and support wetland restoration along Visitacion Creek.

### Potable Water

The Specific Plan provides for construction of a potable water system to City of Brisbane design criteria. The Specific Plan does not at this time identify a firm water source for Baylands

<sup>4</sup> The Specific Plan and its Infrastructure Plan appendix note that the geotechnical study for the landfill site, which will determine planned settlement within the landfill is forthcoming.

development. The applicant has been working with the City and other agencies to secure an adequate water supply to support the proposed development. A water supply plan and water supply assessment will be required.

The system to be constructed as part of Baylands development will provide for meeting daily, peak day, and peak hour water demands and will meet Title 22 California Waterworks Standards that require water distribution systems to have sufficient capacity to deliver domestic demand coincident with required fire flow. In addition to an onsite water distribution system, Baylands development will construct an offsite 2.6-million gallon storage reservoir to be located either off Guadalupe Canyon Parkway or in the southern part of Brisbane located near Thomas Avenue.

### **Reclaimed Water**

A water recycling facility is proposed to provide non-potable water for landscape irrigation within open space areas and rights-of-way, restroom flushing in commercial and residential buildings, cooling, and landscape water features in the Plan area. The proposed water recycling facility will be constructed in phases and designed to discharge sewage in excess of non-potable water demand to be treated by the SPFUC.

### **Wastewater System**

A new system of sanitary sewers will be constructed for Baylands development. The system will be designed to flow to the water recycling facility and discharge sewage in excess of non-potable water demand to be treated by the SPFUC.

### **Energy Utilities**

A new on-site electrical distribution system will be installed in joint trenches with communications infrastructure within roadway rights-of-way. To achieve Baylands development's net zero energy goals based on currently available technology, proposed on-site electrical generation is proposed to include a microgrid, solar photovoltaic and battery energy storage systems.

To achieve carbon neutrality, the Specific Plan does not include natural gas services to proposed buildings. The existing natural gas main in Tunnel Avenue would continue to provide service to the existing Kinder Morgan Tank Farm, and the existing Golden State Lumber property.

## **PUBLIC FACILITIES FINANCING**

The Public Facilities Financing chapter identifies potential methods for financing the infrastructure, parks, open space, and other amenities proposed in the Specific Plan. This chapter does not, however, identify the specific methods the applicant proposes to finance these improvements, nor does the chapter demonstrate that Baylands development would be revenue positive to the City on an ongoing basis. This information is forthcoming from the applicant.

## **IMPLEMENTATION**

This chapter of the Specific Plan identifies key implementing actions, including City actions (e.g., development agreement to be negotiated with the City) and subsequent approvals required from other agencies (e.g., BCDC, California Department of Fish and Wildlife, Corps of Engineers, State Lands Commission, and others). The Specific Plan also provides for approval of site-specific development projects within the Specific Plan area through the City's Design Plan Review, Conditional Use Permit, and Minor Administrative Permit processes.

## **HAZARDOUS MATERIALS**

The Hazardous Materials chapter summarizes the remedial action objectives, cleanup levels, and future remedial actions to be taken to implement the Remedial Action Plans for operating units OU-SM and OU-2 that have been submitted to the Regional Water Quality Control Board and the California Department of Toxic Substances Control for regulatory approvals. This Specific Plan chapter also provides background on the history of the landfill and remedial action taken to date. A description of the planned phasing of site remediation and landfill closure is also provided. However, the applicant has not yet completed a Landfill Closure Plan or Post Closure Maintenance and Monitoring Plan for City staff and regulatory agency review.



## Attachment 2 Brisbane Baylands Specific Plan Project Objectives and Policy Goals and Issues

June 2021

### Specific Plan Project Objectives and Policy Goals

#### 1. Inclusivity

- Develop a built environment that facilitates neighborhood interaction with shared spaces, resources, and amenities that foster community-building.
- Support a range of housing types from studios and live-work units to 3-4 bedroom units for families.
- Ensure housing affordability for a wide range of incomes, housing housing for all economic segments of the community.
- Provide private open spaces within residential developments along with as shared parks and open spaces.
- Provide flexibility to accommodate the housing needs of older adults, mobility-impaired residents, etc.

#### 2. Mobility and Transit-oriented Development

- Provide a transportation network and supportive land uses that accommodate people who wish to have a car-free or car-light lifestyle as well as those who rely on vehicles due to limited mobility.
- Provide one or more centralized community hubs that are supported by transit and non-vehicular transportation systems.
- Reduce the walking distance between transit modes, including Caltrain, SamTrans, Muni and shuttle.
- Ensure a safe, comfortable, and stimulating walking environment to reduce the “psychological distance” between transit modes and between transit stops and community destinations.
- Provide a shuttle system that maintains connectivity within the Baylands, as well as between the Baylands and the Brisbane community.
- Provide connectivity to regional transit systems.
- Connect the Baylands to existing Brisbane neighborhoods and trails.
- Provide neighborhood services and community amenities such as childcare, medical and recreation facilities as well as small fresh food outlets and neighborhood-serving retail.
- Establish a project-wide transportation demand management (TDM) management to encourage non-single-occupancy vehicle travel.
- Provide market-oriented (external/ visitor-focused) development accessible to regional transit, including:
  - Hotels (including affordable options) and conference centers.

- Innovation district with complementary uses such as biomedical labs, research and development, incubation, college and university extension “innovation district.”

### 3. Land Use Diversity and Flexibility

- Increase the availability of mixed-use buildings and active ground floors.
- Integrate non-residential uses and community spaces, and create opportunities for small retail outlets (e.g., “mom and pop” shops) within residential areas.
- Provide for new school site(s) that best serve the Baylands and existing Brisbane neighborhoods.
- Activate the public realm by better mixing land uses, including those included in the “Project Amenities” designation (including childcare, places of worship, and other community uses) currently planned for the southern edge of the residential area, a significant distance from many residences.
- Consider mixing housing types on the same streets and blocks rather than separating residential product types from one another. Improve the distribution of housing types and densities, reducing the predominance of low-density housing and need for 20+ story residential towers to achieve 1800-2200 dwelling. Consider providing a greater amount of medium-density housing types.
- Ensure that the maximum heights of residential buildings are at an appropriate scale for the site and context.
- Specify building heights from finished grade in feet.
- Integrate the Roundhouse as a community focal point and mixed-use hub that is easily accessible by multiple modes of travel.
- Develop innovative, context-specific and diverse architectural design guidelines to avoid “cookie-cutter” development.
- Ensure provision of a variety of community amenities including arts and cultural institutions.

### 4. Recreation and Open Space

- Provide recreation opportunities for a diverse community, including family-friendly spaces and programming.
- Plan for more active recreation facilities (e.g., ballfields, courts, and play structures) throughout the Baylands and in the linear park within proposed residential areas.
- Integrate opportunities for activity and recreation throughout the Baylands (e.g., climbing walls and outdoor exercise equipment along trails).
- Provide for a maximum 10-minute walk for all Baylands residents and workers to parks and open spaces.
- Provide for shared use of fields and facilities as part of new school facilities provided as part of Baylands development.
- Ensure wind protection and other climate-friendly strategies that support user comfort.
- 

### 5. East Side Land Use

- Develop a compelling land use, transportation, building design, public space, urban design program for the area east of the Caltrain tracks.
- 
- 6. Ensure that plans for the east side of the site are compatible with existing industrial uses that are expected to remain.**ainability**
  - Incorporate a holistic sustainability plan that clearly commits to specific, stringent sustainability performance standards and accommodates integration of emerging technologies over time to meet community goals and requirements of Measure JJ.
    - Allow for multiple technologies and solutions to comply with Measure JJ-established Net Zero energy standards including such concepts as:
      - Micro-grids that reduce reliance on regional energy providers.
      - Context-appropriate solutions such as small wind turbines.
      - Battery storage.
    - Provide for multiple benefit solutions such as:
      - Community gardens that provide food, healthy activity and green space.
      - Stormwater treatments that contribute to safe and green roadways.
  - Build in flexibility to accommodate technological and market changes over the next twenty years.

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**File Attachments for Item:**

S. Receive Quarry Development Project Presentation



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Presentation of Quarry Redevelopment Proposal

### **Community Goal/Result**

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

### **Purpose**

For the future quarry developer to provide an overview of their development proposal.

### **Recommendation**

Receive the presentation by Orchard Partners, LLC, project applicants for redevelopment of the quarry property.

### **Background/Discussion**

On June 3, 2021, the City Council approved a reimbursement agreement with Orchard Partners, LLC, to allow the City to recover the costs associated with processing applications for redevelopment of the quarry property. The June 3, 2021 staff report is attached for Council's reference and includes a general overview of the project. The reimbursement agreement has since been executed and Orchard Partners has initiated planning applications to begin the environmental review process. The purpose of the presentation this evening is for Orchard Partners to provide an informational overview of their conceptual development plan. Any formal applications will be subject to public hearings before the Planning Commission and City Council.

### **Fiscal Impact**

None.

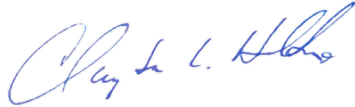
### **Measure of Success**

Redevelopment of the quarry in a manner that is consistent with the City's vision for land use and environmental protection.

**Attachments**

1. [June 3, 2021 City Council staff report](#) (hyperlink)

  
\_\_\_\_\_  
John Swiecki, Community Development Director

  
\_\_\_\_\_  
Clay Holstine, City Manager





## CITY COUNCIL AGENDA REPORT

**Meeting Date:** 06/03/2021

**From:** Clay Holstine, City Manager

**Subject:** Agreement to Pay Staff and Consultants' Costs Concerning a Proposed Project to Redevelop the 144 Acre Quarry Property Adjacent to Brisbane

### Recommendation

Approve the attached Agreement for Orchard Partners to pay Staff and Consultants' Costs concerning Orchard Partner's proposal to redevelop the 144 acre quarry property adjacent to Brisbane and authorize the execution of the Agreement.

### Background

Orchard Partners, LLC ("Orchard") has informed the City it is in the process of acquiring the approximately 144-acre quarry property, currently in the unincorporated area of San Mateo County but immediately adjacent to the City (the "Project site"). The Project site is comprised of approximately 55 acres on which an active quarry has been in operation since approximately 1895, and approximately 89 acres of land that is undisturbed and/or previously mined and restored.

Orchard has also informed the City it is contemplating a proposal to redevelop the Project site consistent with the sphere of influence designations in the City's General Plan, generally as follows: (i) cease operation of the quarry and develop approximately 50-55 acres of the quarry floor portion of the Project site with industrial uses compatible with the Crocker Industrial Park; (ii) maintain the remaining approximately 89-94 acres as open space uses consistent with adjacent San Bruno Mountain open space/habitat conservation; and (iii) develop offsite infrastructure and improvements necessary to serve the new development (the "Project"). Orchard has informed the City the Project would advance the public goals of preserving and protecting quality habitat, and reclaiming and redeveloping a 125-year old quarry site.

To allow for development of the Project, Orchard intends to apply to the City for approval of land use entitlements, which will include a comprehensive environmental document and may include an amendment to the Brisbane General Plan, adoption of a Specific Plan covering the Project site, adoption of pre-zoning for the Project site to allow for annexation into the City, a tentative map, an operating program pursuant to the San Bruno Mountain Habitat Conservation Plan ("HCP"), and/or such other land use entitlements and permits as may be required, as well as annexation approval by the San Mateo County Local Agency Formation Commission, and certain resource agency permits (collectively, the "Project Approvals").

At a future City Council meeting, Orchard will be presenting an overview of the Project.

Due to the complexity of the Project, Orchard and City staff have discussed what fees should be imposed on Orchard in order for City staff to have the necessary resources to process the various applications for the proposed Project Approvals. Orchard has agreed to pay for outside consultant costs, such as the consultant who will prepare the environmental documentation—which is a standard practice—and has agreed to pay for all reasonable costs and expenses the City staff incurs in connection with processing the applications, which agreement is set forth in the attached Agreement to pay Staff and Consultants' Costs. The Agreement is discussed in greater detail below.

### **Discussion**

Within the next few weeks, the City will select the consultant (and sub-consultants) who will prepare the environmental document for the Project. Following the execution of an agreement between the City and the consultant ("Consultant Agreement"), Orchard will deposit with the City 10% of the amount to be paid to the consultant, which funds will be deposited into a City reserve account ("Reserve Account"). Orchard will also deposit into that Reserve Account 20% of that 10% for "Staff Costs". For example, assuming the Consultant Agreement is for \$1 million, Orchard is agreeing to deposit \$100,000 into the Reserve Account for the consultant's costs and to deposit \$20,000 into the Reserve Account for "Staff Costs".

Concerning the overall "Staff Costs," such costs will be calculated based on 20% of the final amount of the Consultant Agreement. Again, by way of example, assuming the final amount of the Consultant Agreement is \$1.2 million, the Staff Costs that Orchard would pay would be 20% of that amount, or \$240,000. Staff and Orchard have agreed that pegging the Staff Costs as a percentage is a more efficient method than having each staff member "track" his or her time spent on the Project. It is the method the City has employed for other large projects, such as the Baylands and the Recology expansion and staff recommends Council concur in the use of that methodology here.

In addition, Orchard will pay not only for the environmental consultant and subconsultants who will prepare the environmental impact report and related documents but also for reasonable costs incurred by outside legal counsel retained by the City related to the Project, reasonable costs for outside planning services not provided by City staff, and other expenses, such as the cost of publication and mailing notices, necessarily incurred to process the Project. It was important to include costs for outside planning services because current City staff may not have the bandwidth to handle this Project and all the other projects that are on the horizon. Before, however, the City retains outside planning services, staff will discuss the issue with Orchard. Orchard may decide not to incur those costs, notwithstanding that it may mean that its Project may proceed more slowly.

The City will bill Orchard monthly for the consultants' costs and the Staff Costs. Because of the lag time, the City may draw on the funds that are in the Reserve Account to pay the consultants' costs and Staff Costs. As payments are received from Orchard, the Reserve Account will be backfilled. If, however, the Reserve Account drops below 50% of the original deposited amounts, and then is not replenished timely, under the Agreement the City may halt work on the Project until the funds have been received.

The Agreement will end once final action has been taken on the Project. The Agreement will be suspended if Orchard requests it or, as described above, there is a funding issue.

### **Fiscal Impact**

There is no negative financial impact to the City by entering into this Reimbursement Agreement. Indeed, to the contrary, the Agreement provides a vehicle so that City staff time is appropriately compensated for the time it spends processing this Project.

Attachment: Agreement (between the City of Brisbane and Orchard Partners for Orchard) To Pay Staff and Consultants' Costs



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Clay Holstine, City Manager

## AGREEMENT TO PAY STAFF AND CONSULTANT COSTS

**THIS AGREEMENT**, dated \_\_\_\_\_, 2021, by and between the City of Brisbane, a municipal corporation (“City”), and Orchard Partners, LLC, a California limited liability company (“Orchard”), is made with reference to the following facts:

A. Orchard has informed the City it is in the process of acquiring the approximately 144-acre property located at 1 Quarry Road, in Brisbane, California (the “Project site”). The Project site is comprised of approximately 55 acres on which an active quarry has been in operation since approximately 1895, and approximately 89 acres of land that is undisturbed and/or previously mined and restored.

B. Orchard has also informed the City it is contemplating a proposal to redevelop the Project site consistent with the sphere of influence designations in the City’s General Plan, generally as follows: (i) cease operation of the quarry and develop approximately 50-55 acres of the quarry floor portion of the Project site with industrial uses compatible with the Crocker Industrial Park; (ii) maintain the remaining approximately 89-94 acres as open space uses consistent with adjacent San Bruno Mountain open space/habitat conservation; and (iii) develop offsite infrastructure and improvements necessary to serve the new development (the “Project”). Orchard has informed the City the Project would advance the public goals of preserving and protecting quality habitat, and reclaiming and redeveloping a 125-year old quarry site.

C. To allow for development of the Project, Orchard intends to apply to City for approval of land use entitlements, which will include a comprehensive environmental document and may include an amendment to the Brisbane General Plan, adoption of a Specific Plan covering the Project site, adoption of pre-zoning for the Project site to allow for annexation into the City, a tentative map, an operating program pursuant to the San Bruno Mountain Habitat Conservation Plan (“HCP”), and/or such other land use entitlements and permits as may be required, as well as annexation approval by the San Mateo County Local Agency Formation Commission, and certain resource agency permits (collectively, the “Project Approvals”).

D. City is willing to undertake processing the applications for the Project Approvals so long as Orchard pays all reasonable costs and expenses City will incur in connection therewith, including the cost of City staff time and the cost for consultants. To ensure that funds are readily available for payment of such costs, Orchard has agreed to fund a Project Reserve Account maintained by City, as hereinafter set forth.

### **NOW, THEREFORE, the parties agree as follows:**

1. **Project Reserve Account.** Within ten (10) business days of the execution of this Agreement, Orchard shall deposit with City the sum of Thirty Thousand Dollars (\$30,000), to be held by City as a Project Reserve Account and disbursed in accordance with the terms of this Agreement. Within ten (10) business days of the execution of an agreement between the City and

the environmental consultant (which may include work to be provided by sub-consultants) to prepare the environmental impact report and related documents for the Project (“Consultant Agreement”), which Consultant Agreement may be amended from time to time, Orchard shall deposit in the Project Reserve Account ten percent (10%) of the full amount of the Consultant Agreement (“Consultant Deposit”) and twenty percent (20%) of the Consultant Deposit for “Staff Costs” as defined in Section 2 of this Reimbursement Agreement (“Staff Costs Deposit”). City shall keep separate records of the Project Reserve Account showing all deposits made by Orchard and all disbursements from the account made by City, and such records shall be available to Orchard for inspection at any time during City’s regular business hours. Beginning within ninety (90) days of the initial deposit, the City shall send to Orchard a statement of the Project Reserve Account’s deposits and disbursements quarterly. Although separate accounting records of the Project Reserve Account shall be maintained, City shall not be required to segregate the Project Reserve Account into a separate fund and no interest shall be payable to Orchard thereon.

2. **Staff Costs.** For the services provided by City staff to process the Project Approvals, Orchard shall pay to the City a fee to represent a reasonable estimate of time incurred by staff employed by City (“Staff Costs”). The fee for Staff Costs shall be in a total amount equal to twenty percent (20%) of the Consultant Agreement as that Agreement is amended from time to time.

3. **Consultants’ and Other Costs.** For the cost of other services related to the City’s processing the Project, Orchard shall pay to the City (a) the actual costs incurred by all environmental consultants (including the primary consultant and any subconsultants retained by the primary consultant) who will prepare the environmental impact report and related documents, (b) the actual and reasonable costs incurred by outside legal counsel retained by the City for services related to the Project, (c) the actual and reasonable costs incurred by consultants or other outside services retained by the City for planning services related to the Project, and (d) other out of pocket expenses reasonably and necessarily incurred by City in connection with the Project including, but not limited to, the cost of publication and mailing of notices of hearings, and the cost of surveys, plans, drawings and documents (the “Actual Costs”). City shall pay the Actual Costs to the appropriate parties from the Project Reserve Account. Before the City retains consultants or other outside services for planning services related to the Project, City shall meet and confer with Orchard concerning the City’s retention thereof, including the proposed scope, duration, and cost of such services.

4. **Payment of Consultants’, Staff and Other Costs.** On a monthly basis, beginning thirty (30) days after the execution of the Consultant Agreement, City shall invoice Orchard (a) for the cost of services related to the processing of the Project, as set forth in Section 3 (the “Monthly Invoiced Amount”) and (b) an additional twenty percent (20%) of the Monthly Invoiced Amount to cover Staff Costs. Orchard shall pay the invoice within thirty (30) days of its receipt of the invoice.

5. **Use and Reinstatement of the Project Reserve Account.** If necessary and pending City’s receipt of payment from Orchard as set forth in Section 4, City may use the Project Reserve Account to pay Consultant and other costs as set forth in Section 3 and to pay Staff Costs

as set forth in Section 2. If at any time (a) a disbursement to consultants from the Project Reserve Account would result in the balance being less than fifty percent (50%) of the Consultant Deposit or, in the sole discretion of the City, inadequate to cover foreseeable Actual Costs to be incurred by the City within the following thirty (30)-day period, plus a reasonable margin as deemed appropriate by the City based on the anticipated nature of the expenses, or (b) a disbursement for Staff Costs from the Project Reserve Account would result in the balance being less than fifty percent (50%) of the Staff Costs Deposit, City shall provide written notice of such fact to Orchard and Orchard, within fifteen (15) days after receipt of such notice, shall deposit with the City such additional amount as may be necessary to restore the balance of the Consultant Deposit and/or the Staff Costs Deposit to an amount indicated by the City in the notice. If Orchard should fail or refuse to deposit the additional funds, City and its consultants shall be entitled to suspend all further review and work on the Project.

6. **Suspension of Review.** Orchard may suspend any further review by City of the Project by providing written notice to the City. Orchard shall pay City any of the costs incurred by the City pursuant to Sections 2 and 3 of this Agreement prior to City's receipt of Orchard's notice to suspend further review.

7. **Termination of Agreement.** Upon completion of all processing of Orchard's applications for Project Approvals as evidenced by final action having been taken by the City, or by Orchard's written withdrawal of such applications and/or suspension of review pursuant to Section 5 herein, this Agreement shall terminate and any balance remaining in the Project Reserve Account after payment in full of all costs and expenses owed to City under the terms of this Agreement shall be refunded to Orchard within sixty (60) days.

8. **Notices.** Any notice or demand required or permitted to be given hereunder shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, to the address of the other party as follows:

To City: City of Brisbane  
Attn: Director of Community Development  
50 Park Place  
Brisbane, CA 94005

To Orchard: Orchard Partners, LLC  
Attn: Tyler Higgins  
3697 Mt. Diablo Blvd.  
Suite 200  
Lafayette, CA 94549

With a copy to: Megan Jennings  
Coblentz Patch Duffy & Bass LLP  
One Montgomery Street, Suite 3000  
San Francisco, CA 94104



9. **Limitation on Effect of Agreement.** The execution of this Agreement by City shall not constitute the granting by City, or the commitment to grant, any form of land use entitlement, permit or approval, or any agreement or commitment by City to take any action with respect to the Project or any other acts or activities relating to the subsequent independent exercise of discretion by the City. Any such subsequent action shall be considered by the City Council, in its sole and unfettered discretion, following the conduct of all legally required procedures, including, without limitation, all environmental review processes as may be required by the California Environmental Quality Act.

10. **Miscellaneous Provisions.**

(a) **Costs of Suit.** In the event legal action between the parties shall become necessary in order to enforce or interpret this Agreement, or any provision contained herein, the prevailing party shall be entitled to recover all costs and expenses as may be incurred in connection therewith, including reasonable attorney's fees.

(b) **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes and cancels any prior agreements or understandings, whether written or oral.

(c) **Choice of Law; Jurisdiction; Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Jurisdiction and venue of litigation arising from this Agreement shall be in the County of San Mateo, State of California.

(d) **Amendments.** This Agreement can only be modified by a written amendment hereto executed by both parties.

(e) **Counterparts.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signatures on following page]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first above written.

CITY OF BRISBANE,  
a municipal corporation

ORCHARD PARTNERS, LLC,  
a California limited liability company


\_\_\_\_\_  
Karen Cunningham, Mayor

\_\_\_\_\_  
Tyler Higgins, President

Attest:

\_\_\_\_\_  
Ingrid Padilla, City Clerk

Approved as to form:



\_\_\_\_\_  
Michael H. Roush  
Legal Counsel

**File Attachments for Item:**

T. Residential Objective Design and Development Standards (ODDS) Study Session



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** John Swiecki, Community Development Director

**Subject:** Objective Design and Development Standards for Residential Development Project Update

### Community Goal/Result

Community Building - Brisbane will honor the rich diversity of our city (residents, organizations, businesses) through community engagement and participation

Economic Development - Brisbane will work with the businesses and residents to provide for economic vitality/diversity

### Purpose

To update the City's design and development zoning standards applicable to new residential and residential mixed-use development to frontload the City's discretionary authority and to comply with State law.

### Recommendation

That the Council hear the presentation and provide feedback to staff.

### Background

Since 2017, a handful of new or updated State laws- specifically Senate Bill 35 and the Housing Accountability Act- mandate California cities to streamline the process for reviewing certain housing development proposals. In general, these laws preclude the application of subjective design standards and instead limit City review to verifying compliance with objective design rules, regulations, planning documents and guidelines, otherwise known as Objective Design and Development Standards (ODDS). ODDS provide predictability to the community and developers upfront in the development process, and require no interpretation or personal judgment, as opposed to subjective standards that are subject to interpretation and which may cause different people to disagree based on their personal perspectives and opinions.

The City obtained state grant funds in 2020 to update its development standards in compliance with these requirements. Consultants Good City Co. were hired in August 2020 for the ODDS project, with a work program emphasizing community outreach, evaluating opportunities and constraints to residential development in zoning districts with subjective development standards, and drafting updated zoning ordinance language that will be subject to Planning Commission review and City Council adoption later this year. These will be zoning text amendments only, and no properties will be rezoned through this project.

### Community Engagement to Date

Due to the COVID-19 pandemic, much of the community engagement efforts on the ODDS project to date have been virtual and include:

- January 2021: A visual design preference survey released in January (125 responses)
- February 11, 2021: A project introduction and overview at the Planning Commission
- April 6, 2021: Introductory community workshop
- July 1, 2021: New survey on residential design preferences (open through July)
- July 1, 2021: Virtual walking tour of objective standards in neighboring Peninsula cities (video and map released)
- July 15, 2021: Update and presentation to the City Council

Projected engagement opportunities include:

- August 2021: Community workshop
- September 2021: Release draft zoning updates for public review
- October 2021: Planning Commission public hearings
- November 2021-January 2022: City Council public hearings and adoption of updated zoning text amendments

### **Discussion**

Tonight's presentation will focus on discussing how subjective design goals and priorities can be translated into objective design and development standards, and ultimately into the built environment. Subjective design objectives of new residential and residential mixed-use developments are captured in the City's Design Review findings in Chapter 17.42 of the Municipal Code, and include:

- Minimizing a project's massing and visual impact
- Maintaining compatibility with smaller scale developments in the neighborhood
- Providing parking that meets residents' needs and is compatible with the neighborhood
- Controlling building form (setbacks and height, articulation of wall planes and rooflines, fenestration)
- Designing the ground floor of multi-story buildings to enhance the pedestrian environment at street level
- Ensuring overall high quality design in new developments

### **Fiscal Impact**

The City received an SB2 planning grant from the State Department of Housing and Community Development to cover the costs associated with the ODDS project, which are estimated to amount to approximately \$94,000.

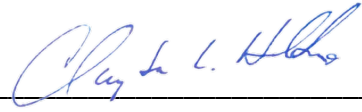
### **Measure of Success**

Adoption of objective design and development standards that comply with State law and ensure new residential and residential mixed-use development are appropriate for Brisbane.

#### Attachments

1. [February 2, 2021 Planning Commission meeting agenda report](#) (hyperlink)
2. [July residential design preference survey](#) (hyperlink) <https://www.surveymonkey.com/r/Z65RRCN>
3. [July virtual walking tour](#) (hyperlink) <https://www.youtube.com/watch?v=Zm1p5Yhol9Y>

  
\_\_\_\_\_  
John Swiecki, Community Development Director

  
\_\_\_\_\_  
Clay Holstine, City Manager



# MEMORANDUM

DATE: February 11, 2021  
 TO: Planning Commission  
 FROM: John Swiecki, Community Development Director  
 SUBJECT: **Study Session: SB2 Planning Grant Implementation Program and Objective Design and Development Standards (ODDS) for New Residential Development**

Tonight's study session will provide a comprehensive overview of the City's SB2 Planning Grant Implementation Program (PGIP) for objective design and development standards (ODDS) for new residential development, including:

- Overview of the State requirements and expectations,
- Proposed process to comply with the requirements,
- Overview of subjective versus objective standards,
- Outline of upcoming community outreach and engagement efforts,
- Overall Program Schedule, and
- Planning Commission questions and feedback.

## Background

Due to several changes in State Law since 2017, specifically Senate Bill 35 and the Housing Accountability Act (Attachments A and B), California cities must streamline the process for reviewing certain housing development proposals. In general, the State now requires that cities "front-load" their housing development review discretion through the adoption of clear design rules, regulations, planning documents and guidelines, otherwise known as Objective Design and Development Standards (ODDS). ODDS provide predictability to the community and developers upfront in the development process, and require no interpretation or personal judgment, as opposed to subjective standards that are subject to interpretation and which may cause different people to disagree based on their personal perspectives and opinions.

The State made grant funds available to cities in 2019 to cover the cost of compliance with these new requirements. The City successfully applied for grant funds in the fall of 2019 and received approval in early 2020.

In addition to the ODDS Program which is the focus of tonight's study session, the grant funding will also support several technical activities which will not involve formal Planning Commission action. These include biological studies for parcels in the SCRO-1 zoning district located within the San Bruno Mountain Habitat Conservation Plan area, an update to the City's subdivision regulations, and a fee study to enable the City to impose affordable housing fees on new commercial development.



The City hired consultants Good City Co. in August 2020 to assist with the ODDS Program. The work program will include community outreach to understand the community's design preferences, studies of opportunities and constraints to residential development in zoning districts with subjective development standards and drafting updated zoning ordinance language that will be subject to Planning Commission review and City Council adoption later this year.

The attached Frequently Asked Questions (Attachment C) provides answers to commonly asked questions regarding the ODDS that will be developed as a result of this process. The concept of ODDS is not new to the City either. The City recently went through a process to adopt ODDS as part of the Parkside at Brisbane Village Precise Plan project (Attachment F), which are applicable to the development of new housing in the Parkside residential overlay zoning districts but do not apply to other residential districts in the City.

If the City does not adopt ODDS, the City will have very little control over the design of new housing developments. The Planning Commission would continue to review projects under the current Design Review regulations but would not be able to deny or reduce the number of units within housing development proposals based on noncompliance with subjective Design Review findings. For certain projects submitted to the City under SB 35 streamlining, the City would be required to review the application under a ministerial process, without any discretionary review or local guidance on design and standards.

#### Discussion:

Currently, in Brisbane, Design Review for housing development is required for single-family homes on ridgelines, developments of three or more housing units in a multi-family development, and new mixed-use buildings with one or more housing units. Some zoning districts also require a use permit approval for residential development. Single-family homes (not on ridgelines), accessory dwelling units (ADUs), and duplexes do not require design review and are processed administratively through a building permit.

While each zoning district has development standards that control the location, height, and square footage of buildings, the City does not have objective design guidelines for residential or mixed-use developments. Instead, the Design Review findings of approval in BMC Chapter 17.42 are largely subjective and do not provide objective criteria for approval. Additionally, the Design Review findings are applicable to any type of development that triggers design review (including commercial projects), and do not provide specific design objectives or requirements for residential development.

Below are some examples of subjective and objective standards.

#### **Subjective Standards:**

*Brisbane Municipal Code Section 17.42.040 - Findings required for issuance of design permit.*

- The proposal's scale, form, and proportion are harmonious, and the materials and colors used complement the project.
- The orientation and location of buildings, structures, open spaces, and other features integrate well with each other and maintain a compatible relationship to adjacent development.

Key subjective words and terms in the findings above include "harmonious," "material and colors complement each other," "features integrate well," and "maintain a compatible relationship". These

terms are subjective because reasonable people could have different opinions on what these terms mean when reviewing a housing proposal. Given the findings could be interpreted in multiple ways, and there are no qualifiable or measurable ways to determine which opinion is correct, they are considered subjective findings.

### Objective Standards:

Objective standards are easily quantifiable and measurable in nature. For example, a building either meets the height limit, or it does not. A building facade is articulated in a specific way, or it is not. A building is set back a certain number of feet from a property line or adjacent building, or it is not.

These are some objective standards from the City's Parkside Precise Plan (2017)

- Third stories shall be set back at least five feet from the wall plane of the second and first stories below.
- At least 50% of the planes of the exterior walls along public streets shall vary in depth and/or direction through the use of cornices, recesses, bay windows, and overhangs.
- Garage doors must have an equivalent or greater setback as the predominant building wall on the relevant building side.

The work program will also include special studies of the Southwest Bayshore Commercial (SCRO-1) District and the Neighborhood Commercial- Downtown Brisbane (NCRO-2) District, where the City anticipates most non-Baylands new housing development in Brisbane will occur in the future based on current trends. The establishment of objective development standards for housing proposed in the Baylands will be addressed in the Baylands Specific Plan and is not included within this work program.

### Project Timeline

The first community workshop will occur virtually in early April 2021, followed by one or more virtual Planning Commission-hosted workshops, surveys for residents and property owners, and two more community workshops. Depending on the timing of the remaining community workshops and status of regional health orders, summer workshops may be virtual or in-person.



The community outreach and engagement process will include steps to:

1. Educate the community regarding legal requirements for the City's review of residential projects.
2. Engage the community to determine community preferences for the physical design of new residential developments, including building articulation, relationship of buildings to neighboring structures, building height, etc.
3. Engage property owners within the boundaries of the SCRO-1 and NCRO-2.

The City kicked off community engagement with the Residential Design Visual Preference Survey (See Attachment D) which has been advertised and posted on the City's website. The survey results will be shared at future public workshops after the response deadline closes on March 1<sup>st</sup> and will act as the foundation for building the ODDS. Following the community engagement process, draft ODDS and zoning ordinance amendments will be released in the fall, followed by public hearings at the Planning Commission and the City Council. Updated regulations must be adopted by February 2022 per the terms and conditions of the State grant.

**Attachments:**

- A. Senate Bill 35 Fact Sheet
- B. Housing Accountability Act Memorandum from the Department of Housing and Community Development
- C. [Frequently Asked Questions](#) (hyperlink)
- D. [Visual Preference Survey](#) (hyperlink)
- E. [BMC Chapter 17.42, Design Review](#) (hyperlink)
- F. [Parkside at Brisbane Village Precise Plan](#) (hyperlink)



## Senator Scott Wiener, 11<sup>th</sup> Senate District

### Senate Bill 35 – *Housing For A Growing California:* Housing Accountability & Affordability Act

#### SUMMARY

Senate Bill 35 ensures that all communities in California create the housing we desperately need to address our statewide housing shortage, and spur the creation of affordable housing in California by streamlining the approval process.

#### BACKGROUND/EXISTING LAW

California is in the depths of a housing shortage. Our State's housing production has not kept pace with population growth, particularly for low and middle income residents. California households in the bottom quarter of the income distribution—the poorest 25 percent of households—report spending four times more of their income (67 percent, on average) than households in the top quarter of the income distribution (16 percent, on average).

Every 8 years, each California city receives a Regional Housing Needs Assessment (RHNA) goal from the Department of Housing and Community Development (HCD) for how many future units of housing the city must include in its zoning plan. However, HCD cannot require cities to follow through with producing the housing in their own zoning plan, and too many communities either ignore RHNA or make inadequate efforts to comply with it. HCD does not comprehensively track housing production data.

#### PROBLEM

The negative impacts of California's housing shortage threaten our state's economic growth, environmental well-being, and diversity. It is far too expensive to rent or buy a home in California, which results in displacement, evictions, and families being pushed out as they grow. Teachers, retail workers, first responders, and other middle-income professionals often have crushing commutes as they increasingly cannot afford to live near their jobs.

California has a long tradition of broad local control, and in many areas, local communities are in the best position to judge what makes sense for their residents. However, when local communities refuse to create enough housing—instead punting housing creation to other communities—then the State needs to

ensure that all communities are equitably contributing to regional housing needs. Local control must be about how a community meets its housing goals, not whether it meets those goals. Too many communities either ignore their housing goals or set up processes designed to impede housing creation.

Allowing local communities to ignore their responsibility to create housing has led to a housing disaster—triggering huge economic, environmental, and social problems.

#### SOLUTION

Under SB 35, as amended, cities that are on track to meet their RHNA housing production goals at all income levels will retain full local control over how they approve housing. When cities do not meet their housing obligations, approval of qualified housing projects will be streamlined until cities do meet their goals.

For streamlining to apply, a project must include housing for certain income levels where there is a shortage of production, pay a prevailing wage for construction labor, and meet all objective affordability, density, zoning, historic, and environmental standards outlined in the bill.

The new, streamlined approval process will require localities to approve projects only on the basis of whether the project complies with the objective SB 35 qualifying criteria and pass design review. The streamlined process applies only when unmet income-based categories are addressed. For example, if a city is meeting its market rate housing RHNA goals but not its low income housing goals, streamlining will apply only to those projects that add low income units.

This bill also requires all charter cities to report their annual housing production to HCD, and will require HCD to ensure housing production data is detailed, up-to-date, and publicly accessible on the internet. Currently, general law cities must report their housing production, but charter cities and city/counties are not required by law to do so.

#### FOR MORE INFORMATION

Ann Fryman, *Legislative Aide*

[ann.fryman@sen.ca.gov](mailto:ann.fryman@sen.ca.gov); (916) 651-4011

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**September 15, 2020**

**MEMORANDUM FOR:** Planning Directors and Interested Parties

**FROM:** Megan Kirkeby, Deputy Director  
Division of Housing Policy Development

**SUBJECT:** **Housing Accountability Act Technical Assistance  
Advisory (Government Code Section 65589.5)**

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California. This Technical Assistance Advisory provides guidance on implementation of the HAA, including the following amendments.

Chapter 368, Statutes of 2017 (Senate Bill 167), Chapter 373, Statutes of 2017 (Assembly Bill 678) - Strengthens the HAA by increasing the documentation necessary and the standard of proof required for a local agency to legally defend its denial of low-to-moderate-income housing development projects, and requiring courts to impose a fine of \$10,000 or more per unit on local agencies that fail to legally defend their rejection of an affordable housing development project.

Chapter 378, Statutes of 2017 (Assembly Bill 1515) – Establishes a reasonable person standard for determining conformance with local land use requirements.

Chapter 243, Statutes of 2018 (Assembly Bill 3194) -Expands the meaning of zoning consistency to include projects that are consistent with general plan designations but not zoning designation on a site if that zone is inconsistent with the general plan.

Chapter 654, Statutes of 2019 (Senate Bill 330) - Defined previously undefined terms such as objective standards and complete application and set forth vesting rights for projects that use a new pre-application process. Most of these provisions sunset on January 1, 2025, unless extended by the Legislature and Governor.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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↖ Click hyperlink to access online

## What is the Housing Accountability Act?

The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the state's overarching policy that a local government may not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards. Before doing any of those things, local governments must make specified written findings based upon a preponderance of the evidence that a specific, adverse health or safety impact exists. Legislative intent language indicates that the conditions that would give rise to such a specific, adverse impact upon the public health and safety would occur infrequently.

Subdivision (d) of the HAA describes requirements applicable to housing development projects that include units affordable to very- low, low- and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments. Subdivisions (k), (l), and (m) expand the potential consequences for violations of the HAA. In 2017, the Legislature also granted the California Department of Housing and Community Development (HCD) authority to refer HAA violations to the Office of the Attorney General in Government Code section 65585.

The HAA was originally enacted in 1982 to address local opposition to growth and change. Communities resisted new housing, especially affordable housing, and, consequently, multiple levels of discretionary review often prevented or delayed development. As a result, developers had difficulty ascertaining the type, quantity, and location where development would be approved. The HAA was intended to overcome the lack of certainty developers experienced by limiting local governments' ability to deny, make infeasible, or reduce the density of housing development projects.

Recognizing that the HAA was falling short of its intended goal, in 2017, 2018, and again in 2019, the Legislature amended the HAA no less than seven times to expand and strengthen its provisions. Key restrictions on local governments' ability to take action against housing development projects are set out in Government Code section 65589.5, subdivisions (d) and (j). The law was amended by Chapter 368 Statutes of 2017 (Senate Bill 167), Chapter 373 Statutes of 2017 (Assembly Bill 678) and Chapter 378 Statutes of 2017 (Assembly Bill 1515), as part of the California 2017 Housing Package. The law was further amended by Chapter 243, Statutes of 2018 (Assembly Bill 3194) and Chapter 654, Statutes of 2019 (Senate Bill 330).

## Why Do We Need the Housing Accountability Act?

The Housing Accountability Act has been in effect since 1982. Since that time, California's housing supply has not kept up with population and job growth, and the affordability crisis has grown significantly due to an undersupply of housing, which compounds inequality and limits economic and social mobility. Housing is a fundamental component of a healthy, equitable community. Lack of adequate housing hurts millions of Californians, stifles economic opportunities for workers and businesses, worsens poverty and homelessness, and undermines the state's environmental and climate goals and compounds the racial equity gaps faced by many communities across the state.

The legislative intent of the HAA was to limit local governments' ability to deny, make infeasible, or reduce the density of housing development projects. After determining that implementation of the HAA was not meeting the intent of the statute, the Legislature has amended the HAA to expand its provisions, strengthening the law to meaningfully and effectively curb the capacity of local governments to deny, reduce the density or render housing development projects infeasible.

### Legislative Housing Accountability Act Interpretation Guidance

"It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." Government Code Section 65589.5 (a)(2)(L)

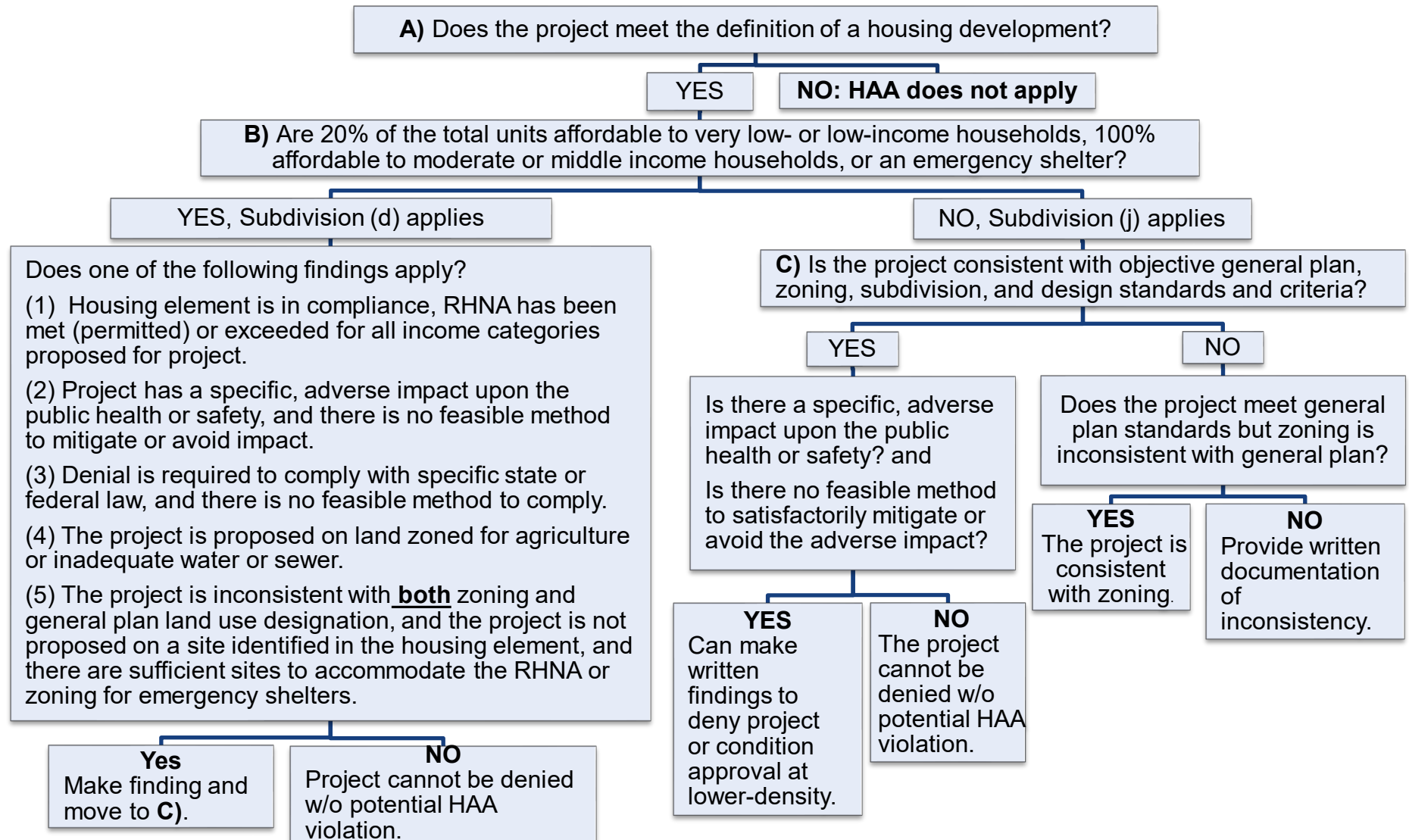
The following are findings and declarations found in the HAA pursuant to Government Code sections 65589.5(a):

- The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
- Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
- Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.
- California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

- While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.
- The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.
- According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.
- California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.
- Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.
- The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.
- When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.
- An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.
- California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

## Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.



## Key Provisions of the Housing Accountability Act

The HAA sets out restrictions on local governments' ability to take action against housing development projects in Government Code section 65589.5, subdivisions (d) and (j). Subdivision (d) describes requirements applicable to housing development projects that include units affordable to very-low, low-, and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments<sup>1</sup>. In sum, the HAA significantly limits the ability of a local government to deny an affordable or market-rate housing project that is consistent with planning and zoning requirements. This table describes the various component parts of the HAA for ease of reference.

Topic	Subdivisions of Government Code Section 65589.5
Declarations and legislative intent	(a), (b), (c)
Provisions for housing affordable to very low, low-, or moderate-income households, or an emergency shelter	(d), (i)
Applicability of the statute to coastal zones, local laws, and charter cities	(e), (f), (g)
Definitions	(h)
Provisions relating to all housing developments	(j)
Consequences for violation	(k), (l), (m), (n)
Vesting rights for pre-applications (SB 330)	(o)

The following is an overview of key provisions of the HAA focusing on project qualifications, applicability of local standards, provisions that relate to all housing projects, provisions that relate just to housing affordable to lower- and moderate-income households and emergency shelters, and consequences for violation of the HAA. Appendix A includes a list of definitions of terms referenced throughout the HAA and Appendix B includes information related to the Preliminary Application Process pursuant to Senate Bill 330.

### Housing Development Project Qualifications

In order for a development to qualify for the protections under the HAA it must meet the definition of a "housing development project". Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of "Housing for very low-, low-, or moderate-income households".

<sup>1</sup> *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1072-1073

### **Housing Development Project Definition**

Government Code, § 65589.5, subdivision (h)(2).

A “housing development project” means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term “units” is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

### **Housing for Very Low, Low-, or Moderate-Income Households**

Government Code, § 65589.5, subdivision (h)(3).

In order to qualify as a housing development affordable to lower- or moderate- income households, the project must meet one of the following two criteria:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

In addition, the rental or sales prices of that housing cannot exceed the following standards:

- Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
- Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

### **Housing Developments Applying for the Streamlined Ministerial Approval Process Pursuant to Government Code Section 65913.4.**

To facilitate and expedite the construction of housing, Chapter 366, Statutes of 2017 (SB 35, Wiener) established the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need (RHNA). Recent amendments to the law clarified that projects utilizing the Streamlined Ministerial Approval Process qualify for the protections under the HAA (Gov. Code, § 65913.4, subd. (g)(2).)



## Applicability of Local Standards

In addition to limiting the conditions for which a housing development project can be denied, the HAA also sets parameters around aspects of the approval process. Specifically, it defines:

- The type of development standards, conditions, and policies with which a housing development or emergency shelter can be required to comply
- Parameters for fees and exactions that can be imposed
- Standards that can be applied once an application is deemed complete
- Actions by a local government that would constitute a denial of a project or impose development conditions

These requirements are intended to provide developers with greater transparency and clarity in the entitlement process.

## Objective Development Standards, Conditions, Policies, Fees, and Exactions

Government Code, § 65589.5, subdivision (f)

Local governments are not prohibited from requiring a housing development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies (subject to the vesting provisions of the HAA and other applicable laws). However, those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local government's share of the RHNA or meeting the local government's need for emergency shelters as identified in the housing element of the general plan.
- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development or to facilitate and accommodate the development of the emergency shelter project.
- Meet the definition of "objective". Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

The intent of these provisions of the HAA is that developers are given certainty in what standards, conditions, and policies apply to their project and how those standards can be met. Local governments that deny a project due to a failure to meet subjective standards (those standards that are not objective as defined) could be in violation of the HAA. In addition, objective standards that do apply should make it feasible for a developer to build to the density allowed by the zoning and not constrain a local government's ability to achieve its RHNA housing targets.

Nothing in the statute generally prohibits a local government from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter. However, the HAA does impose limitations on the fees and exactions that can be imposed on a specific housing development project once a preliminary application is submitted (see Appendix C).

### **Determination of Application Completeness**

Government Code, § 65589.5, subdivisions (d)(5), (h)(5) and (9), and (j)(1).

The process of submitting an application for a housing development project can be iterative. For example, applications that are missing information cannot be fully evaluated by a local government for compliance with local objective standards. Therefore, an application is not typically processed until it is “determined to be complete”. The HAA currently uses two terms related to completeness, “deemed complete” and “determined to be complete.”

*Deemed Complete:* For the purposes of the HAA, until January 1, 2025, “deemed complete” means the date on which a preliminary application was submitted under the provisions of Government Code section 65941.1. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the full information required by the local government for a housing development application. Submittal of this information allows a housing developer to “freeze” the applicable standards for their project while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, potentially adding costs to a project. No affirmative determination by a local government regarding the completeness of a preliminary application is required. (See Appendix C).

The term “deemed complete” triggers the “freeze date” for applicable development standards, criteria, or condition that can be applied to a project. Changes to the zoning ordinance, general plan land use designation, standards, and criteria, subdivision ordinance, and design review standards, made subsequent to the date the housing development project preliminary application was “deemed complete”, cannot be applied to a housing development project or used to disapprove or condition approval of the project.

However, if the developer does not submit a preliminary application, the standards that must be applied are those that are in effect when the project is determined to be complete under the Permit Streamlining Act (Gov. Code § 65943).

*Determined to be complete:* Until January 1, 2025, the full application is “determined to be complete” when it is found to be complete under the Permit Streamlining Act (Gov. Code § 65943). This phrase triggers the timing provisions for the local government to provide written documentation of inconsistency with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision (see page 10 below for inconsistency determinations).

### **Completeness Determination of Development Application**

Government Code section 65943 states that local governments have 30 days after an application for a housing development project is submitted to inform the applicant whether or not the application is complete. If the local government does not inform the applicant of any deficiencies within that 30-day period, the application will be “deemed complete”, even if it is deficient.

If the application is determined to be incomplete, the local government shall provide the applicant with an exhaustive list of items that were not complete pursuant to the local government’s submittal requirement checklist. Information not included in the initial list of deficiencies in the application cannot be requested in subsequent reviews of the application.

A development applicant who submitted a preliminary application has 90 days to complete the application after receiving notice that the application is incomplete, or the preliminary application will expire. Each time an applicant resubmits new information, a local government has 30 calendar days to review the submittal materials and to identify deficiencies in the application.

Please note, Government Code section 65943 is triggered by an application submitted with all of the requirements on lists compiled by the local government and available when the application was submitted that specifies in detail the information that will be required from any applicant for a development project pursuant to Government Code section 65940. This is not the “preliminary application” referenced in Government Code section 65941.1.

### **Triggers for a Disapproval of a Housing Development Project**

Government Code, § 65589.5, subdivisions (h)(6)

The HAA does not prohibit a local government from exercising its authority to disapprove a housing development project, but rather provides limitations and conditions for exercising that authority. The HAA defines disapproval as when the local government takes one of the following actions:

- Votes on a proposed housing development project application and the application is disapproved. This includes denial of other required land use approvals or entitlements necessary for the issuance of a building permit. Examples include, but are not limited to, denial of the development application, tentative or final maps, use permits, or design review. If the project is using the Streamlined Ministerial Approval Process, disapproval of the application would trigger the provisions of the HAA.
- Fails to comply with decision time periods for approval or disapproval of a development application<sup>2</sup>. Until 2025, the following timeframes apply:
  - 90 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project.
  - 60 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project where at least 49 percent of the units in the development project are affordable to very low or low-income households<sup>3</sup>, and where rents for the lower income units are set at an affordable rent<sup>4</sup> for at least 30 years and owner-occupied units are available at an affordable housing cost<sup>5</sup>, among other conditions (see Gov Code § 65950).
  - 60 days from the date of adoption by the lead agency of a negative declaration.
  - 60 days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act.

<sup>2</sup> Timeframes are pursuant to Government Code section 65950

<sup>3</sup> As defined by Health and Safety Code sections 50105 and 50079.5

<sup>4</sup> Pursuant to Section 50053 of the Health and Safety Code

<sup>5</sup> Pursuant to Section 50052.5 of the Health and Safety Code

**Imposition of Development Conditions**

Government Code, § 65589.5, subdivisions. (d), (h)(7), and (i)

Like the ability to deny a project, the HAA does not prohibit a local government from exercising its authority to condition the approval of a project, but rather provides limitations and conditions for the application of certain conditions. Specifically, the HAA limits the application of conditions that lower the residential density of the project, and, for housing affordable to lower- and moderate-income households and emergency shelters, conditions that would have a substantial adverse impact on the viability or affordability of providing those units unless specific findings are made and supported by a preponderance of the evidence in the record<sup>6</sup>.

For purposes of the HAA, “lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing. This could include a condition that directly lowers the overall number of units proposed (e.g., the development proposes 50 units, but the local government approves only 45 units). It could also include indirect conditions that result in a lower density (e.g., a development proposes 50 units at 800 square feet per unit but the local government conditions the approval on the provision of 850 square feet per unit, resulting in the project having to provide fewer units to accommodate the increase in square footage). Another example would be a reduction in building height that would result in the project being able to provide fewer units than originally proposed.

Local governments must also consider if imposed conditions of approval would have an adverse effect on a project’s ability to provide housing for very low-, low-, or moderate-income households at the affordability levels proposed in the housing development project. This includes provisions that would render the project for very low-, low-, or moderate-income households infeasible or would have a substantial adverse effect on the viability or affordability of the proposed housing. For example, project approval for an affordable housing development might be conditioned on the need to use specific materials that significantly increase the cost of the project. This additional cost could either render the project financially infeasible altogether or require substantial changes to the affordability mix of the units where fewer very low-income units could be provided. In these cases, it is possible that the conditions would violate the HAA.

Conditions that should be analyzed for their effect on density and project feasibility (for affordable projects) include, but are not limited to, the following:

- Design changes
- Conditions that directly or indirectly lower density
- Reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning.

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<sup>6</sup> See Page13 for more information on the preponderance of the evidence standard.

## Housing Accountability Act Provisions That Apply to All Housing Projects

The following provisions apply to all housing development projects regardless of affordability.

### **Determination of Consistency with Applicable Plans, Standards, or Other Similar Provision Based on the Reasonable Person Standard**

Government Code, § 65589.5, subdivision (f)(4)

A key component of the HAA is the determination as to whether or not the proposed housing development project is consistent, compliant and in conformity with all applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions.

Traditionally, this determination is made by local government, which is given significant deference to interpret its own plans, programs, policies, ordinances, standards, requirements, and other similar provisions. In most planning and zoning matters, courts traditionally uphold an agency's determination if there is "substantial evidence" to support that determination. If substantial evidence supports the agency's decision, an agency can reach a conclusion that a development project is inconsistent with applicable provisions, even if there is evidence to the contrary.

Departing from these traditional rules, the HAA sets forth its own standard for determining consistency with local government rules for housing development projects and emergency shelters. A housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that could allow *a reasonable person* to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity with applicable standards and requirements. The intent of this provision is to provide an objective standard and increase the likelihood of housing development projects being found consistent, compliant and in conformity.

### **Applicability of Density Bonus Law**

Government Code, § 65589.5, subdivision (j)(3)

The receipt of a density bonus pursuant to Density Bonus Law (Government Code § 65915) does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. Receipt of a density bonus can include a bonus in number of units, incentives, concessions, or waivers to development standards allowed under Density Bonus Law.<sup>7</sup>

### **General Plan and Zoning Consistency Standard**

Government Code, § 65589.5, subdivision (j)(4)

For various reasons, there is at times inconsistency between standards in a general plan and zoning standards. For example, a local government may have amended the general plan, but

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<sup>7</sup> Please note pursuant to Government Code § 65915, subd. (f) a receipt of a density bonus does not require an increase in density. An applicant can elect to ask for just the concessions, incentives, and waivers that the project qualifies for under State Density Bonus Law.

has not yet amended all of its municipal ordinances to assure vertical consistency<sup>8</sup>. Recognizing this, the HAA clarifies that if the zoning standards and criteria are inconsistent with applicable, objective general plan standards, but the development project is consistent with the applicable objective general plan standards for the site, then the housing development project cannot be found inconsistent with the standards and criteria of the zoning. Further, if such an inconsistency exists, the local agency may not require rezoning prior to housing development project approval.

However, the local agency may require the proposed housing development project to comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan designation. For example, if a site has a general plan land use designation of high density residential, but the site is zoned industrial, then a local government can require the project to comply with objective development standards in zoning districts that are consistent with the high density residential designation, such as a multifamily high density residential zone.

However, under the HAA, the standards and criteria determined to apply to the project must facilitate and accommodate development at the density allowed the general plan on the project site and as proposed by the housing development project.

### **Written Notification of Inconsistency**

Government Code, § 65589.5, subdivision (j)(2)

If a local government considers a proposed housing development project to be inconsistent, non-compliant, or not in conformity with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision, the local government must provide written notification and documentation of the inconsistency, noncompliance, or inconformity. This requirement applies to all housing development projects, regardless of affordability level. The documentation must:

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.
- Be provided to the applicant within 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- Be provided to the applicant within 60 days of a project application being deemed complete for projects containing over 150 units.

### **Consequence for Failure to Provide Written Documentation**

If the local government fails to provide the written documentation within the required timeframe, the housing development project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions.

<sup>8</sup> Pursuant to Government Code § 65860, city and county, including a charter city, zoning ordinances must be consistent with the adopted general plan. This is known as vertical consistency.



## **Denial of a Housing Project that is Consistent with Applicable Plans, Standards, or Other Similar Provisions Based on the Preponderance of the Evidence Standard**

Government Code, § 65589.5, subdivision (j)(1)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.

A “**specific, adverse impact**” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Pursuant to Government Code section 65589.5 (a)(3) it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety arise infrequently.

An example of a condition that does not constitute a specific, adverse impact would be criteria that requires a project to conform with “neighborhood character”. Such a standard is not quantifiable and therefore would not meet the conditions set forth under the HAA.

- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

### **Preponderance of the Evidence Standard**

In most actions, a local government is tasked with making findings or determinations based on “substantial evidence.” Under the substantial evidence standard, local government is merely required to find reasonable, adequate evidence in support of their findings, even if the same or *even more* evidence supports a finding to the contrary.

Findings or determinations based on a “preponderance of the evidence” standard require that local governments weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed<sup>9</sup>. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard.

<sup>9</sup> People v. Miller (1916) 171 Cal. 649, 652. Harris v. Oaks Shopping Center (1999) 70 Cal.App.4th 206, 209 (“Preponderance of the evidence’ means evidence that has more convincing force than that opposed to it.”).



## **Provisions Related to Housing Affordable to Very Low-, Low-, or Moderate-Income Household, Emergency Shelters, and Farmworker Housing**

### **State Policy on Housing Project Approval**

“It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article (RHNA) without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)” Government Code, § 65589.5, subdivision (b).

The HAA provides additional protections for projects that contain housing affordable to very low-, low- or moderate-income households, including farmworker housing, or emergency shelters. State policy prohibits local governments from rejecting or otherwise making infeasible these types of housing development projects, including emergency shelters, without making specific findings.

### **Denial or Conditioning of Housing Affordable to Very Low-, Low- or Moderate-Income Households, Including Farmworker Housing, or Emergency Shelters**

Government Code, § 65589.5, subdivision (d) and (i)

The HAA specifies findings that local governments must make, in addition to those in the previous section, if they wish to deny a housing development affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters. These requirements also apply when a local government wishes to condition such a project in a way that it would that render it infeasible or would have a substantial adverse effect on the viability or affordability of a housing development project for very low-, low-, or moderate-income households. In addition to the findings, described above, that apply to all housing development projects, a local government must also make specific findings based upon the preponderance of the evidence of one of the following:

- (1) The local government has an adopted housing element in substantial compliance with California’s Housing Element Law, contained in Article 10.6 of Government Code, *and* has met or exceeded development of its share of the RHNA in all income categories proposed in the housing development project. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelters as identified in the housing element. This requirement to meet or exceed its RHNA is in relationship to units built in the local government, not zoning. A local government’s housing element Annual Progress Report pursuant to Government Code section 65400 can be used to demonstrate progress towards RHNA goals.
- (2) The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development project unaffordable or financially infeasible. Specific to housing development projects affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters, specific, adverse impacts do not include inconsistency with the zoning ordinance or general plan land use designation or eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.
- (3) Denial of the housing development project or the imposition of conditions is required to comply with specific state or federal law, *and* there is no feasible method to comply without

rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

- (4) The housing development project is proposed on land zoned for agriculture or resource preservation that is either: (a) surrounded on two sides by land being used for agriculture or resource preservation; or (b) does not have adequate water or wastewater facilities to serve the housing development project.
- (5) The housing development project meets both the following conditions:
  - Is inconsistent with both the local government's zoning ordinance and the general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. This means this finding cannot be used in situations where the project is inconsistent with one (e.g., the general plan designation), but is consistent with the other (e.g., zoning ordinance).
  - The local government has an adopted housing element in substantial compliance with housing element Law.

Finding (5) *cannot* be used when any of the following occur:

- The housing development project is proposed for a site identified as suitable or available for very low-, low-, or moderate-income households within a housing element and the project is consistent with the specified density identified in the housing element.
- The local government has failed to identify sufficient adequate sites in its inventory of available sites to accommodate its RNHA, and the housing development project is proposed on a site identified in any element of its general plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.
- The local government has failed to identify a zone(s) where emergency shelters are allowed without a conditional use or other discretionary permit, or has identified such zone(s) but has failed to demonstrate that they have sufficient capacity to accommodate the need for emergency shelter(s), and the proposed emergency shelter is for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

Any of these findings must be based on a preponderance of the evidence. For details, see "Preponderance of the evidence standard" on page 12 for further information.

### Violations of Housing Accountability Act

The courts are the primary authority that enforces the HAA. Actions can be brought by eligible plaintiffs and petitioners to the court for potential violations of the law. Similarly, HCD under Government Code section 65585 (j), can find that a local government has taken an action in violation of the HAA. In that case, after notifying a local government of the violation, HCD would refer the violation to the Office of the Attorney General who could file a petition against a local government in the Superior Court.

### Eligible Plaintiffs and Petitioners

Government Code, § 65589.5, subdivision (k)(1)(A) and (k)(2)

The applicant, a person eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring action to enforce the HAA. A housing organization, however, may only file an action to challenge the disapproval of the housing development project and must have filed written or oral comments with the local government prior to its action on the housing development project.

**“Housing organizations”** means a trade or industry group engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households. A housing organization is entitled to reasonable attorney fees and costs when prevailing in an action. Labor unions, building associations, multifamily apartment management companies, and legal aid societies are examples of housing organizations.

### Remedies

Government Code, § 65589.5, subdivision (k)(1)(A)

If the plaintiff or petitioner prevails, the court must issue an order compelling compliance with the HAA within 60 days. The court’s order would at a minimum require the local agency to take action on the housing development project or emergency shelter during that time period. The court is further empowered to issue an order or judgment that actually directs the local government to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. “Bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

If the plaintiff or petitioner prevails, the court shall award reasonable attorney fees and costs of the suit to the plaintiff or petitioner for both affordable and market-rate housing development projects,<sup>10</sup> except in the “extraordinary circumstances” in which the court finds that awarding fees would not further the purposes of the HAA.

### Local Agency Appeal Bond

Government Code, § 65589.5, subdivision (m)

If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant. In this provision, the Legislature has waived, to some degree, the immunity from damages that normally extends to local agencies, recognizing that the project applicant incurs costs due to the delay of its project when a local agency appeals. (Contrast Gov. Code, § 65589.5, subd. (m), with Code Civ. Proc., § 995.220, subd. (b) [local public entities do not have to post bonds].)

<sup>10</sup> / *Honchariw v. County of Stanislaus* (2013) 218 Cal.App.4th 1019, 1023–1024, which ruled to the contrary, was superseded by statutory changes in Senate Bill 167 (Stats. 2017, ch. 368, § 1), Assembly Bill 678 (Stats. 2017, ch. 373, § 1), and Senate Bill 330 (Stats. 2019, ch. 654, § 3).

### Failure to Comply with Court Order

Government Code, § 65589.5, subdivision (k)(1)(B)(i), (k)(1)(C), and (l)

If the local government fails to comply with the order or judgment within 60 days of issuance, the court must impose a fine on the local government. The *minimum* fine that may be imposed is \$10,000 per housing unit in the housing development project as proposed on the date the application was deemed complete. Please note, the use of the term “deemed complete” in this instance has the same meaning as “determined to be complete” as referenced on page 7. The monies are to be deposited into the State’s Building Homes and Jobs fund or the Housing Rehabilitation Loan fund. In calculating the amount of the fine in excess of the minimum, the court is directed to consider the following factors:

- The local government’s progress in meeting its RHNA and any previous violations of the HAA.
- Whether the local government acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. If the court finds that the local government acted in bad faith, the total amount of the fine must be multiplied by five.

The court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and an order to approve the housing development project.

### Court-Imposed Fines

Court-imposed fines begin at \$10,000 per housing unit and could be much higher. If the court determines the local government acted in bad faith, the fine is multiplied by five. This equates to a minimum fine of \$50,000 per unit.

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. For example, in a recent Los Altos Superior Court order, the court issued an order directing the local agency to approve the housing development project and found that the local agency acted in bad faith when it disapproved the housing development because its denial was entirely without merit. The city’s denial letter did not reflect that the city made a benign error in the course of attempting, in good faith, to follow the law by explaining to the developer how the project conflicted with objective standards that existed at the time of application; instead, the city denied the application with a facially deficient letter, employed strained interpretations of statute and local standards, and adopted a resolution enumerating insufficient reasons for its denial<sup>11</sup>. Bad faith can be demonstrated through both substantive decisions and procedural actions. In the Los Altos case, the court found that demanding an administrative appeal with less than a days’ notice revealed bad faith. Repeated, undue delay may likewise reveal bad faith.

<sup>11</sup> Order Granting Consolidated Petitions for Writ of Mandate, 40 Main Street Offices, LLC v. City of Los Altos et al. (Santa Clara Superior Court Case No. 19CV349845, April 27, 2020), p. 38

## APPENDIX A: Frequently Asked Questions

### What types of housing development project applications are subject to the Housing Accountability Act (HAA)?

The HAA applies to both market rate and affordable housing development projects. (*Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1073.) It applies to housing development projects that consist of residential units and mixed-use developments when two-thirds or more of the square footage is designated for residential use. It also applies to transitional housing, supportive housing, farmworker housing, and emergency shelters. (Gov. Code, § 65589.5, subds. (d) and (h)(2).)

### Does the Housing Accountability Act apply to charter cities?

Yes, the HAA applies to charter cities (Gov. Code, § 65589.5, subd. (g).)

### Does the Housing Accountability Act apply to housing development projects in coastal zones?

Yes. However, local governments must still comply with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) (Gov. Code, § 65589.5, subd. (e).)

### Are housing developments still subject to the California Environmental Quality Act (CEQA) if they qualify for the protections under the Housing Accountability Act?

Yes. Jurisdictions are still required to comply with CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code) as applicable to the project. (Gov. Code, § 65589.5, subd. (e).)

### Does the California Department of Housing and Community Development have enforcement authority for the Housing Accountability Act?

Yes. HCD has authority to find that a local government's actions do not substantially comply with the HAA (Gov. Code, § 65585, subd. (j)(1).) In such a case, HCD may notify the California State Attorney General's Office that a local government has taken action in violation of the HAA.

### If approval of a housing development project triggers the No-Net Loss Law, may a local government disapprove the project?

No. Triggering a required action under the No-Net Loss Law is not a valid basis to disapprove a housing development project. (Gov. Code, § 65863, subd. (c)(2).) The only valid reasons for disapproving a housing development project are defined in the HAA under subdivisions (d) and (j). Subdivision (j) contains requirements that apply to all housing development projects; subdivision (d) contains additional requirements for housing development projects for very low-, low- or moderate-income households or emergency shelters.

### Does the Housing Accountability Act apply to a residential development project on an historic property?

Yes. The HAA does not limit the applicability of its provisions based on individual site characteristics or criteria. The local government may apply objective, quantifiable, written development standards, conditions, and policies related to historic preservation to the housing development project, so long as they were in effect when the application was deemed

complete<sup>12</sup>. The standards should be appropriate to, and consistent with, meeting the local government's regional housing need and facilitate development at the permitted density. (Gov. Code, § 65589.5, subd. (f)(1).) However, it should be noted that compliance with historic preservation laws may otherwise constrain the approval of a housing development.

**Under the Housing Accountability Act, is the retail/commercial component of a mixed-use project subject to review when the housing component must be approved?**

Yes. The local government may apply objective, quantifiable, written development standards, conditions and policies to the entirety of the mixed-use project, so long as they were in effect when the application was deemed complete. (Gov. Code, § 65589.5, subd. (f)(1).)

**Does the Housing Accountability Act apply to subdivision maps and other discretionary land use applications?**

Yes. The HAA applies to denials of subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit (Gov. Code, § 65589.5, subd. (h)(6).)

**Does the Housing Accountability Act apply to applications for individual single-family residences or individual Accessory Dwelling Units (ADUs)?**

No. A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the HAA (Gov. Code, § 65589.5, subd. (h)(2).).

**Does the Housing Accountability Act apply to an application that includes both a single-family residence and an Accessory Dwelling Unit?**

Yes. Since an application for both a single-family residence and an ADU includes more than one residential unit, the HAA applies (Gov. Code, § 65589.5, subd. (h)(2).)

**Does the Housing Accountability Act apply to an application for a duplex?**

Yes. Since an application for a duplex includes more than one residential unit, the HAA applies. (Gov. Code, § 65589.5, subd. (h)(2).)

**Does the Housing Accountability Act apply to market-rate housing developments?**

Yes. Market-rate housing developments are subject to the HAA (Gov. Code, § 65589.5, subd. (h)(2).) In *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, the court found the definition of "housing development project" was not limited to projects involving affordable housing and extended to market-rate projects. Market-rate housing development projects are subject to the requirements of paragraph (j) (Gov. Code, § 65589.5, subd. (j).)

<sup>12</sup> For purposes of determination of whether a site is historic, "deemed complete" is used with reference to Government Code §65940. See Government Code § 65913.10.



**Under the Housing Accountability Act, if a housing development project is consistent with local planning rules, can it be denied or conditioned on a density reduction?**

Yes. However, a local government may deny a housing development that is consistent with local planning rules, or condition it on reduction in density, only under very specific circumstances. (Gov. Code, § 65589.5, subds. (j)(1)(A), (B).) The local government must make written findings based on a preponderance of the evidence that both:

- (1) The housing development project would have a specific, adverse impact upon public health or safety unless disapproved or approved at a lower density; and
- (2) There is no feasible method to satisfactorily mitigate or avoid the impact.

(See definition of and specific requirements for finding of “specific, adverse impact” discussed below.)

**Under the Housing Accountability Act, can a housing development project affordable to very low-, low-, or moderate-income households (including farmworker housing) or emergency shelter that is inconsistent with local planning requirements be denied or conditioned in a manner that renders it infeasible for the use proposed?**

Yes, but only under specific circumstances. The local government must make written findings based on a preponderance of the evidence as to specific criteria. However, inconsistency with zoning does not justify denial or conditioning if the project is consistent with the general plan. (See Page 11 for more details). See also Gov. Code, § 65589.5, subds. (d)(1)-(5).)

**Is there a definition for “specific, adverse impact” upon public health and safety?**

Yes. The HAA provides that a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation is not such a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2) and (j)(1)(A).)

The HAA considers that such impacts would be rare: “It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.” (Gov. Code, § 65589.5, subd. (a)(3).)



## Appendix B: Definitions

**Area median income** means area median income as periodically established by the HCD pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years. (Gov. Code, § 65589.5, subd. (h)(4).)

**Bad faith** includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. (Gov. Code, § 65589.5, subd. (l).) This definition arises in the context of the action a local government takes when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA.

**Deemed complete** means that the applicant has submitted a preliminary application pursuant to Government Code section 65941.1 (Gov. Code, § 65589.5, subd. (h)(5).) However, in Government Code section 65589.5(k)(1)(B)(i) deemed complete has the same meaning as “Determined to be Complete”.

**Determined to be complete** means that the applicant has submitted a complete application pursuant to Government Code section 65943 (Gov. Code, § 65589.5, subd. (h)(9).)

**Disapprove the housing development project** means a local government either votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit, or fails to comply with specified timeframes in the Permit Streamlining Act. (Gov. Code, § 65589.5, subd. (h)(5).)

**Farmworker housing** means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

**Feasible** means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Gov. Code, § 65589.5, subd. (h)(1).)

**Housing development project** means a use consisting of any of the following: (1) development projects with only residential units, (2) mixed-use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, (3) transitional or supportive housing.

**Housing organization** means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. (Gov. Code, § 65589.5, subd. (k)(2).) This definition is relevant to the individuals or entities that have standing to bring an HAA enforcement action against a local agency.

**Housing for very low-, low-, or moderate-income households** means that either:

- At least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or

- One hundred (100) percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code.

Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based. (Gov. Code, § 65589.5, subd. (h)(3).)

**Lower density** (as used in the sense of “to lower density”) means a reduction in the units built per acre. It includes conditions that directly lower density and conditions that effectively do so via indirect means. (Gov. Code, § 65589.5, subd. (h)(7).)

**Mixed use** means a development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

**Objective** means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

**Regional housing needs allocation (RHNA)** means the share of the regional housing needs assigned to each jurisdiction by income category pursuant to Government Code section 65584 though 65584.6.

**Specific adverse impact** means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2), (j)(1)(A).) This definition is relevant to the written findings that a local agency must make when it disapproves or imposes conditions on a housing development project or an emergency shelter that conforms with all objective standards. It is the express intent of the Legislature that the conditions that would give rise to a specific, adverse impact upon the public health and safety occur infrequently. (Gov. Code, § 65589.5, subd. (a)(3).)

**File Attachments for Item:**

U. Consider Approval of Resolution No. 2021-62 “Declaring a Climate Emergency and Initiating Immediate and Accelerated Action to Address the Climate Crisis and Limit Global Warming to 1.5 Degrees Celsius



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Adrienne Etherton, Sustainability Manager

**Subject:** Climate Emergency Declaration – Resolution No. 2021-62

**Community Goal/Result:** Ecological Sustainability

### Purpose

To declare that the climate crisis is an urgent threat requiring emergency action, proclaim the City's commitment to continued Climate Action, and establish future emissions reduction goals.

### Recommendation

Approve Resolution No. 2021-62 "Declaring a Climate Emergency and Initiating Immediate and Accelerated Action to Address the Climate Crisis and Limit Global Warming to 1.5 Degrees Celsius".

### Background

In 2015, Brisbane adopted a Climate Action Plan (CAP) with a goal of reducing local greenhouse gas (GHG) emissions 15% by 2020. In 2018, staff began work on a potential CAP update for 2030. Climate Action Plans include setting a reduction target, forecasting emissions for a "Business as Usual" scenario, and selecting measures to reduce emissions along with estimating their impact to reach the target. The reduction goal is typically a percent reduction in gross emissions from a community's baseline year, i.e. 20% below the 2005 baseline by 2020, or 50% by 2030. The most recent GHG inventory (2017 calendar year, completed in 2020) showed an estimated 20.3% reduction, beating our previous goal and indicating the need for new targets.

The Brisbane Baylands development is poised to roughly double the size of the City, which poses challenges for the method typically used in Climate Action Planning. No other California jurisdiction, to our knowledge or that of consulted authorities, has grown at such a rate during the "Climate Action Planning era." Moving forward with a Climate Action Plan that either fails to consider the growth at the Baylands or that includes emissions projections that do not align with those in the Baylands EIR could expose the City to legal risk.

Staff consulted experts from the Baylands EIR consultants, Bay Area Air Quality Management District, and the Governor's Office of Planning and Research; none were able to recommend an approach to a CAP update before completing the Baylands EIR, so the update was put on hold. Meanwhile, staff and the Open Space and Ecology Committee have continued to implement CAP measures under the 2015 plan, to work with County staff and consultants to inventory our past GHG emissions, and to bring forward new programs and policies to drive down emissions.

In recent years, a number of agencies have adopted Climate Emergency Declarations to emphasize the severity of the climate crisis and the need to take action at the pace and scale commensurate with an emergency. Declarations also commonly emphasize environmental justice, green jobs, and social equity, issues that have increasingly become recognized as crucial elements of the necessary transition to just, climate

resilient communities. Locally, the County of San Mateo and Cities of Oakland, San Francisco, and Menlo Park have adopted Climate Emergency Declarations.

### Discussion

Adopting a Climate Emergency Declaration in Brisbane will declare the City's commitment to climate action and environmental justice, and establish high-level goals despite the lack of an updated Climate Action Plan. While it does not fulfill all the needs of a CAP or provide estimates of GHG reductions, it can provide many benefits in terms of City messaging, frameworks for future programs and policies, and targets to work towards.

In addition, it is conceivable that funding sources or other programmatic opportunities could require established climate reduction targets or plans to be eligible. Both the state budget and legislation being discussed in Washington include large sums for climate and environmental actions. Our hope is that a Climate Emergency Declaration would cover any such eligibility requirements while avoiding legal challenges.

The proposed resolution was developed by staff and the Open Space and Ecology Committee's Climate Action Plan subcommittee, and was modeled on those passed by the County of San Mateo and the City of San Francisco. Current state targets include 40% GHG reductions below 1990 levels by 2030, which is roughly equivalent to 50% reduction below 2005 levels (the City's baseline inventory) by 2030, and carbon neutrality by 2045. The suggested "stretch goals" of 66% reduction by 2030 and carbon neutrality by 2040 show leadership by being more ambitious than minimums required by the state, but we believe they are realistically achievable with the focused effort and resources the resolution's language indicates.

OSEC discussed the draft resolution at their May meeting and unanimously recommended its consideration by the City Council. Subsequently, the OSEC Council Liaisons and CAP Subcommittee met and recommended minor edits that have been incorporated.

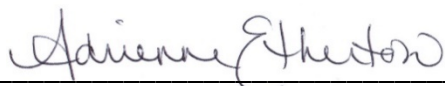
### Fiscal Impact

There is no impact from adopting the Climate Emergency Declaration. The resolution proposes unspecified future funds and staff resources to climate change mitigation and adaptation.

**Measure of Success:** The City adopts a Climate Emergency Declaration.

### Attachments

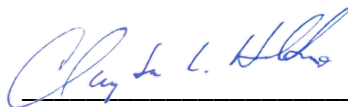
1. Climate Emergency Declaration



Prepared by: Adrienne Etherton, Sustainability Manager



Randy Breault, Public Works Director



Clay Holstine, City Manager

## RESOLUTION NO. 2021-62

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE DECLARING A CLIMATE EMERGENCY AND INITIATING IMMEDIATE AND ACCELERATED ACTION TO ADDRESS THE CLIMATE CRISIS AND LIMIT GLOBAL WARMING TO 1.5 DEGREES CELSIUS

**WHEREAS**, Climate change is an urgent unfolding crisis that presents a serious threat to global stability and human existence, as well as the environment and survival of countless species; and

**WHEREAS**, the Intergovernmental Panel on Climate Change (IPCC) issued a special report on the impacts of global warming and the need to substantially reduce global greenhouse gas emissions well before 2030 to hold warming to 1.5 degrees Celsius to avoid the most catastrophic impacts of climate change; and

**WHEREAS**, according to the IPCC, increasing greenhouse gases (GHG) are on track to raise global temperatures 2.5 - 3 degrees Celsius; and

**WHEREAS**, in 2018, the United States' Fourth National Climate Assessment made clear that climate change will wreak havoc across the United States, and that the current pace and scale of national climate action is not sufficient to avert substantial damage to the economy, environment, and human health over the coming decades; and

**WHEREAS**, Brisbane, like the Bay Area and the state of California, is already suffering impacts of climate change in the form of droughts, air pollution, extreme heat, lowland flooding, wildfires and stagnating smoke, and these impacts will grow more severe if global greenhouse gas emissions are not significantly reduced; and

**WHEREAS**, climate change will continue to make basic human necessities such as food, housing, healthcare, transportation and energy more expensive and, along with inadequate wages, add additional pressure to the Bay Area's crises of affordability and wealth inequality; and

**WHEREAS**, the burden of environmental injustices and the fossil-fuel economy have fallen on people unequally, and the direct and indirect impacts of climate change will disproportionately affect communities least able to prepare for, cope with, and recover from them; and

**WHEREAS**, climate change will have adverse effects on biodiversity, endangered species populations, and the fragmented habitat that exists within the urban envelope and throughout the Bay Area including San Bruno Mountain; and

**WHEREAS**, to stay within 1.5 degrees Celsius, all cities throughout the USA will need to significantly reduce their aggregate and per capita emissions by 2030, and as a city with a long history of environmental stewardship, Brisbane chooses to lead by example; and

**WHEREAS**, the current pace of climate actions needs to be accelerated to address the projected harm to people and places, and urgent actions need be taken to reduce our GHG emissions and implement solutions to prepare and protect communities; and

**WHEREAS**, the City of Brisbane chooses to leverage the post-pandemic recovery as an opportunity to grow in a new direction that relies less on pollution and fossil-fuels and embraces equity, efficiency, and renewable resources.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:**

Section 1. To declare a climate emergency that threatens the economic and social well-being, health and safety, and security of the City of Brisbane and its residents.

Section 2. The City commits to completing a Climate Action Plan that will include climate-related goals and actions, with aspirational goals of 66% GHG reduction below the 2005 baseline by 2030 and carbon neutrality by 2040.

Section 3. The City of Brisbane commits to reducing the transportation emissions which account for a majority of community emissions by fostering safe, accessible, equitable,



intelligent, and clean multimodal travel options, infrastructure, and community connectivity.

Section 4. The City of Brisbane will coordinate its climate efforts with the County of San Mateo and the other 19 cities in the County, and other regional partners like Peninsula Clean Energy, to rapidly eliminate greenhouse gas emissions from fossil fuels and other sources.

Section 5. Health, socio-economic and racial equity considerations shall be included in local climate mitigation and adaptation planning, policy, and program delivery, ensuring a just transition for all people.

Section 5. Any legislation or projects started through the climate emergency process should pay living wages, which may be accomplished through mechanisms such as requiring the payment of prevailing wage, creation of employment contracts through collective bargaining, hiring unionized employees, and/or requiring a Project Labor Agreement. Such legislation or projects should also encourage career opportunities, including training and retraining, and investments in working-class, low-income communities, and communities of color historically and disproportionately impacted by pollution, high unemployment, poverty and environmental injustice.

Section 6. The City will coordinate climate efforts that increase resilience, including the resiliency of City operations and facilities, adaptive measures, infrastructure modernization, and economic security, and strengthen the call for state and federal actions and funds to address the economic, social, public health, and national security threats posed by the climate crisis.

Section 7. The City of Brisbane will continue to educate residents about the seriousness of climate change, invest in climate solutions, and address the current and future impacts of climate change.

Section 8. The Brisbane City Council will develop high priority strategies to achieve deep emission reductions at emergency speed.

Section 9. The City Council directs staff to report annually to the Council, starting in April 2022, on progress towards meeting resiliency goals and achieving carbon neutrality.

Section 10. To meet the City of Brisbane's ambitious greenhouse gas emission reduction targets, the City Council urges all staff, committees and commissions to review procedures, programs and the General Plan, recommend updates or new policies, and take into account the effect these policies will have on marginalized communities.

Section 11. The Brisbane City Council will work with the Committees, Commissions, residents and staff to develop a budget that enables urgent climate action, avoids further investment of public dollars in fossil-fuel reliant infrastructure when there are clean energy alternatives, supports public sector employees, and ensures a climate resilient future for all Brisbane residents.

---

Karen Cunningham, Mayor

\* \* \* \*

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Brisbane held on the fifteenth day of July 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Ingrid Padilla, City Clerk

**File Attachments for Item:**

V. Discuss SB 1383 Implementation



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** July 15, 2021

**From:** Director of Public Works/City Engineer

**Subject:** Preview of SB 1383 Requirements

### **Community Goal/Result** - Ecological Sustainability

**Purpose** - To brief Council on future action items that will be presented by staff to comply with the requirements of SB 1383.

**Recommendation** - Receive presentation.

### **Background**

SB 1383 (Lara, 2016) is a prescriptive organic waste reduction mandate intended to reduce short-lived climate pollutants (primarily methane) that are produced from the degradation of organics in landfills. While the prescriptive nature of this law provides less leeway in the actions cities may take, it is generally seen as an improvement over AB 939 (California Integrated Waste Management Act, Sher, 1989), which simply mandated that cities reduce their diversion of solid waste to landfills by 50 percent.

There is an exceptionally detailed presentation provided by CalRecycle attached to this report for the interested reader. In simplest terms, the efforts required of the city and its solid waste franchisees are as follows:

1. Provide organic collection to ALL residents and businesses
2. Participate in an edible food recovery program
3. Conduct education and outreach
4. Procure recyclable and recovered organic products
5. Monitor compliance and conduct enforcement

The city and South San Francisco Scavenger are already well on the path to accomplishing these items. Scavenger already offers an on-request three-container "source separated" collection service to satisfy item 1, and is ready to expand that to all addresses. Similarly, city and Scavenger staff already cooperate in outreach programs, which will be continued to satisfy item 3. With regards to item 4, Scavenger presently produces enough diesel gallon equivalents of renewable natural gas to satisfy our required procurement, and the city will further comply by meeting the recycled paper procurement requirements. Circling back to item 2, city staff will liaison with San Mateo County staff, who have taken the lead in establishing an edible food recovery program.

The final item to be addressed is compliance and enforcement. There are prescriptive items required of the franchisee (e.g., they are required to list their landfill for organics disposal) and of the city (recordkeeping requirements, the authority to cite noncompliant parties, etc.). Implementation of all of these requirements will require modification to the city's municipal code, and some minor revisions to the current franchise agreements.

SB 1383's inspection and enforcement requirements dictate adoption of an ordinance with enforceable mechanisms by 2022, compliance monitoring and education from 2022-2024, and enforcement in 2024. Staff's recent experience with the "education and encouragement" required by AB 341 (Chesbro, 2011 mandatory commercial recycling) and AB 1826 (Chesbro, 2014, mandatory organic recycling) is that voluntary compliance and change of behavior can occur over a shorter period than 2 years. Therefore staff's recommendation to the Infrastructure, Utilities & Franchise Subcommittee at its 1/26/21 meeting was that the education period be shortened to 1 year, and compliance to be required at the end of that 1<sup>st</sup> year. That recommendation will be retained in the first bullet point below.

### **Discussion**

Prior to the end of this calendar year, staff will bring the following items to Council for action:

- A new BMC Chapter 8.25, Mandatory Organic Waste Disposal Reduction
- A new BMC Chapter 3.13, Recovered Organic Waste and Recycled-Content Paper Procurement Policy
- A Memorandum of Understanding with San Mateo County so they may establish and operate an Edible Food Recovery Program

### **Fiscal Impact**

There will be no immediate impact to the city or its residents as a result of implementing the above listed items. However, as the requirements of SB 1383 become more intense (e.g., the requirement to complete compliance reviews to confirm items placed in containers are source separated), it seems likely that a result of anticipated negotiations between the city and its franchisees regarding these duties may eventually result in revised rate schedules.

### **Measure of Success**

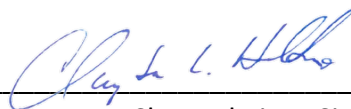
The City's complete compliance with SB 1383, with the associated end result of a reduction in landfill methane production.

### **Attachments**

1. SB 1383 – Reducing Short-Lived Climate Pollutants in California



Randy Breault, Public Works Director



Clay Holstine, City Manager

# SB 1383

## Reducing Short-Lived Climate Pollutants in California

### An Overview of SB 1383's Organic Waste Reduction Requirements



### Presentation Introduction

- SB 1383 (Lara, Chapter 395, Statutes of 2016) is the most significant waste reduction mandate to be adopted in California in the last 30 years.
- SB 1383 requires the state to reduce organic waste [food waste, green waste, paper products, etc.] disposal by 75% by 2025. In other words, the state must reduce organic waste disposal by more than 20 million tons annually by 2025.
- The law also requires the state to increase edible food recovery by 20 percent by 2025.
- This has significant policy and legal implications for the state and local governments.
  1. SB 1383 establishes a statewide target and not a jurisdiction organic waste recycling target.
  2. Given that it is a statewide target and there are not jurisdiction targets, the regulation requires a more prescriptive approach (this is different than AB 939).
    - A. CalRecycle must adopt regulations that impose requirements necessary to achieve the statewide targets.
    - B. This makes the regulation more similar to other environmental quality regulations where regulated entities, i.e., jurisdictions, are required to implement specific actions, rather than achieve unique targets.
      - a. For example AB 32 established GHG reduction targets for the state, and the implementing Cap-and-Trade regulations require businesses to take specific actions.
        - i. The individual businesses are not required to achieve a specific target.
        - ii. They are required to take actions prescribed by the date.

### Overview of Presentation

- Background and Context of SB 1383: Why California passed this law
- SB 1383 Requirements: A big picture look at the law's requirements and objectives
- Jurisdiction Responsibilities: What SB 1383 requires of local governments
  - Provide organic waste collection to all residents and businesses
  - Establish an edible food recovery program that recovers edible food from the waste stream

- Conduct outreach and education to all affected parties, including generators, haulers, facilities, edible food recovery organizations, and city/county departments
- Capacity Planning: Evaluating your jurisdiction's readiness to implement SB 1383
- Procure recycled organic waste products like compost, mulch, and renewable natural gas (RNG)
- Inspect and enforce compliance with SB 1383
- Maintain accurate and timely records of SB 1383 compliance
- CalRecycle Oversight Responsibilities
- SB 1383 Key Implementation Dates
- SB 1383 Key Jurisdiction Dates

#### **Additional Resources**

- CalRecycle's Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions webpage has more information: <https://www.calrecycle.ca.gov/Climate/SLCP/>
- CalRecycle's SB 1383 Rulemaking webpage as more information about the status of 1383 regulations: <https://www.calrecycle.ca.gov/laws/rulemaking/slcp>





- When we are talking about organic waste for the purposes of SB 1383 we are talking about green waste, wood waste, food waste, but also fibers, such as paper and cardboard.
- Organic waste comprises two-thirds of our waste stream.
- Food waste alone is the largest waste stream in California.
  - According to CalRecycle's last waste characterization study in 2014, food waste comprised 18 percent of what we disposed.
- SB 1383 also requires California to recover 20 percent of currently disposed edible food.
  - We currently don't know how much of the food waste stream is edible.
  - CalRecycle is conducting a new waste characterization study in 2018/19 that is taking a closer look at our food waste stream.
  - The results of this study will help determine how much edible food waste is landfilled on average throughout the state.
- Here's what we do know:
  - 1 in 5 children go hungry every night in California – redirecting perfectly edible food that is currently being disposed to feed those in need can help alleviate this.
  - For every 2 ½ tons of food rescued, that's the equivalent of taking 1 car off the road for a year. (<https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator>)

# CLIMATE CHANGE NEGATIVELY IMPACTS CALIFORNIA

Landfilled Organic Waste Emits

## Methane Gas— A Super Pollutant

More Powerful than CO<sub>2</sub>

Methane Gas Contributes to  
Climate Change in California



**CALIFORNIA**  
is already experiencing  
the impacts of  
**CLIMATE CHANGE**

IN 2015 THE DROUGHT COST THE  
AGRICULTURE INDUSTRY IN THE  
CENTRAL VALLEY AN ESTIMATED  
\$2.7 BILLION & 20,000 JOBS

CalRecycle

- Landfilling organic waste leads to the anaerobic breakdown of that material, which creates methane.
- Landfills are responsible for 21% of the state's methane emissions. **Landfills are the third largest producer of methane.**
- Methane is 72 times more potent than Carbon Dioxide (CO<sub>2</sub>) over a 20-year horizon.
- Climate change may seem like a distant problem, but there are other more localized environmental impacts associated with landfill disposal of organic waste that **have immediate negative impacts on our community now.**
  - Landfilling organic waste is a significant source of local air quality pollutants (NOX and PM<sub>2.5</sub>).
  - These pollutants have an immediate negative impact on the air our community and it can cause respiratory issues and hospitalizations.
  - Diverting organic waste to recycling can significantly reduce these local air quality emissions and the associated negative impacts.

We are starting to see the effects of climate change in cities and counties throughout California.

- Longer droughts and warmer temperatures are drying our forest and contributing to the ever increasing number of wildfires in CA (which also impact air quality).
- Cyclical droughts
- Bigger storms
- Coastal erosion due to rising sea levels
- We should not underestimate the cost of these climate change impacts.
  - The state and communities are spending billions fighting wildfires, removing debris and rebuilding homes.
  - That means we are paying for the effects of climate change today.
  - The financial and public health impacts are here and **we need to take action to mitigate climate change now**
- That is why the state enacted SB 1383, which is designed to reduce the global warming gasses like methane, which are the most potent and are "short-lived"
- Reducing this gas now, through actions like organic waste recycling will significantly reduce emissions, and will reduce the impacts of climate change in our life time.

# SB 1383 Requirements

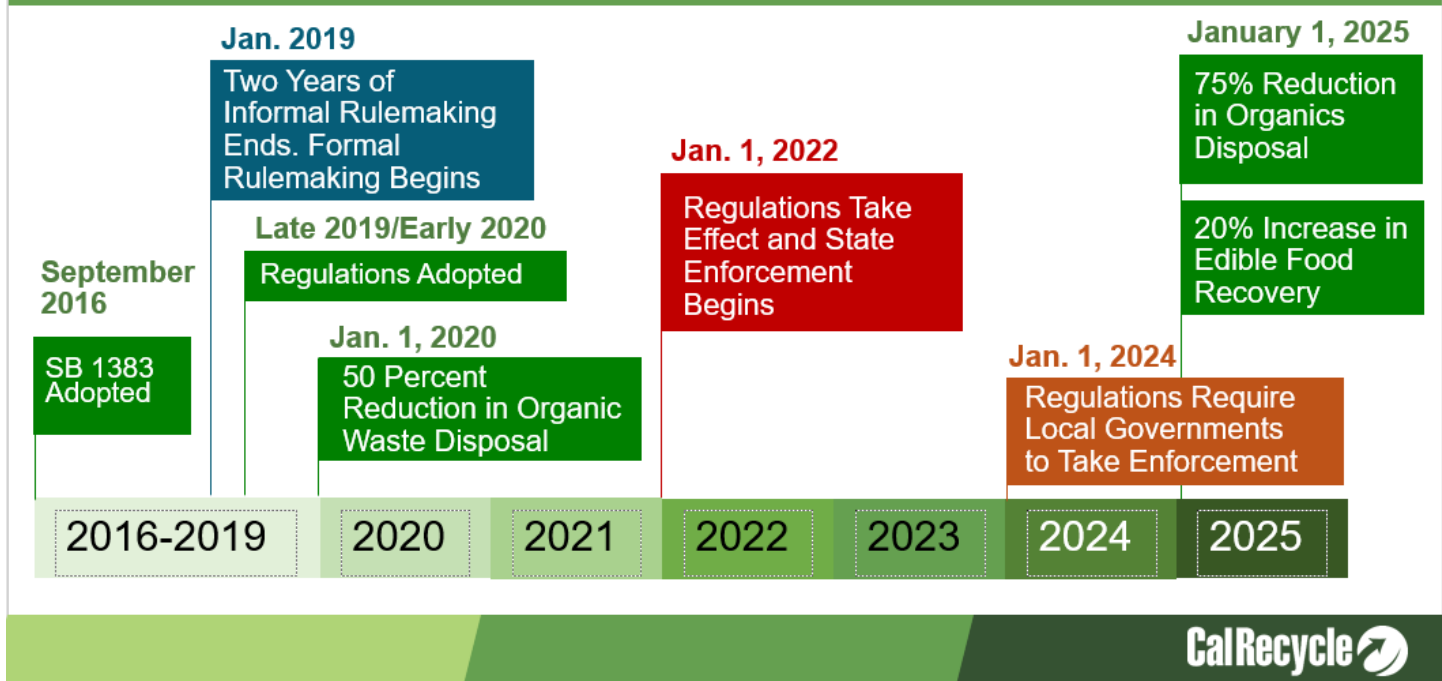
2020	50 PERCENT REDUCTION IN LANDFILLED ORGANIC WASTE (11.5 Million Tons Allowed Organic Waste Disposal)
2022	REGULATIONS TAKE EFFECT
2025	75 PERCENT REDUCTION IN LANDFILLED ORGANIC WASTE (5.7 Million Tons Allowed Organic Waste Disposal)
2025	20 PERCENT INCREASE IN RECOVERY OF CURRENTLY DISPOSED EDIBLE FOOD

CalRecycle 

## Overview of SB 1383:

- SB 1383 establishes aggressive organic waste reduction targets.
- SB 1383 also builds upon Mandatory Commercial Organics Recycling law. Our jurisdiction has been implementing this law since 2016.
- SB 1383 requires Californians to reduce organic waste disposal by 50% by 2020 and 75% by 2025.
  - These targets use the 2014 Waste Characterization Study measurements when 23 million tons of organic waste were disposed.
  - These disposal reductions will reduce at least 4 million metric tons of greenhouse gas emissions annually by 2030.
- Additionally as a part of the disposal reduction targets the Legislature directed CalRecycle to increase edible food recovery by 20 percent by 2025.
  - The food recovery goal is unique.

# SB 1383 Key Implementation Dates



Highlighted here on the slide are the key dates for SB 1383 implementation and milestones.

1. This law, the targets, and the requirements for CalRecycle to adopt regulations were adopted in September 2016
2. CalRecycle conducted two years of informal hearings with local governments and stakeholders to develop regulatory concepts.

## Formal Rulemaking

1. CalRecycle started the formal regulation rulemaking January 18, 2019, this is expected to conclude by the end of 2019.

## Regulations Take Effect

1. The regulations will become enforceable in 2022.
  - a. **Jurisdictions must have their programs in place on January 1, 2022.**

## Jurisdictions Must Initiate Enforcement

1. **In 2024 Jurisdictions will be required to take enforcement against noncompliant entities.**
2. Finally, in 2025 the state must achieve the 75 percent reduction and 20 food recovery targets.
3. To meet the deadline of January 1, 2022, **CalRecycle expects that jurisdictions will be planning and making programmatic and budgetary decisions regarding the requirements in advance of the deadline.**
4. CalRecycle can begin enforcement actions on jurisdictions and other entities starting on Jan. 1, 2022.
5. **The enforcement process on jurisdictions is different than under AB 939:**
  - a. Like many solid waste and recycling regulations, a regulated entity (such as a city or county) can be issued a violation and be subject to enforcement for failure to comply with any individual aspect of the regulation. This is different from the unique AB 939 enforcement structure where a jurisdiction's overall efforts to achieve specific target are reviewed in arrears
  - b. Like most regulatory enforcement programs, the enforcing agency (CalRecycle) will have discretion to determine the level of penalty necessary to remedy any given violation. E.g. A reporting violation may be considered less severe than a failure to provide collection services to all generators.
  - c. CalRecycle will consider certain mitigating factors which are specifically enumerated in the regulation. This is not the same as good faith effort but includes similar considerations. The specific nuances regarding requirements for state and local enforcement will be discussed in the later slides.

**These timelines mean that we need to start planning now.**

# SB 1383 Key Jurisdiction Dates

## 2022



Provide Organics Collection Service to All Residents and Businesses



Establish Edible Food Recovery Program



Conduct Education and Outreach



Procurement



Capacity Planning

## 2024



Starting January 1, 2024 Jurisdictions must take action against non-compliant entities

CalRecycle

1. To meet the deadline of January 1, 2022, **CalRecycle expects that jurisdictions will be planning and making programmatic and budgetary decisions regarding the requirements in advance of the deadline.**
  - a. CalRecycle can begin enforcement actions on jurisdictions and other entities starting on Jan. 1, 2022.
2. This slide outlines the major programmatic activities for jurisdictions and the following slides will cover more details.
3. In 2024 Jurisdictions will be required to take enforcement against noncompliant entities.
  - a. There are additional details in the draft regulations regarding the enforcement requirements
4. CalRecycle has some funding through competitive grant programs, as well as a loan program, for establishing the infrastructure for recycling organic waste and recovering edible food. However, for the programmatic activities, such as enforcement, inspections, education, collection we will need to plan for budgetary changes to address these.
  - a. In early 2020 CalRecycle will have a number of tools that we can begin utilizing, such as a model enforcement ordinance, franchise agreement models, and education materials. Using the 2018 and 2020 Statewide Waste Characterization Studies, jurisdictions will have data needed to conduct some of the capacity planning requirements.
  - b. Although the regulations are not finalized the major components are not expected to change.
  - c. We need to **start planning now** to have the programmatic and budgetary changes in place by January 1, 2022.

# JURISDICTION RESPONSIBILITIES

**Provide Organics  
Collection Services to All  
Residents and Businesses**



**Conduct Education  
and Outreach to  
Community**



**Secure Access to  
Recycling and Edible  
Food Recovery Capacity**



**Establish Edible  
Food Recovery  
Program**



**Procure Recyclable  
and Recovered  
Organic Products**



**Monitor Compliance  
and Conduct  
Enforcement**



**CalRecycle** 

Jurisdictions will be required to adequately resource these programs:

1. **Provide organic waste collection services to all residents and businesses.**
  - A. This means for all organic waste, including green waste, wood waste, food waste, manure, fibers, etc.
  - B. Containers have prescribed colors (any shade of grey or black for trash, green for organic waste and blue containers for traditional recyclables)
  - C. There are container labeling and contamination monitoring requirements
  - D. We need to assess our current collection programs and determine what may need to be, expanded, or changed
2. **Establish edible food recovery program for all Tier 1 and 2 commercial edible food generators**
  - A. This means ensuring that there are edible food recovery organizations that have enough capacity
  - B. This may entail providing funding to ensure there is adequate capacity and collection services
3. **Conduct education and outreach to all generators**
  - A. This will require education to be provided to all generators, and when applicable education may need to be provided in Spanish and other languages.
4. **Our jurisdiction will be required to procure certain levels of compost, renewable gas used for transportation fuels, electricity, heating applications, or pipeline injection, or electricity from biomass conversion produced from organic waste.**
5. **Plan and secure access for recycling and edible food recovery capacity.**
6. **We will be required to monitor compliance and conduct enforcement**
  - A. **Monitoring and education must begin in 2022**
  - B. **Enforcement actions must start Jan 1, 2024**
7. **We will need to adopt an ordinance, or similarly enforceable mechanism that is consistent with these regulatory requirements prior to 2022.**
8. **Planning in 2019 will be critical to meet the deadline.**



## SB 1383 IN ACTION

### LOCAL GOVERNMENT ROLES AND RESPONSIBILITIES

SB 1383 doesn't just apply to waste management and recycling departments.

Every local department plays a role in SB 1383 implementation.



CalRecycle

1. Jurisdictions should start planning now to get ready for SB 1383 implementation.
2. This **law extends beyond directing waste management and recycling operations and staff.**
  - a. **Each department will need to understand how SB 1383 impacts their work.**
  - b. **Recordkeeping and reporting requirements extend to all of these departments,** and jurisdiction leaders will play a vital role in ensuring compliance with SB 1383.
- **City Councils and Boards of Supervisors** will need to pass local enforcement ordinances to require all residents and businesses to subscribe to these services.
- **City Managers and Chief Administrative Officers** will be involved in capacity planning, directing procurement of recycled organic products like compost and renewable natural gas, and establishing edible food recovery programs.
- **Finance and Legal staff** will be involved in local enforcement ordinances, new collection fees, and ensuring programs are adequately resourced.
- **Purchasing staff** will be central to procuring recycled organic products, including paper.
  - Procure does not necessarily mean purchase, but this department is likely aware of current compost, mulch, RNG, and paper product purchases for the jurisdiction.
- **Public Works staff** are involved with hauler agreements, local waste management processing facilities, and organic waste recycling facilities (like compost and anaerobic digestion facilities). They may also be involved in civil engineering activities where compost may be utilized (as in erosion control along city streets and embankments).
- **Public Parks staff** may be involved with assessing the need for local compost application to parks and city landscaped areas.
- **Environmental Health staff** may be tasked with enforcement duties, including inspecting commercial food generators for compliance with edible food recovery requirements.
- **Public Transportation and Fleet departments** could be involved in procuring renewable natural gas for city and county owned vehicles.



## SB 1383 IN ACTION

### JURISDICTION REQUIREMENTS



**Provide organics collection service to all residents and businesses**

## Organic Waste Collection Services





### Three-Container “source separated” Collection Service

- Organics prohibited from black container
- All organic waste segregated for collection and recycling

### Two-Container Collection Service

- One container for collection of segregated organic waste
- One container for collection of mixed waste (subject to 75% organic content recovery standard)

### One-Container Collection Service

- One container for collection of mixed waste (subject to 75% organic content recovery standard)



- Minimum contamination monitoring and reduction requirements
- Collection waivers authorized for certain documented circumstances



- The most basic element of the regulation is that jurisdictions are **required to provide an organic waste collection service to each of their residents and businesses.**
- The regulations also **require all residents and businesses to use an organic waste recycling service that meets the regulatory requirements.**
- Jurisdictions must have enforceable requirements on its haulers that collect organic waste in the jurisdiction, and also for commercial and residential generators and self-haulers.
- There is a lot of detail regarding the types of allowable collection programs (several pages of regulatory text dedicated just to this). These are the high level requirements.
  - Each resident and business**, must subscribe to an organic waste collection service that either “source-separates” the waste (e.g. separate bins), or transports all unsegregated waste to a facility that recovers 75 percent of the organic content collected from the system.
  - The regulations allow for a menu of collection options.
    - A one-can system – you’ll be responsible for ensuring that all contents are transported to a facility that recovers 75% of organic content
    - A two-can system – at least one of the containers (whichever includes organic waste and garbage) must be transported to a facility that recovers 75% of organic content
    - A three-can system – organic waste is required to be source separated (paper in blue, food and yard in green). No recovery rate
    - The three-can option also allows additional separation at the hauler/generators discretion... For example some jurisdictions provided separate containers for yard (green) and food (brown) waste so they can be managed separately
- The same rules will apply to entities not subject to local control, and CalRecycle will oversee State Agencies, UCs, CSUs, Community Colleges, K-12 schools and other entities not subject to local oversight.






SB 1383 requires that we strengthen our existing infrastructure for edible food recovery and food distribution.


**Jurisdictions** – are responsible to implement Edible Food Recovery Programs in their communities. Even in communities where existing infrastructure already exists, there are new recordkeeping and inspection tasks that will need to be implemented.

- **Assess Capacity of Existing Food Recovery**
- **Establish Food Recovery Program (And Expand Existing Infrastructure if necessary)**
- **Inspect Commercial Generators for Compliance**
- **Education and Outreach**

Jurisdictions should get a **head start on 1383 implementation by assessing the infrastructure that currently exists within your community.** Jurisdictions need to assess the following:

- How many commercial generators do you have? How much edible food could they donate?
- How many food recovery organizations exist, and what is their capacity to receive this available food?
- What gaps do we have in our current infrastructure and what do we need to do to close them?
- How can we fund the expansion of edible food recovery organizations? (Grants, partnerships, sponsorships, etc.)
- What partnerships currently exist and what new partnerships need to be established?
  - CalRecycle will be developing some tools to assist jurisdictions with this assessment.

<h2>SB 1383 IN ACTION</h2> <h3>EDUCATION REQUIREMENTS</h3>  <p>Conduct Education and Outreach to Community</p>	<h2>JURISDICTION REQUIREMENTS</h2> <p>Annually educate all organic waste generators, commercial edible food generators, and self-haulers about relevant requirements</p> <div> <p>Jurisdictions must provide print or electronic communication.</p>  </div> <div> <p>Jurisdictions May Supplement with Direct Communication.</p>  </div> <p>Appropriate educational material must be provided to linguistically isolated households</p>
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CalRecycle 

Jurisdictions must conduct education and outreach to:

1. **All businesses and residents** regarding collection service requirements, contamination standards, self-haul requirements, and overall compliance with 1383
2. **Commercial edible food generators** regarding edible food donation requirements, and available edible food recovery organizations

Educational material must be linguistically accessible to our non-English speaking residents.





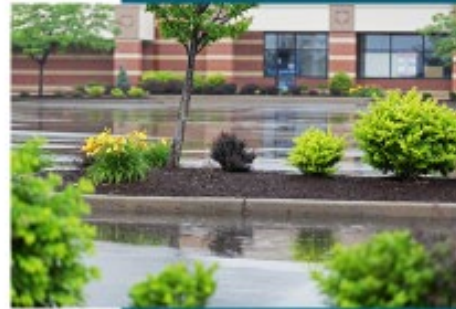
- Each jurisdiction will have a minimum procurement target that is linked to its population. CalRecycle will notify jurisdictions of their target Prior to January 1, 2022
  - The jurisdiction can decide what mix of compost, mulch, biomass derived electricity, or renewable gas they want to use to meet their target.
  - CalRecycle will provide a calculator with the conversion factors for compost/renewable gas/electricity from biomass conversion made from organic waste for a jurisdiction to use to calculate progress towards meeting their target.
- **Procurement doesn't necessarily mean purchase.**
  - A jurisdiction that produces its own compost, mulch, renewable gas, or electricity from biomass conversion can use that toward the procurement target. Same goes for the jurisdiction's direct service providers (for example, its haulers).
    - A jurisdiction can use compost or mulch for erosion control, soil amendment, soil cover, parks/open spaces, giveaways.
    - A jurisdiction can use renewable gas to fuel their fleets, or a jurisdiction's waste hauler could use renewable gas to fuel their trucks. Renewable gas can be used for transportation fuels, electricity, or heating applications.
- SB 1383 also **requires that jurisdictions procure recycled-content paper when it is available at the same price or less than virgin material.**
- Finally procured paper products must meet FTC recyclability guidelines (essentially products we purchase must be recyclable).

# Construction & Landscaping Requirements



Recycling organic waste commingled with C&D debris, to meet CalGreen 65% requirement for C&D recycling in both residential and non-residential projects

Model Water Efficient Landscape Ordinance (MWELO) requirements for compost and mulch application.



CalRecycle 

**Jurisdictions will have to adopt an ordinance or other enforceable requirement that requires compliance with CalGreen and Water Efficient Landscape Ordinance requirements** (California Code of Regulations Title 24, Part 11):

- Providing readily accessible areas for recycling containers in commercial and multi-family units
- Recycling organic waste commingled with C&D debris, to meet CalGreen 65% requirement for C&D recycling in both residential and non-residential projects
- Require new construction and landscaping projects to meet Water Efficient Landscape requirements for compost and mulch application.

# ORGANIC WASTE RECYCLING INFRASTRUCTURE



SB 1383 Requires 50-100  
New or Expanded  
Organic Waste Recycling Facilities



In California today we have about 180 compost facilities with 34 of them accepting food waste.

- We have 14 AD facilities accepting solid waste.
- There is also a significant number of Waste Water Treatment Plants that could be leveraged to use for co-digestion of food waste.
- It will take a significant number of new facilities to recycle an additional 20-25 million tons of organic waste annually. CalRecycle estimates we will need 50-100 new or expanded facilities (depending on the size of each new facility this number could fluctuate).

## SB 1383 IN ACTION

### CAPACITY PLANNING



Evaluating Current  
Infrastructure and Planning  
New Compost and AD Facilities  
and Edible Food Recovery



CalRecycle 

#### Key Points:

1. **Each jurisdiction must plan for adequate capacity for recycling organic waste and for edible food recovery**
  - A. For edible food recovery capacity each jurisdiction must plan to recover 20 percent of the edible food for human consumption, must identify Tier 1 and 2 commercial edible food generators, and funding for edible food recovery infrastructure
2. Each county will lead this effort by coordinating with the cities in the county to estimate existing, new and/or expanded capacity.
3. Counties and cities must demonstrate that they have access to recycling capacity through existing contracts, franchise agreements, or other documented arrangements.
4. There are requirements for each jurisdiction to consult with specified entities to determine organic waste recycling capacity, such as the Local Enforcement Agency, Local Task Force, owners/operators of facilities, community composting operations, and from citizens, such as disadvantaged communities, i.e., to discuss the benefits and impacts associated with expansions/new facilities.
5. For edible food recovery the county and city must contact edible food recovery organizations that serve the jurisdiction to determine how much existing, new and/or planned capacity if available.
6. If capacity cannot be guaranteed, then each jurisdiction within the county that lacks capacity must submit an implementation schedule to CalRecycle that includes specified timelines and milestones, including funding for the necessary recycling or edible food recovery facilities.
7. The County must collect data from the cities on a specified schedule and report to CalRecycle. Cities are required to provide the required data to the County within 120 days.
  - A. **Start year for planning and reporting is 2022 – that report must cover 2022-2025.**
  - B. Subsequent reports will be due every 5 years, and will plan for a 10-year horizon





- **By January 1, 2022**, Jurisdictions are required to have:
  - An enforcement mechanism or ordinance in place, yet they are not required to enforce until 2024.
- **Between Jan 2022 and Dec 2023**, jurisdictions need to:
  - Identify businesses in violation and provide educational material to those generators
    - **The focus during the first 2 years is on educating generators.**
    - **The goal is to make sure every generator has an opportunity to comply before mandatory jurisdiction enforcement comes into effect in 2024.**
    - **The regulations allow 2 years for education and compliance.**
- **After January 2024**, jurisdictions shall take progressive enforcement against organic waste generators that are not in compliance.
  - The progressive approach allows for notification to the generator and provides ample time for the generator to comply before penalties are required to be issued by the jurisdiction.
  - CalRecycle sets a maximum timeframe that a jurisdiction has to issue a Notice of Violation and issue penalties to a generator.
  - The jurisdiction has the flexibility to develop its own enforcement process within these parameters.
    - When a Jurisdiction determines a violation occurred the jurisdiction is required to, at a minimum:

- Issue a Notice of Violation within 60 days of determining a violation.
- If the generator still has not complied within 150 days from the issuance of the Notice of Violation, then the jurisdiction is responsible to issue penalties
  - The 150 days, between the Notice and Violation and the penalty phase, allows the jurisdiction to use other methods to achieve compliance prior to being required to issue penalties. Therefore, only the most recalcitrant violators will need to be fined.
  - The regulations allow a generator to be out of compliance for a total 210 days, before penalties must be issued.
- The regulations set a minimum penalty amount of at least \$50 for the first offense within one year and can go up to \$500 a day for multiple offenses occurring within one year.
- **An early robust education program will minimize the amount of future enforcement action needed**

## JURISDICTION ENFORCEMENT REQUIREMENTS



### Must Have Enforcement and Inspection Program that Includes:

- **Annual Compliance Review**
  - Commercial Businesses that Generate  $\geq 2$  Cubic Yards/week
  - Verify Businesses are:
    - Subscribed to Service or Self-hauling
- **2 or 3 Container Collection Service: Route Reviews of Commercial/Residential Areas to Verify Service and Inspect for Contamination**
- **Single Unsegregated Collection Service: Verify Businesses are subscribed to a service that is Transporting Contents to a High Diversion Organic Waste Processing Facility**

Requirements Harmonize with AB 1826 and Don't Establish a Minimum Quantity of Physical Inspections

CalRecycle 

- If a Jurisdiction is using a 3- or 2-bin organic waste collection service they are required to do:
  - **Annual compliance review of commercial businesses just as we should be doing now with AB 1826 Mandatory Commercial Recycling**
    - Commercial businesses that generate 2 CY or more per week of solid waste (trash, recycling, organics),
      - Note: commercial businesses include multi-family dwellings of five units or more
    - This can be a desk audit to review reports from our haulers to verify that service is provided or that they are complying through self-hauling or backhauling
  - **2- or 3-Collection Service:**
    - **Route reviews:** We are supposed to conduct route reviews of commercial businesses and residential areas. The route reviews check for:
      - Verifying subscription (validating the desk review)
        - This entails seeing that the business has the appropriate external containers.
        - If a business does not use the hauler's service, then verifying the business is self-hauling would be necessary. As noted earlier this is same type of action that AB 1826 already requires

- Note: This random inspection of routes does not require going inside a business to verify that the business has appropriate containers/labels inside of the business.

- **Monitoring for contamination on**

- Randomly selected containers, and ensuring all collection routes are reviewed annually and that contamination is being monitored in the collection containers and education is provided if there is an issue

OR

- A jurisdiction has the option of conducting waste composition studies every six months to identify if there are prohibited container contaminants. If there is more than 25 percent prohibited container contaminants, then additional education must be provided

- The Route Reviews can be done by our hauler(s)

- **Single Unsegregated Collection Service:** Same as the 2- or 3-bin service except:

- We will need to verify with our hauler(s) that the contents are transported to a high diversion organic waste processing facility and that the facility is meeting the requirements of the organic content recovery rate
    - Note: The department will be identifying in the future what facilities are high diversion organic waste processing facilities as the facilities will be reporting to CalRecycle.
  - There are no route reviews required

## JURISDICTION ENFORCEMENT REQUIREMENTS ON COMMERCIAL FOOD GENERATORS



### Must Have Enforcement and Inspection Program that Includes:

- Inspections to verify:
  - Edible food Recovery arrangements
- Tier 1 Commercial Edible Food Generators by 2022
- Tier 2 Commercial Edible Food Generators by 2024

**Commercial Edible Food Generator Inspections Can Be Combined with Existing Mandatory Inspections**

**CalRecycle** 

### Edible Food Recovery Program

- These types of inspections will be new for our jurisdiction.
- We will need to plan resources to conduct these inspections.
  - We might consider partnering with Health Inspectors that are already visiting food generators.
- Inspections on Tier One edible food generators in 2022 and Tier Two in 2024
  - Verify they have arrangements with a food recovery organization
  - Verify that the food generators are not intentionally spoiling food that can be recovered



- Our jurisdiction will have to maintain all information in an Implementation Record.
  - Many sections require a minimum level of recordkeeping such as “ordinances, contracts, and franchise agreements”.
  - This graphic is a snapshot of items to be kept in the Implementation Record.
  - CalRecycle staff may review the implementation record as part of an audit of our program.
- The Implementation Record needs to be stored in one central location
  - It can be kept as a physical or electronic record
  - It needs to be accessible to CalRecycle staff within ten business days
  - It needs to be retained for five years





Enforcement – CalRecycle will authorize low population and rural area waivers. In the case of entities such as public universities, which may be exempt from local solid waste oversight, CalRecycle will be directly responsible for ensuring compliance. This will be monitored through CalRecycle’s existing state agency monitoring process.

**CalRecycle will be evaluating a Jurisdiction’s Compliance.**

For example:

- Verifying that all organic waste generators have service
- Jurisdictions are providing education
- Issuing Notices of Violation within the correct timeline

**SB 1383 is a Statewide target and not a jurisdiction organic waste diversion target.** Unlike with AB 939 where there was a specified target for each jurisdiction, SB 1383 prohibits a jurisdiction target. Due to this structure:

- The regulations require a more prescriptive approach, and establishes state minimum standards.
- Jurisdictions will have to demonstrate compliance with each of the prescriptive standards **rather than the determination of a Good Faith Effort**, which uses a suite of indicators to determine if a jurisdiction is actively trying to implement programs and achieve targets

**Under the SB 1383 regulations** if CalRecycle determines a jurisdiction is violating one or more of the requirements,

- A jurisdiction will be noticed and will have 90 days to correct.
- Most violations should be able to be corrected in this timeframe. For cases where the jurisdiction may need a little additional time, the timeframe can be expanded to 180 days
- **For violations that are due to barriers outside the jurisdictions control and which may take more time to correct, the regulations allow for the jurisdiction to be placed on a Corrective Action Plan (CAP), allowing up to 24 months to comply.** In these cases, it must be apparent that the jurisdiction has



taken substantial effort to comply but cannot due to extenuating circumstances (such as a lack of capacity, disaster).

- An initial corrective action plan issued due to inadequate capacity of organic waste recovery facilities may be extended for a period of up to 12 months if the jurisdiction meets the requirements and timelines of its CAP and has demonstrated substantial effort to CalRecycle.

The Corrective Action Plan [or CAP] is modeled off of the Notice and Order Process that is used for noncompliance at solid waste facilities, where a number of steps or milestones must be taken by the solid waste facility operator prior to being able to fully comply.

Regarding eligibility for a CAP failure of a governing body to adopt an ordinance, or adequately fund/resource a program IS NOT *considered substantial effort or an Extenuating Circumstance* and will not allow a violation to be subject to a Corrective Action Plan.



<https://www2.calrecycle.ca.gov/Listservs/Subscribe/152>



<https://www.calrecycle.ca.gov/organics/slcp>



**Presenter's  
Contact Info**



Jurisdictions are encouraged to participate in the 1383 regulatory process.

**File Attachments for Item:**

X. Creation of Ad-hoc Subcommittee for Transportation Demand Management Policy

(Due to the late hour this item was not discussed at the City Council Meeting of June 17, 2021 and is being continued at this meeting.)



## CITY COUNCIL AGENDA REPORT

**Meeting Date: July 15, 2021 (*Continued from CC Meeting of June 17, 2021 and was not discussed*)**

**From: Clay Holstine, City Manager**

**Subject: Ad-hoc Subcommittee for Transportation Demand Management Policy**

**Background:** Transportation Development Plans

Transportation Demand Management plans are proposed to be required as condition of approval of any major development in the City. These plans may include a variety of measures to reduce traffic congestion and enhance alternative forms of transportation to and from places of employment.

Brisbane expects that this policy may impact several projects, including Sierra Point, the Quarry and development of the Baylands. In an effort to proactively address new TDM's staff is recommending a City Council Ad-hoc subcommittee of two members be formed. In addition to our projects, CCAG is working on a template that cities in the County may wish to implement.

It is anticipated that the subcommittee may meet up to 3 to 4 times over the next few months to develop broad policy objectives and report back to City Council.

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Clay Holstine, City Manager

**File Attachments for Item:**

Y. Designation of Voting Delegates and Alternates to the League of California Cities Annual Conference September 22-24, 2021

**Council Action Advised by August 31, 2021**

June 16, 2021

**TO: City Managers and City Clerks**

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES  
League of California Cities Annual Conference & Expo – September 22-24, 2021**

Cal Cities 2021 Annual Conference & Expo is scheduled for September 22-24, 2021 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 24. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

**Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Wednesday, September 15. This will allow us time to establish voting delegate/alternate records prior to the conference.**

**Please note:** Our number one priority will continue to be the health and safety of participants. We are working closely with the Sacramento Convention Center to ensure that important protocols and cleaning procedures continue, and if necessary, are strengthened. Attendees can anticipate updates as the conference approaches.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open mid-June at [www.cacities.org](http://www.cacities.org). In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.
- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but



## Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



**CITY:** \_\_\_\_\_

**2021 ANNUAL CONFERENCE  
VOTING DELEGATE/ALTERNATE FORM**

**Please complete this form and return it to Cal Cities office by Wednesday, September 15, 2021. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.**

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

**Please note:** Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

**1. VOTING DELEGATE**

Name: \_\_\_\_\_

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

**2. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

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

**3. VOTING DELEGATE - ALTERNATE**

Name: \_\_\_\_\_

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

**PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR**

**ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

 Mayor or City Clerk \_\_\_\_\_  
 (circle one) (signature)

Date: \_\_\_\_\_ Phone: \_\_\_\_\_

**Please complete and return by Wednesday, September 15, 2021 to:**

Darla Yacub, Assistant to the Administrative Services Director

 E-mail: [dyacub@cacities.org](mailto:dyacub@cacities.org)

Phone: (916) 658-8254