



AGENDA

Tuesday, July 21, 2020

5:00 P.M. Closed Session

6:30 P.M. Open Session

REGULAR MEETING

**CITY COUNCIL, AIRPORT COMMISSION,
MARINA ABRAMS B NON-PROFIT CORPORATION, PRESTON PARK SUSTAINABLE
COMMUNITY NON-PROFIT CORPORATION, SUCCESSOR AGENCY OF THE FORMER
MARINA REDEVELOPMENT AGENCY AND MARINA GROUNDWATER
SUSTAINABILITY AGENCY**

Council Chambers
211 Hillcrest Avenue
Marina, California

Zoom Meeting URL: <https://zoom.us/j/730251556>

Zoom Meeting Telephone Only Participation: 1-669-900-9128 - Webinar ID: 730 251 556

In response to Governor Newsom's Executive Order N.29-20 and City Council Resolution 2020-29 ratifying the Proclamation of a Local Emergency by the City Manager/Director of Emergency Services related to the COVID-19 (coronavirus) pandemic, public participation in the City of Marina City Council and other public meetings shall be electronic only and without a physical location for public participation, until further notice in compliance with California state guidelines on social distancing. This meeting is being broadcast "live" on Access Media Productions (AMP) Community Television Cable 25 and on the City of Marina Channel and on the internet at <https://accessmediaproductions.org/>

PARTICIPATION

You may participate in the City Council meeting in real-time by calling Zoom Meeting via the weblink and phone number provided at the top of this agenda. Instructions on how to access, view and participate in remote meetings are provided by visiting the City's home page at <https://cityofmarina.org/>. Attendees can make oral comments during the meeting by using the "Raise Your Hand" feature in the webinar or by pressing *9 on your telephone keypad if joining by phone only. If you are unable to participate in real-time, you may email to marina@cityofmarina.org with the subject line "Public Comment Item#__" (insert the item number relevant to your comment) or "Public Comment – Non Agenda Item." Comments will be reviewed and distributed before the meeting if received by 5:00 p.m. on the day of the meeting. All comments received will become part of the record. Council will have the option to modify their action on items based on comments received.

AGENDA MATERIALS

Agenda materials, staff reports and background information related to regular agenda items are available on the City of Marina's website www.cityofmarina.org. Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet will be made available on the City of Marina website www.cityofmarina.org subject to City staff's ability to post the documents before the meeting

VISION STATEMENT

Marina will grow and mature from a small town bedroom community to a small city which is diversified, vibrant and through positive relationships with regional agencies, self-sufficient. The City will develop in a way that insulates it from the negative impacts of urban sprawl to become a desirable residential and business community in a natural setting. **(Resolution No. 2006-112 - May 2, 2006)**

MISSION STATEMENT

The City Council will provide the leadership in protecting Marina's natural setting while developing the City in a way that provides a balance of housing, jobs and business opportunities that will result in a community characterized by a desirable quality of life, including recreation and cultural opportunities, a safe environment and an economic viability that supports a high level of municipal services and infrastructure. **(Resolution No. 2006-112 - May 2, 2006)**

1. **CALL TO ORDER**



2. **ROLL CALL & ESTABLISHMENT OF QUORUM:** (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, Preston Park Sustainable Communities Nonprofit Corporation, Successor Agency of the Former Redevelopment Agency Members and Marina Groundwater Sustainability Agency)

Lisa Berkley, Adam Urrutia, Frank O'Connell, Mayor Pro-Tem/Vice Chair, Gail Morton, Mayor/Chair Bruce C. Delgado

3. **CLOSED SESSION:** *As permitted by Government Code Section 54956 et seq., the (City Council, Airport Commissioners, Marina Abrams B Non-Profit Corporation, Preston Park Sustainable Communities Nonprofit Corporation, Successor Agency of the Former Redevelopment Agency Members and Marina Groundwater Sustainability Agency) may adjourn to a Closed or Executive Session to consider specific matters dealing with litigation, certain personnel matters, property negotiations or to confer with the City's Meyers-Milias-Brown Act representative.*

- a. Conference with Legal Counsel, anticipated litigation – significant exposure to litigation pursuant to paragraph (2) or (3) or subdivision (d) of CA Govt. Code Section 54956.9 – one potential case.
- b. Labor Negotiations
 - i. Marina Employee Association
 - ii. Marina Police Officer Association
 - iii. Marina Public Safety Managers Association
 - iv. Marina Middle Manager Association

City Negotiators: Layne P. Long, City Manager and Employee Relations Officer

c. Real Property Negotiations

- i. Property: Imjin Parkway/Landfill Site, APNs 031-101-039, 031-101-040, 031-101-041 and 031-101-042
Negotiating Party: County of Monterey and Successor to the Redevelopment Agency of the County of Monterey
Property Negotiator: City Manager
Terms: Price and Terms
- ii. Property: T-Hangar Building, 727 Neeson Road, Marina, CA Bldg 528
Negotiating Party: Phil Lewis dba Marina Aviation, LLC
Property Negotiator: City Manager
Terms: Price and Terms

6:30 PM - RECONVENE OPEN SESSION AND REPORT ON ANY ACTIONS TAKEN IN CLOSED SESSION

4. **MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE** (Please stand)
5. **SPECIAL PRESENTATIONS:**
 - a **Marina Coast Water District Recycled Water Distribution Project Presentation**
 - b **Recreation Announcements**
6. **SPECIAL ANNOUNCEMENTS AND COMMUNICATIONS FROM THE FLOOR:** *Any member of the Public or the City Council may make an announcement of special events or meetings of interest as information to Council and Public. Any member of the public may comment on any matter within the City Council's jurisdiction which is not on the agenda. Please state your name for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. City Council members or City staff may briefly respond to statements made or questions posed as permitted by Government Code Section 54954.2. In order that all interested parties have an opportunity to speak, please limit comments to a maximum of four (4) minutes. Any member of the public may comment on any matter listed on this agenda at the time the matter is being considered by the City Council.*
7. **CONSENT AGENDA FOR THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY:** *Background information has been provided to the Successor Agency of the former Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda for Successor Agency to the former Marina Redevelopment Agency and placed at the end of Other Action Items Successor Agency to the former Marina Redevelopment Agency.*
8. **CONSENT AGENDA:** *Background information has been provided to the City Council, Airport Commission, Marina Abrams B Non-Profit Corporation, and Redevelopment Agency on all matters listed under the Consent Agenda, and these items are considered to be routine. All items under the Consent Agenda are normally approved by one motion. Prior to such a motion being made, any member of the public or the City Council may ask a question or make a comment about an agenda item and staff will provide a response. If discussion or a lengthy explanation is required, that item will be removed from the Consent Agenda and placed at the end of Other Action Items.*
 - a. **ACCOUNTS PAYABLE:**
 - (1) Accounts Payable Check Numbers 95428-95551, totaling \$1,343,381.47
Accounts Payable Successor Agency Check Number 50-51, totaling \$4,115.62
 - b. **MINUTES:**
 - (1) June 10, 2020, Adjourned Regular City Council Meeting
 - c. **CLAIMS AGAINST THE CITY:** None
 - d. **AWARD OF BID:** None
 - e. **CALL FOR BIDS:** None
 - f. **ADOPTION OF RESOLUTIONS:**
 - (1) City Council consider adopting Resolution No. 2020-, creating a Post-Employment Health Plan (PEHP) for City of Marina Employees.

- (2) City Council consider adopting Resolution No. 2020-, approving the destruction of payroll records according to the City's Records Retention Policy covering the calendar years of 2009 to 2011.
- (3) City Council to consider adopting Resolution No. 2020-, confirming levy of the special tax for the City of Marina Community Facilities District No. 2015-1 (The Dunes) for Fiscal Year 2020-21 as authorized by Ordinance No. 2015-03; and Resolution No. 2020-, certifying City of Marina compliance with state law (Proposition 218) with respect to a special tax for the City of Marina Community Facilities District No. 2015-1 as authorized by Ordinance No. 2015-03 for Fiscal Year 2020-21.
- (4) City Council consider adopting Resolution No. 2020-, approving response to the Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance".

g. APPROVAL OF AGREEMENTS: None

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council receive Monterey-Salinas Transit Contactless Fare Payment Announcement.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

9. PUBLIC HEARINGS:

- a. City Council open a public hearing and take testimony from the public and consider adopting Resolution 2020-, submitting to the voters at the November 3, 2020, General Municipal Election a Measure amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses which would repeal Title 19 "Commercial Cannabis Activities," repeal Chapter 5.76 "Cannabis Retailer," add Chapter 5.80 "Commercial Cannabis Business Regulations" and add Chapter 17.47 "Commercial Cannabis Uses."

10. OTHER ACTIONS ITEMS OF THE SUCCESSOR AGENCY TO THE FORMER MARINA REDEVELOPMENT AGENCY: *Action listed for each Agenda item is that which is requested by staff. The Successor Agency may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

11. OTHER ACTION ITEMS: *Action listed for each Agenda item is that which is requested by staff. The City Council may, at its discretion, take action on any items. The public is invited to approach the podium to provide up to four (4) minutes of public comment.*

Note: No additional major projects or programs should be undertaken without review of the impacts on existing priorities (Resolution No. 2006-79 – April 4, 2006).

- a. City Council consider adopting Resolution No. 2020-, supporting Proposition 15, Schools and Local Communities Funding Act of 2020.
- b. COVID-19 Update and Direction from Council
 - i. City Council consider adopting Resolution No. 2020-, confirming the City Manager/Director of Emergency Services' issuance of a Third Supplement to the Proclamation of a Local Emergency temporarily suspending until September 30, 2020, the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City due to the tenant's nonpayment of rent, or a foreclosure, arising out of a documented substantial decrease in household or business income caused by the COVID-19 pandemic or the governmental response thereto and establishing certain eviction protection requirements.
 - ii. California State Guideline

12. COUNCIL & STAFF INFORMATIONAL REPORTS:

- a. Monterey County Mayor's Association [Mayor Bruce Delgado]
- b. Council and staff opportunity to ask a question for clarification or make a brief report on his or her own activities as permitted by Government Code Section 54954.2.
- c. Proclamation of Local Emergency Update

13. ADJOURNMENT:

CERTIFICATION

I, Anita Sharp, Deputy City Clerk, of the City of Marina, do hereby certify that a copy of the foregoing agenda was posted at City Hall and Council Chambers Bulletin Board at 211 Hillcrest Avenue, Monterey County Library Marina Branch at 190 Seaside Circle, City Bulletin Board at the corner of Reservation Road and Del Monte Boulevard on or before 6:30 p.m., Friday, July 17, 2020.

ANITA SHARP, DEPUTY CITY CLERK

City Council, Airport Commission and Redevelopment Agency meetings are recorded on tape and available for public review and listening at the Office of the City Clerk and kept for a period of 90 days after the formal approval of MINUTES.

City Council meetings may be viewed live on the meeting night and at 12:30 p.m. and 3:00 p.m. on Cable Channel 25 on the Sunday following the Regular City Council meeting date. In addition, Council meetings can be viewed at 6:30 p.m. every Monday, Tuesday and Wednesday. For more information about viewing the Council Meetings on Channel 25, you may contact Access Monterey Peninsula directly at 831-333-1267.

Agenda items and staff reports are public record and are available for public review on the City's website (www.cityofmarina.org), at the Monterey County Marina Library Branch at 190 Seaside Circle and at the Office of the City Clerk at 211 Hillcrest Avenue, Marina between the hours of 10:00 a.m. 5:00 p.m., on the Monday preceding the meeting.

Supplemental materials received after the close of the final agenda and through noon on the day of the scheduled meeting will be available for public review at the City Clerk's Office during regular office hours and in a 'Supplemental Binder' at the meeting.

Members of the public may receive the City Council, Airport Commission and Successor Agency of the Former Redevelopment Agency Agenda at a cost of \$55 per year or by providing a self-addressed, stamped envelope to the City Clerk. The Agenda is also available at no cost via email by notifying the City Clerk at marina@cityofmarina.org

*ALL MEETINGS ARE OPEN TO THE PUBLIC. THE CITY OF MARINA DOES NOT DISCRIMINATE AGAINST PERSONS WITH DISABILITIES. Council Chambers are wheelchair accessible. meetings are broadcast on cable channel 25 and recordings of meetings can be provided upon request. to request assistive listening devices, sign language interpreters, readers, large print agendas or other accommodations, please call (831) 884-1278 or e-mail: marina@cityofmarina.org. requests must be made at least **48 hours** in advance of the meeting.*

Upcoming 2020 Meetings of the City Council, Airport
Commission, Marina Abrams B Non-Profit Corporation, Preston
Park Sustainable Community Nonprofit Corporation, Successor
Agency of the Former Redevelopment Agency and Marina
Groundwater Sustainability Agency
Regular Meetings: 5:00 p.m. Closed Session;
6:30 p.m. Regular Open Sessions

**** Wednesday, August 5, 2020**

Tuesday, August 18, 2020

Tuesday, September 1, 2020

Tuesday, September 15, 2020

Tuesday, October 6, 2020

Tuesday, October 20, 2020

***** Wednesday, November 4, 2020**

Tuesday, November 17, 2020

Tuesday, December 1, 2020

Tuesday, December 15, 2020

* Regular Meeting rescheduled due to Monday Holiday

**Regular Meeting rescheduled due to National Night Out Event

*** Regular Meeting rescheduled due to General Election Day

NOTE: Regular Meeting dates may be rescheduled by City Council only.

C I T Y H A L L 2 0 2 0 H O L I D A Y S
(City Hall Closed)

Labor Day -----Monday, September 7, 2020

Veterans Day -----Wednesday, November 11, 2020

Thanksgiving Day -----Thursday, November 26, 2020

Thanksgiving Break -----Friday, November 27, 2020

Winter Break -----Thursday, December 24, 2020-Thursday, December 31, 2020

2020 COMMISSION DATES

Upcoming 2020 Meetings of Design Review Board
3rd Wednesday of every month. Meetings are held at the Council Chambers at 6:30 P.M.
 ** = Change in location due to conflict with Council meeting

August 19, 2020
 September 16, 2020

October 21, 2020

November 18, 2020
 December 16, 2020

Upcoming 2020 Meetings of Economic Development Commission
3rd Thursday of every month. Meetings are held at the Council Chambers at 4:00 P.M.

August 20, 2020 (Cancelled)
 September 17, 2020 (Cancelled)

October 15, 2020 (Cancelled)

November 19, 2020 (Cancelled)
 December 17, 2020 (Cancelled)

Upcoming 2020 Meetings of Planning Commission
2nd and 4th Thursday of every month. Meetings are held at the Council Chambers at 6:30 P.M.

July 23, 2020
 August 13, 2020
 August 27, 2020

September 10, 2020
 September 24, 2020
 October 8, 2020

October 22, 2020
 November 12, 2020
 December 10, 2020

Upcoming 2020 Meetings of Public Works Commission
3rd Thursday of every month. Meetings are held at the Council Chambers at 6:30 P.M.

August 20, 2020
 September 17, 2020

October 15, 2020

November 19, 2020
 December 17, 2020 (Cancelled)

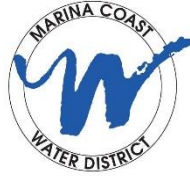
Upcoming 2020 Meetings of Recreation & Cultural Services Commission
1st Wednesday of every quarter month. Meetings are held at the Council Chambers at 6:30 P.M.

September 2, 2020

December 2, 2020

Upcoming 2020 Meetings of Marina Tree Committee
2nd Wednesday of every quarter month as needed. Meetings are held at the Council Chambers at 6:30 P.M.

October 14, 2020



**Marina Coast Water District (MCWD) Regional Urban Water Augmentation Project
(RUWAP) – Project Components Within the City of Marina**

The information below along with the attached exhibit describes MCWD's upcoming recycled water and potable water underground pipeline construction projects within the City of Marina that Monterey Peninsula Engineering (MPE) has been contracted to construct for the District:

- The overall RUWAP consists of the construction of recycled water distribution pipelines to provide recycled water from Monterey One Water's (M1W) Advanced Water Treatment Plant (AWTP) to urban users in the MCWD service area, which now includes the Cities of Marina, Seaside, Del Rey Oaks, the County of Monterey, California State University Monterey Bay and UCSC MBEST. The three potable water line projects are all within the City of Marina.
- The recently completed recycled water transmission main and recycled water reservoir phase of the RUWAP was the first phase of construction to build the District's recycled water system pipeline network, and is currently being used to deliver advanced treated water from M1W's AWTP to the Salinas Groundwater Basin (SGB) for the Pure Water Monterey (PWM) Groundwater Replenishment Project (GRP).
- This next phase of the RUWAP is to construct recycled water distribution mains branching off the completed transmission main to connect the various recycled water irrigation systems already constructed within the District. Irrigation systems for several subdivisions and commercial developments built within approximately the last 20 years are pre-plumbed for recycled water irrigation in public areas, and this distribution phase of the RUWAP will supply those irrigation systems with recycled water.
- This next phase of RUWAP consists primarily of recycled water pipelines, but also includes three potable water pipelines to be located in the same streets where recycled water pipelines will be constructed. These three potable water pipelines were included in this project to minimize the number of street closures and to realize cost savings associated with constructing side by side projects at the same time as opposed to constructing them as two separate projects.
- Trenching and pipeline construction is currently scheduled to start in late July through August on Carmel Avenue, Crescent Avenue and Beach Road, then proceed to Marina Heights Drive and Abrams Drive in September. Road re-paving will occur after each pipeline is constructed.
- Benefits to the City of Marina from these recycled water projects will be the ability to deliver recycled water to existing and future irrigation systems to use recycled water instead of potable water for non-residential landscape irrigation
- Benefits to the City of Marina from these potable water line projects will be more consistent water pressures and fire flows
- Impacts of both projects to the City of Marina are inconveniences during construction.

For questions or additional information please call 831.384.6131 or visit www.mcwd.org

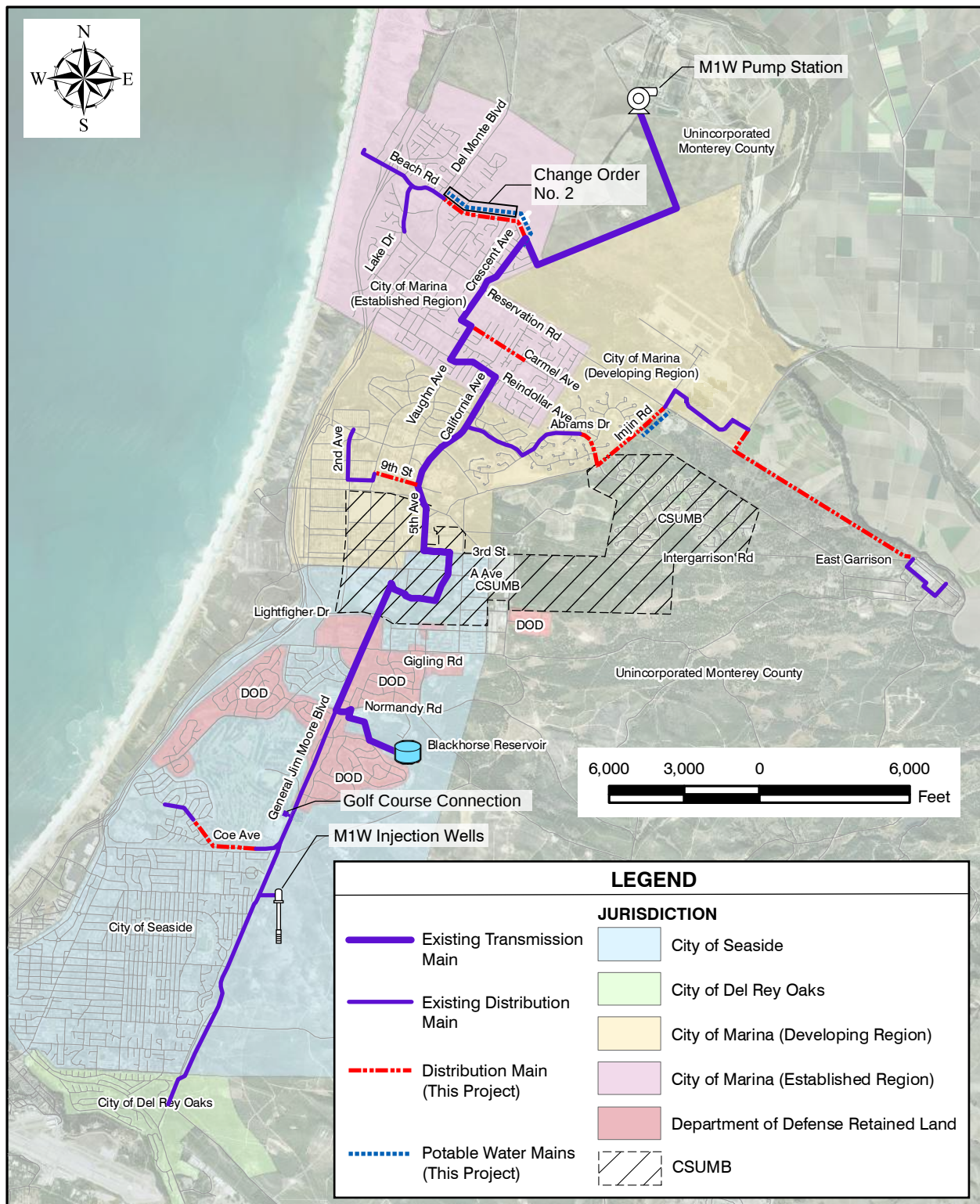


Figure 1
RECYCLED WATER PROJECT ALIGNMENT
MARINA COAST WATER DISTRICT

Marina, CA

AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Agenda Item: 8a

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 905 - Chase - Checking						
Check	07/10/2020	95428	Accounts Payable	Ace Hardware		0.72
	Invoice		Date	Description		Amount
	075021		06/24/2020	Fasteners		0.72
Check	07/10/2020	95429	Accounts Payable	Ace Hardware		233.14
	Invoice		Date	Description		Amount
	075083		06/29/2020	Cobalt drill		8.72
	075049		06/26/2020	Barrel bolt & hasp fxd		15.27
	075060		06/26/2020	Snips multi & tool caddy stanley		32.75
	074960		06/19/2020	Wrecking bar		16.38
	074994		06/22/2020	Tee compression		6.52
	075010		06/23/2020	Cord ext., pvc & plug ground - Unit 612		54.59
	075031		06/25/2020	Misc. Hardware Supplies		16.13
	075058		06/26/2020	New Chain for Locking Perimeter Gate		17.44
	075061		06/26/2020	Maintenance Supplies - Spray Decontamination Kit		10.01
	075108		07/01/2020	Dual aerator & pipe cap		24.00
	075105		07/01/2020	Fasteners - Unit 582		16.58
	075087		06/30/2020	Elbow 90 pvc 40		14.75
Check	07/10/2020	95430	Accounts Payable	Advantage Gear		325.06
	Invoice		Date	Description		Amount
	33197-1		06/25/2020	(2) Uniform pants for Jason McCoy		325.06
Check	07/10/2020	95431	Accounts Payable	Alliant Insurance Services		36,275.00
	Invoice		Date	Description		Amount
	ACIP113		05/29/2020	Alliant - Crime Insurance (20/21)		2,250.00
	1388692		06/26/2020	Physical Damage Program (20/21 Premium)		29,258.00
	1381537		06/18/2020	Airport Liability Insurance 6/30/20 - 6/30/21		4,767.00
Check	07/10/2020	95432	Accounts Payable	Aramark Uniform Service		236.29
	Invoice		Date	Description		Amount
	760866724		07/01/2020	Uniform Service - Public Works Crew		55.88
	760866725		07/01/2020	Uniform Service - Public Works Crew		58.55
	760866726		07/01/2020	Uniform Service - Public Works Crew		41.32

User: Monika Collier

Pages: 1 of 10

7/9/2020 9:49:50 AM

Marina, CA
AP Check Register 07-10-20
 Bank Account: 905 - Chase - Checking
 Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	760866727			Uniform Service - Public Works Crew		80.54
	07/10/2020	95433	Accounts Payable	AMBAG		4,513.00
	Invoice		Date	Description		Amount
Check	4045			FY 2020-2021 Membership Jurisdiction & Board Member Mtng Allow		4,513.00
	07/10/2020	95434	Accounts Payable	AT & T		538.15
	Invoice		Date	Description		Amount
	000014947382		06/27/2020	CALNET3-9391023475 (582-9032)		20.89
	000014947380		06/27/2020	CALNET3-9391023473 (582-2398)		20.89
	000014947383		06/27/2020	CALNET3-9391023476 (582-9611)		20.89
	000014947378		06/27/2020	CALNET3-9391023471 (582-0100)		44.41
	000014947384		06/27/2020	CALNET3-9391023477 (582-9803)		20.89
	000014952083		06/28/2020	CALNET3-9391023437 (384-0425)		19.26
	000014952098		06/28/2020	CALNET3-9391023452 (384-3717)		21.10
	000014952117		06/28/2020	CALNET3-9391023469 (384-9337)		20.89
	000014952115		06/28/2020	CALNET3-9391023467 (384-8760)		19.23
	000014952094		06/28/2020	CALNET3-9391023448 (384-2934)		20.89
	000014952088		06/28/2020	CALNET3-9391023442 (384-1702)		20.89
	000014952111		06/28/2020	CALNET3-9391023463 (384-7854)		20.89
	000014952110		06/28/2020	CALNET3-9391023462 (384-7547)		23.51
	000014952114		06/28/2020	CALNET3-9391023466 (384-8477)		40.13
	000014952086		06/28/2020	CALNET3-9391023440 (384-0860)		20.89
	000014952085		06/28/2020	CALNET3-9391023439 (384-0552)		20.89
	000014952103		06/28/2020	CALNET3-9391023457 (384-5140)		19.23
	000014952109		06/28/2020	CALNET3-9391023461 (384-7238)		20.89
	000014952116		06/28/2020	CALNET3-9391023468 (384-9148)		20.91
	000014952087		06/28/2020	CALNET3-9391023441 (384-0888)		60.46
	000014952118		06/28/2020	CALNET3--9391023470 (384-9682)		19.23
	000014952102		06/28/2020	CALNET3-9391023456 (384-4718)		20.89
Check	07/10/2020	95435	Accounts Payable	Branch's Janitorial		4,294.47
	Invoice		Date	Description		Amount
	227973		06/24/2020	January Custodial Service June		2,059.47
	227974		06/24/2020	Janitorial Service-Police/Fire June 2020		2,235.00
Check	07/10/2020	95436	Accounts Payable	Burton's Fire, Inc.		4,916.25

Marina, CA

AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	Invoice			Description		Amount
	W 78755			Air filter, Clean air cab for new engine		4,916.25
	07/10/2020	95437	Accounts Payable	California Department of Justice		836.00
Check	Invoice			Description		Amount
	456080			Live Scan Results June 2020		836.00
	07/10/2020	95438	Accounts Payable	California Park & Recreation Society		550.00
Check	Invoice			Description		Amount
	05-18-20			membership		550.00
	07/10/2020	95439	Accounts Payable	Carmel Fire Protection Associates		200.00
Check	Invoice			Description		Amount
	120192			Plan review and inspection at Cove at Sea Haven 13		200.00
	07/10/2020	95440	Accounts Payable	Cintas Corporation		355.85
Check	Invoice			Description		Amount
	4048311377			Mat Service-Police/Fire 4/17/20		71.17
	4049471417			Mat Service-Police/Fire 5/1/20		71.17
Check	Invoice			Description		Amount
	4050613879			Mat Service-Police/Fire 5/15/20		71.17
	4051576866			Mat Service-Police/Fire 5/29/20		71.17
Check	Invoice			Description		Amount
	4054299932			Mat Service-Police/Fire 6/26/20		71.17
	07/10/2020	95441	Accounts Payable	Coast Counties Peterbilt		723.07
Check	Invoice			Description		Amount
	0242801S			Gasket pump & steering pump - Unit 94-01		723.07
	07/10/2020	95442	Accounts Payable	Comcast		245.72
Check	Invoice			Description		Amount
	06-14-20			teen center tv & internet		176.93
	06-26-20			Cable Service-Police/Fire 7/4 thru 8/3/20		68.79
Check	Invoice			Description		Amount
	07/10/2020	95443	Accounts Payable	CSG Consultants		44,437.50
	31133			CSG Eng: Permits/Development (05/01/20 - 05/31/20)		250.00
Check	31117			CSG Eng: Permits/Development (05/01/20 - 05/31/20)		5,420.00

Marina, CA

AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	31118	06/15/2020		CSG Eng: Staff Augmentation (05/01/20 - 05/31/20)		8,812.50
	31129	06/15/2020		CSG Eng: FAE - DU2 - 1C Dunes Phas 2 (05/01/20 - 05/31/20)		500.00
	31120	06/15/2020		CSG Eng: FORA (05/01/20 - 05/31/20)		320.00
	31111	06/15/2020		CSG Eng: (APR 1801) Annual Sts Resurfacing (05/01/20 - 05/31/20)		15,285.00
	31123	06/15/2020		CSG Eng: RDA Support - FORA CARETAKER PROJ (04/30/20- 5/31/20)		800.00
	31115	06/15/2020		CSG Eng: Stockade Demo(HSF 2102) (05/01/20 - 05/31/20)		8,560.00
	30563	06/15/2020		CSG Eng: Stockade Demo(HSF 2102) (03/30/20 - 04/24/20)		800.00
	31109	05/11/2020		CSG - Monterey Bay Est LMD (05/01/20 - 05/31/20)		880.00
	31110	06/15/2020		CSG Eng: Cypress Cove LMD (04/29/20 - 05/31/20)		1,560.00
	31131	06/15/2020		CSG Eng: Permits/Development_3108 Seacres (05/01/20 - 05/31/20)		1,250.00
	07/10/2020	95444	Accounts Payable	Dyna Systems		91.70
	Invoice		Date	Description		Amount
	2355294	06/18/2020		Tube brush		91.70
Check	07/10/2020	95445	Accounts Payable	East Bay Tire Co.		4,964.81
	Invoice		Date	Description		Amount
Check	1649648	06/30/2020		Gen gmax justice and goodyear wrl - Unit 612		4,964.81
	07/10/2020	95446	Accounts Payable	Enterprise FM Trust		534.67
Check	07/10/2020	95447	Accounts Payable	Enterprise FM Trust: Monthly Lease Charges		534.67
	Invoice		Date	Description		Amount
Check	FBN3994797	07/03/2020		Enterprise Rent-A-Car - EAN Services, LLC		177.37
	07/10/2020	95447	Accounts Payable	Enterprise Rent-A-Car - EAN Services, LLC		177.37
Check	24767364	06/30/2020		Rental Car/Rosas 6/24 thru 6/27/20		177.37
	07/10/2020	95448	Accounts Payable	Epic Aviation		13,873.92
Check	7324944	06/16/2020		Airport_Jet A Fuel Purchase		13,873.92
	07/10/2020	95449	Accounts Payable	Ferguson Enterprise, Inc. # 1423		22.29
Check	8535802	06/05/2020		Gripper mech plug		22.29
	07/10/2020	95450	Accounts Payable	First Alarm		743.88
Check	07/10/2020	95450	Accounts Payable	First Alarm		743.88
	Invoice		Date	Description		Amount

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AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	547569		06/15/2020	Alarm Monitoring - Council Chambers - Jul-Sept 2020		112.53
	551637		06/15/2020	Fire & Burglar Alarm Svc - CDD (07/01/20 - 09/30/20)		187.80
	547570		06/15/2020	Fire & Burglar Alarm Svc - CDD (07/01/20 - 09/30/20)		125.28
	551638		06/15/2020	Fire & Burglar Alarm Svc - 2660 5th Ave (07/01/20 - 09/30/20)		318.27
Check	07/10/2020	95451	Accounts Payable	Gavilan Pest Control		260.00
	Invoice		Date	Description		Amount
	0131462		06/23/2020	Pest Control Svc - Preston Park Sports Field		180.00
	0131392		06/23/2020	Pest Control Svc @ Shoemaker & Locke Paddon Pond		80.00
Check	07/10/2020	95452	Accounts Payable	Hydro Turf		1,283.47
	Invoice		Date	Description		Amount
	1734517		06/23/2020	Ultra rotor, vinyl & full and part circle rotor		1,283.47
	07/10/2020	95453	Accounts Payable	L.N. Curtis & Sons		761.72
Check	07/10/2020	Invoice	Date	Description		Amount
	INV400023		06/24/2020	Ventis Sensor Combustible Gas		381.22
	INV397908		06/17/2020	Extendaire II pouch only G1 (UEBSS)		380.50
	07/10/2020	95454	Accounts Payable	Liebert Cassidy Whitmore		857.00
Check	07/10/2020	Invoice	Date	Description		Amount
	12169		07/01/2020	Training (7/30/20)		75.00
	1499899		05/31/2020	LCW - Professional Services		782.00
	07/10/2020	95455	Accounts Payable	Marina Coast Water District		2,052.33
Check	07/10/2020	Invoice	Date	Description		Amount
	000056094	061920	06/19/2020	000056 094 - 2660 5th Ave (05/23/20 - 06/19/20)		408.68
	000056001	061220	06/12/2020	000056 001 - 209-13 Cypress (05/16/20 - 06/12/20)		95.09
	000056021	061220	06/12/2020	000056 021 - Ctr Med Res Rd-Post Off (05/16/20 - 06/12/20)		33.99
	000056024	061220	06/12/2020	000056 024 - Ctr Med Del Mon Blvd/Palm Ave (05/16/20 - 06/12/20)		82.30
	000056018	061220	06/12/2020	000056 018 - 208 Palm Ave, Fire Station (05/16/20 - 06/12/20)		131.55
	000056017	061220	06/12/2020	000056 017 - 208 A Palm Ave, Fire Stat (05/16/20 - 06/12/20)		74.78
	000056019	061220	06/12/2020	000056 019 - 213 Hillcrest Ave, Comm Ctr (05/16/20 - 06/12/20)		935.92
	000056020	061220	06/12/2020	000056 020 - 304 Hillcrest Ave, Teen Ctr (05/16/20 - 06/12/20)		89.17
	000056016	061220	06/12/2020	000056 016 - Ctr Med Reserv & Seac (05/16/20 - 06/12/20)		33.99
	000056022	061220	06/12/2020	000056 022 - Ctr Med & Row Del Monte (05/16/20 - 06/12/20)		33.99

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AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	014874000	063020	06/30/2020	Water Billing/South Field Office 5/30 thru 6/30/20		132.87
	07/10/2020	95456	Accounts Payable	Martin's Irrigation Supply		1,798.17
	Invoice		Date	Description		Amount
Check	568784	06/23/2020	06/23/2020	Wilkins lead free & backflow enclosure		1,798.17
	07/10/2020	95457	Accounts Payable	Maynard Group Inc.		925.88
	Invoice		Date	Description		Amount
Check	P256287	07/01/2020	07/01/2020	Platinum Service Maintenance Coverage/Citywide 7/1/20		925.88
	07/10/2020	95458	Accounts Payable	Monterey Auto Supply		150.55
	Invoice		Date	Description		Amount
Check	737004	07/02/2020	07/02/2020	Veh - Maint Parts & Supply - Unit 582		54.60
	736896	07/02/2020	07/02/2020	Veh - Maint Parts & Supply - Unit 6000		95.95
	07/10/2020	95459	Accounts Payable	Monterey County Auditor-Controller		19,560.71
Check	21-116	06/29/2020	06/29/2020	LAFCO Budget Allocation - FY 2020-2021		19,560.71
	07/10/2020	95460	Accounts Payable	Monterey County Convention & Visitors Bureau		7,566.57
	Invoice		Date	Description		Amount
Check	Apr 2020	06/30/2020	06/30/2020	Apr 2020 TID		7,566.57
	07/10/2020	95461	Accounts Payable	Monterey County Department of Health		1,988.00
	Invoice		Date	Description		Amount
Check	IN1005680	05/19/2020	05/19/2020	Health Permit - Community Center		994.00
	IN1009576	05/19/2020	05/19/2020	Health Permit - Teen Center		994.00
	07/10/2020	95462	Accounts Payable	Monterey County Petroleum-Sturdy Oil Co.		4,996.79
Check	1114A-IN	06/23/2020	06/23/2020	Diesel Fuel (525 gal)		1,297.89
	1115A-IN	06/23/2020	06/23/2020	Unleaded Fuel (1475 gal)		3,698.90
	07/10/2020	95463	Accounts Payable	Monterey County Weekly		710.00
Check	06-25-20CCM	06/25/2020	06/25/2020	Local Business Advertising - June 25-July 1, 2020		710.00
	Invoice		Date	Description		Amount

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AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	07/10/2020	95464	Accounts Payable	Natividad Medical Center		155.00
	Invoice		Date	Description		Amount
	06-24-20		06/24/2020	Blood Alcohol Results May 2020		155.00
Check	07/10/2020	95465	Accounts Payable	Nextel Communications - Sprint		389.35
	Invoice		Date	Description		Amount
	866147022-214		06/22/2020	Department Cell Phones		389.35
Check	07/10/2020	95466	Accounts Payable	Northern Safety Co., Inc.		59.72
	Invoice		Date	Description		Amount
	904029381		06/23/2020	Sanitizing spray - Covid 19 Response		59.72
Check	07/10/2020	95467	Accounts Payable	Office Depot		56.26
	Invoice		Date	Description		Amount
	506687991001		06/08/2020	Office Supplies-Finance		56.26
Check	07/10/2020	95468	Accounts Payable	Office Depot		22.34
	Invoice		Date	Description		Amount
	101027191001		06/23/2020	Letter Tote 6/23/20		22.34
Check	07/10/2020	95469	Accounts Payable	Office Depot		301.09
	Invoice		Date	Description		Amount
	511706757001		06/16/2020	Office Supplies - Building & Grnds		247.08
	513430714001		06/19/2020	Binders - PW Crew		54.01
Check	07/10/2020	95470	Accounts Payable	Oscar Orange		306.24
	Invoice		Date	Description		Amount
	12-23-19		12/23/2019	Mileage - 144 miles (12/23/19 - 12/25/19)		83.52
	11-11-19		11/11/2019	Mileage - 144 miles (11/11/19 - 11/17/19)		83.52
	12-22-19		12/22/2019	Mileage - 96 miles (12/22/19 - 01/18/20)		55.68
	12-26-19		12/26/2019	Mileage - 144 miles (12/26/19 - 12/29/19)		83.52
Check	07/10/2020	95471	Accounts Payable	Pacific Gas & Electric		4,619.69
	Invoice		Date	Description		Amount
	313-6.JUN20		06/26/2020	PG&E 6793435313-6		4,619.69
Check	07/10/2020	95472	Accounts Payable	Pinnacle Healthcare		115.00

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AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	Invoice			Description		Amount
	192650		06/09/2020	physical		115.00
	07/10/2020	95473	Accounts Payable	Pure H2O		163.84
Check	Invoice			Description		Amount
	13076		07/01/2020	Water Cooler Service-Police/Fire 7/1/20		163.84
	07/10/2020	95474	Accounts Payable	Quill Corporation		348.14
Check	Invoice			Description		Amount
	7940163		06/19/2020	Clorox wipes/Covid-19 6/19/20		32.75
	8222453		06/30/2020	Office Supplies/Records 6/30/20		15.83
Check	Invoice			Description		Amount
	8219837		06/30/2020	Office Supplies/Records 6/30/20		299.56
	07/10/2020	95475	Accounts Payable	Robert R. Wellington		1,800.00
Check	Invoice			Description		Amount
	25330		06/09/2020	Retainer - July 2020		1,800.00
	07/10/2020	95476	Accounts Payable	Shartsis Frieze LLP		95,625.45
Check	Invoice			Description		Amount
	5423067		05/19/2020	Professional Services - MPWSP - April 2020		95,625.45
	07/10/2020	95477	Accounts Payable	SpeakWrite		1,176.44
Check	Invoice			Description		Amount
	75d8c7e7		07/01/2020	Transcription Service/Patrol June 2020		1,176.44
	07/10/2020	95478	Accounts Payable	Taygeta Scientific, Inc.		5,983.14
Check	Invoice			Description		Amount
	000503-R-0001		06/08/2020	Avast Premium Cloudcare 1 Yr Renewal		4,183.14
	000598		06/16/2020	SonicWall NSA 3600 Renewal - FY 2020-2021		1,800.00
Check	Invoice			Description		Amount
	07/10/2020	95479	Accounts Payable	TechRx Technology Services		10,410.04
	8658		06/15/2020	Corp Yard - printer for crew chief		163.88
Check	Invoice			Description		Amount
	8611		06/30/2020	Scanner - PW Superintendent		546.25
	8608		06/30/2020	Webcam Logitech		546.25
Check	Invoice			Description		Amount
	8616		06/30/2020	Laser Printer		557.16

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AP Check Register 07-10-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	8635		07/01/2020	Ninite Monthly Subscription - July 2020		112.50
	8632		07/01/2020	Veeam Virtual Backup Monthly Subscription - July 2020		324.00
	8656		07/01/2020	IT Support - June 2020		8,160.00
	07/10/2020	95480	Accounts Payable	Toshiba Financial Services		409.69
	Invoice		Date	Description		Amount
Check	417947470		06/26/2020	Copier Maintenance/Patrol 6/26/20		409.69
	07/10/2020	95481	Accounts Payable	Tracnet		10,558.29
	Invoice		Date	Description		Amount
	992		05/01/2020	Annual Maintenance MSP 7/1/20 thru 6/30/21		10,558.29
Check	07/10/2020	95482	Accounts Payable	Transportation Agency of Monterey County		7,312.00
	Invoice		Date	Description		Amount
	06-05-20		06/05/2020	Congestion Mgmt - Local Agency Contribution for FY 20-21		7,312.00
	07/10/2020	95483	Accounts Payable	Tri County Fire Protection		389.37
	Invoice		Date	Description		Amount
Check	52755		06/30/2020	B524, B533, B554_ Fire Extinguisher Inspection & Service		389.37
	07/10/2020	95484	Accounts Payable	Valley Saw & Garden Equipment		1,644.48
	Invoice		Date	Description		Amount
	238703		06/30/2020	Duty blower & gas can		793.67
Check	238215		06/26/2020	New Pole Saw for Tree Trimming & Supplies		850.81
	07/10/2020	95485	Accounts Payable	Valley Trophies & Detectors		162.80
	Invoice		Date	Description		Amount
	82685		02/13/2020	Officer of Year Plaque/Engraving 2/13/20		162.80
Check	07/10/2020	95486	Accounts Payable	Verizon Wireless		1,099.57
	Invoice		Date	Description		Amount
	9856948487		06/18/2020	PW Crew, Airport & Bldg Insp - Cell Phones		794.69
	9857405002		06/25/2020	FD Mobile Charges - May 26 - June 25, 2020		304.88
Check	07/10/2020	95487	Accounts Payable	Wallace Group, Inc.		26,349.25
	Invoice		Date	Description		Amount
	51107		06/25/2020	Wallace Program Mgmt: On-Call Svc (05/01/20 - 05/31/20)		13,448.00

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Bank Account: 905 - Chase - Checking

Batch Date: 07/10/2020

Transactions: 64

905 Chase - Checking Totals:

Checks:	63	\$332,069.64
EFTs:	1	\$3,467.50

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 905 - Chase - Checking						
Check	07/17/2020	95491	Accounts Payable	Ace Hardware		85.25
	Invoice		Date	Description		Amount
	074753		06/03/2020	Tape & Powercords 6/3/20		21.83
	073865		03/23/2020	Wastebasket 3/23/20		16.38
	074875		06/11/2020	Supplies/Patrol 6/11/20		47.04
Check	07/17/2020	95492	Accounts Payable	Ace Hardware		342.00
	Invoice		Date	Description		Amount
	075212		07/08/2020	Barrel bolt, sign deco & ring welded - gym restroom		36.92
	075209		07/08/2020	Nipple & plugs Galv - gym restroom		14.17
	075214		07/08/2020	Caps blk - gym restroom		2.17
	075207		07/08/2020	Pipe caps		19.09
	075197		07/07/2020	Stake galv & plug hose end		32.69
	075199		07/07/2020	Elbow		3.26
	075166		07/06/2020	Bcade tape - Caution		21.83
	075189		07/07/2020	Elbow & coupling w/stp		15.85
	075184		07/07/2020	Drill bit & anchor 8-10		14.29
	075092		06/30/2020	B519_Fittings For Airport Beacon		12.00
	075140		07/02/2020	B520_Replacement Toilet Seat + Misc Hardware Supplies		38.20
	075201		07/08/2020	B524_Repair Suddenlink Access Door		8.29
	075230		07/09/2020	Fasteners, compression/pipe caps		34.63
	075235		07/08/2020	Pull Utility and fasteners		16.37
	075236		07/10/2020	Pipe caps, ext tube & compression		11.12
	075219		07/09/2020	PVC pip and cap 2"		41.48
	075266		07/13/2020	Sply & QT valve - Tate Park		19.64
Check	07/17/2020	95493	Accounts Payable	American Supply Co.		977.89
	Invoice		Date	Description		Amount
	2900357		07/07/2020	Cleaning Supply - Teen Ctr & PW Crew - Covid 19 Response		777.31
	0151970		07/13/2020	Black liners 250 count		200.58
Check	07/17/2020	95494	Accounts Payable	ARC Document Solutions		1,146.00
	Invoice		Date	Description		Amount
	2308680		04/20/2020	ARC April 2020 Inv		282.96

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	2302763		03/30/2020	ARC March 2020 Invoice		297.12
	2316850		05/15/2020	ARC May 2020 Invoice		282.96
	2327506		06/15/2020	ARC 2020 Invoice		282.96
	07/17/2020	95495	Accounts Payable	Arrowhead Scientific, Inc.		95.32
	Invoice		Date	Description		Amount
Check	128265		07/08/2020	Evidence Supplies 7/8/20		95.32
	07/17/2020	95496	Accounts Payable	AT & T		18.54
	Invoice		Date	Description		Amount
	07-01-20		07/01/2020	AT&T Billing/Airport 7/1 thru 7/31/20		18.54
Check	07/17/2020	95497	Accounts Payable	AT & T		103.21
	Invoice		Date	Description		Amount
	000014952089		06/28/2020	Phone Service for Fire Alarm System_B524		40.13
	000014952090		06/28/2020	Phone Service for Fire Alarm System_B533		40.13
Check	000014952095		06/28/2020	Phone Service for AWOS		22.95
	07/17/2020	95498	Accounts Payable	Avaya, Inc.		326.64
	Invoice		Date	Description		Amount
	2734333481		07/04/2020	CW - Phone System		326.64
Check	07/17/2020	95499	Accounts Payable	Ben's Motorcycle Works		444.68
	Invoice		Date	Description		Amount
	6783		06/17/2020	2015 BMW repair		444.68
	07/17/2020	95500	Accounts Payable	California Towing Inc.		1,625.00
Check	193453		05/07/2020	Towed Vehicle/Evidence-MC 20-0664-2009 Toyota Tacoma		1,625.00
	07/17/2020	95501	Accounts Payable	Cintas Corporation		71.17
	Invoice		Date	Description		Amount
	4055594688		07/10/2020	Mat Service-Police/Fire 7/10/20		71.17
Check	07/17/2020	95502	Accounts Payable	Civicplus		2,728.13
	Invoice		Date	Description		Amount
	197031_City		04/01/2020	City Website Hosting Services_City		2,728.13

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	07/17/2020	95503	Accounts Payable	Coffman Associates		12,418.00
	Invoice			Description		Amount
	20SP10-2	06/30/2020		Update Marina Operating Documents & Rent Study		10,500.00
	19GS04-6	06/30/2020		Pen & Ink ALP Update for Joby Bldgs.		1,918.00
Check	07/17/2020	95504	Accounts Payable	Commercial Environment Landscape		3,333.33
	Invoice			Description		Amount
	2796-0620	06/29/2020		Airport Landscape Services_Jun. 20		3,333.33
Check	07/17/2020	95505	Accounts Payable	CSG Consultants		10,430.00
	Invoice			Description		Amount
	30564	05/11/2020		CSG Eng: Dunes Dr Boardwalk Repair (04/06/20 - 05/31/20)		3,245.00
	31116	06/15/2020		CSG Eng: Dunes Dr Boardwalk Repair (04/27/20 - 05/31/20)		6,397.50
	B200817	06/30/2020		Building Plan Review 6/1/2020-6/30/2020		787.50
Check	07/17/2020	95506	Accounts Payable	Diablo Engineering Group		2,889.23
	Invoice			Description		Amount
	1903	07/06/2020		2nd Ave Extension & Patton Pkwy (R5) (06/01/20 - 06/30/20)		2,889.23
Check	07/17/2020	95507	Accounts Payable	Directv		5.00
	Invoice			Description		Amount
	37554879525	06/26/2020		TV Service for Pilot's Lounge		5.00
Check	07/17/2020	95508	Accounts Payable	Ewing		44.90
	Invoice			Description		Amount
	12080701	07/09/2020		L/P plastic valve box		44.90
Check	07/17/2020	95509	Accounts Payable	Fastenal Company		369.29
	Invoice			Description		Amount
	CASEA99357	06/22/2020		Veh - Maint Parts & Supply		369.29
Check	07/17/2020	95510	Accounts Payable	Ferguson Enterprise, Inc. # 1423		152.48
	Invoice			Description		Amount
	8592528	07/02/2020		Bldg & Grnd - material & supply		206.93
	CM869391	05/21/2020		Bldg & Grnd - material & supply - Returned		(72.89)
	8599206	07/08/2020		CXC union		18.44

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AP Check Register 07-17-20
 Bank Account: 905 - Chase - Checking
 Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	07/17/2020	95511	Accounts Payable	Gavilan Pest Control		77.00
	Invoice		Date	Description		Amount
	0132014		07/07/2020	Gavilan Pest Control - Comm Ctr		77.00
Check	07/17/2020	95512	Accounts Payable	George T. Powell		1,200.00
	Invoice		Date	Description		Amount
	07012020		07/01/2020	Parking Rental-Police/Fire 7/1 thru 7/31/20		1,200.00
Check	07/17/2020	95513	Accounts Payable	Home Depot Credit Service		444.15
	Invoice		Date	Description		Amount
	07-09-20		07/09/2020	Pipe wrench & pliers		112.44
	07-13-20		07/13/2020	Grinder		173.67
	07-08-20		07/08/2020	Supply line & delux laundry sink		158.04
Check	07/17/2020	95514	Accounts Payable	Christine Hopper		51.00
	Invoice		Date	Description		Amount
	06-22-20		06/22/2020	Money Order for County Recorder Application Fee		51.00
Check	07/17/2020	95515	Accounts Payable	La Sirenita Tree Service		3,550.00
	Invoice		Date	Description		Amount
	06-30-20		06/30/2020	Tree Service - Steven Ct		1,350.00
	06-30-20B		06/30/2020	Tree Service - Bennett Ct		2,200.00
Check	07/17/2020	95516	Accounts Payable	Language Line, LLC		18.67
	Invoice		Date	Description		Amount
	4839028		06/30/2020	Translation Service/Patrol 6/30/20		18.67
Check	07/17/2020	95517	Accounts Payable	M3 Environmental Consulting, LLC		4,298.00
	Invoice		Date	Description		Amount
	2028801		06/19/2020	CCIP: Hazmat Survey- Fire Station #3 Stab (06/01/20 - 06/30/20)		4,298.00
Check	07/17/2020	95518	Accounts Payable	Mandell Municipal Counseling		7,975.00
	Invoice		Date	Description		Amount
	07-08-20		07/08/2020	Professional Services - Revenue Advice - Cannabis - June 2020		7,975.00
Check	07/17/2020	95519	Accounts Payable	Marina Coast Water District		3,381.64
	Invoice		Date	Description		Amount

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AP Check Register 07-17-20
 Bank Account: 905 - Chase - Checking
 Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	000056036	063020	06/30/2020	000056 036 - Center Median 2nd Ave (05/30/20 - 06/30/20)		158.41
	000056037	063020	06/30/2020	000056 037 - 2nd Avenue Irrigation (05/30/20 - 06/30/20)		158.41
	000056095	063020	06/30/2020	000056 095 - 2nd Ave Median (05/30/20 - 06/30/20)		244.66
	000056049	063020	06/30/2020	000056 049 - Imjin Road Univ (31 accounts) (05/30/20 - 06/30/20)		158.41
	000056041	063020	06/30/2020	000056 041 - 3260 Imjin Rd, Fire Station 2 (05/30/20 - 06/30/20)		252.51
	000057000	063020	06/30/2020	000057 000 - 3220 Imjin Road (05/30/20 - 06/30/20)		140.28
	000056043	063020	06/30/2020	Water Service_B524		153.39
	000056044	063020	06/30/2020	Water Service_B520		140.28
	000056051	063020	06/30/2020	Water Service_533		170.87
	000056092	063020	06/30/2020	Water Service_B527		1,027.27
	000056093	063020	06/30/2020	Water Service_B529		205.05
	000056096	063020	06/30/2020	Water Service_B554		104.87
	000056097	063020	06/30/2020	Water Service_B507		389.78
	000056035	070820	07/08/2020	000056 035 - Cardoza/Reservation Rd. - Tate Park		77.45
Check	07/17/2020	95520	Accounts Payable	Maynard Group Inc.		854.90
Check	Invoice		Date	Description	Amount	
	1001480		06/23/2020	Added two (2) lines for the Corp Yard	805.74	
	1001481		06/16/2020	Service Call 6/16/20	49.16	
Check	07/17/2020	95521	Accounts Payable	MBASIA		384,195.60
Check	Invoice		Date	Description	Amount	
	200701-7		07/01/2020	Worker's Comp/Liabli Premium Allocation	384,195.60	
	07/17/2020	95522	Accounts Payable	Microsoft		2,577.92
Check	Invoice		Date	Description	Amount	
	E0700BM6JF		07/11/2020	Citywide MS Office 365 - July 2020	1,312.00	
	E0700BMBXR		07/11/2020	Citywide MS Office 365 - July 2020	487.92	
	E0700BMBXQ		07/11/2020	Citywide MS Office 365 - July 2021	778.00	
Check	07/17/2020	95523	Accounts Payable	Monterey Auto Supply		60.49
Check	Invoice		Date	Description	Amount	
	738617		07/09/2020	Veh - Maint Parts & Supply - Unit 551	24.17	
	738312		07/08/2020	Veh - Maint Parts & Supply - Unit 5000	18.55	
	737743		07/06/2020	Veh - Maint Parts & Supply - Unit 4000	17.77	
Check	07/17/2020	95524	Accounts Payable	Monterey Bay Air Resources District		10,490.87

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice			Description		Amount
	0002617		07/09/2020	FY 2020-2021 Per Capita Assessment		10,490.87
Check	07/17/2020	95525	Accounts Payable	Monterey Bay Office Products		380.19
	Invoice			Description		Amount
	418465506		07/03/2020	City Hall Copier Lease Payment - July 2020		380.19
Check	07/17/2020	95526	Accounts Payable	Monterey County Herald		208.12
	Invoice			Description		Amount
	0006498191		06/29/2020	Legal Notice - Notice of Election District 2 & 3		208.12
Check	07/17/2020	95527	Accounts Payable	Monterey County Peace Officers Association		1,125.00
	Invoice			Description		Amount
	2020037R		07/10/2020	Range Fees June 2020		1,125.00
Check	07/17/2020	95528	Accounts Payable	Monterey County Recorder		25.00
	Invoice			Description		Amount
	06-15-20		06/15/2020	Recording Fee: Charles Apt _ 3109 Seacrest Ave., (Streetscape)		25.00
Check	07/17/2020	95529	Accounts Payable	Monterey County Sheriff's Department		20,910.86
	Invoice			Description		Amount
	1829		07/01/2020	Criminal Justice Info System for QE 6/30/20		20,910.86
Check	07/17/2020	95530	Accounts Payable	Monterey Peninsula Engineering		507,563.23
	Invoice			Description		Amount
	04-19		05/12/2020	2019 Citywide Street Repair Project (payment # 4)		507,563.23
Check	07/17/2020	95531	Accounts Payable	Monterey Regional Waste Management District		170.00
	Invoice			Description		Amount
	3206377		06/26/2020	B533_Removal of 12 Old Tires from Stock Pile South of B533		38.00
	3209770		07/01/2020	B533_Removal of 47 Old Tires from Stockpile South of B533		94.00
	06-30-20		06/30/2020	Citywide - Dump Fees		38.00
Check	07/17/2020	95532	Accounts Payable	Monterey Tire Service		387.29
	Invoice			Description		Amount

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	1-95136		07/07/2020	Goodyear eagle - Unit 882		285.37
	1-95416		07/07/2020	Parts boot & stem high pressure haltec - Unit 595		101.92
	07/17/2020	95533	Accounts Payable	My Chevrolet		1,338.66
	Invoice		Date	Description		Amount
Check	115122CVR		06/26/2020	Generator - Unit 894		560.80
	CVCS215812		06/26/2020	Sensor - Unit 882		668.99
	CVCS216177		07/06/2020	Veh - Maint Parts & Supply - Unit 896		75.00
	218835JER		07/08/2020	AB Filter - Unit 888		33.87
Check	07/17/2020	95534	Accounts Payable	O'Reilly Auto Parts		36.04
	Invoice		Date	Description		Amount
	2631-112633		07/02/2020	B554_ Towing Kit for Closure Markers		36.04
	07/17/2020	95535	Accounts Payable	Office Depot		188.48
Check	Invoice		Date	Description		Amount
	104844524-001		07/08/2020	Office Supplies		188.48
	07/17/2020	95536	Accounts Payable	Office Depot		436.29
	Invoice		Date	Description		Amount
Check	513430715001		06/22/2020	Shredder		97.49
	103431095001		07/01/2020	Mesh office chair - Planning		294.96
	103431101001		07/01/2020	Wipes clorox sprays & mouse pad- for all city employees		43.84
	07/17/2020	95537	Accounts Payable	Overhead Door Company		825.00
Check	Invoice		Date	Description		Amount
	1035-9466		06/25/2020	B515_Service Roll Up Door at Fire Station		825.00
	07/17/2020	95538	Accounts Payable	Peninsula Welding & Medical Supply		14.06
	Invoice		Date	Description		Amount
Check	201203		06/30/2020	Cylinders_liquid		12.90
	201507		06/30/2020	Finance charge		1.16
	07/17/2020	95539	Accounts Payable	Pinnacle Healthcare		125.00
	Invoice		Date	Description		Amount
Check	198720		07/02/2020	Pinnacle Healthcare - Pre Emp Px		125.00
	07/17/2020	95540	Accounts Payable	Quill Corporation		46.20

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	Invoice			Description		Amount
	8258874		07/01/2020	Office Supplies/Records 7/1/20		30.59
	8446367		07/09/2020	Labels 7/9/20		15.61
	07/17/2020	95541	Accounts Payable	Reserve Account - Pitney Bowes		1,500.00
Check	Invoice			Description		Amount
	07-13-20		07/13/2020	Postage Meter Refill		1,500.00
	07/17/2020	95542	Accounts Payable	Salinas Valley Ford		377.31
	Invoice			Description		Amount
Check	13789		06/22/2020	Filter, rotor aspo, & housing - Unit 582		79.44
	13876		06/24/2020	Filter & spark PM102 - Unit 5404		151.05
	13909		06/26/2020	SPO Kit		44.20
	104790		07/06/2020	Alternator - Unit 5452 (95-01)		102.62
	07/17/2020	95543	Accounts Payable	Sara Steck Myers		1,740.00
Check	Invoice			Description		Amount
	07-03-20		07/03/2020	Professional Services - MPWSP - June 2020		1,740.00
	07/17/2020	95544	Accounts Payable	Siemens Mobility, Inc.		247.82
	Invoice			Description		Amount
Check	5610107303		04/27/2018	Traffic Signal Maintenance		247.82
	07/17/2020	95545	Accounts Payable	Sierra Springs & Alhambra		81.68
	Invoice			Description		Amount
Check	9696351 070420		07/04/2020	Corp Yard - Annex - Sierra Spring - Water Svc		81.68
	07/17/2020	95546	Accounts Payable	Taygeta Scientific, Inc.		2,820.23
	Invoice			Description		Amount
	000608		07/06/2020	Quarterly PD NAS Support & Data, Q2, 2020 7/6/20		294.05
Check	000607		07/06/2020	NAS Replacement - TracNet 7/6/20		2,526.18
	07/17/2020	95547	Accounts Payable	TechRx Technology Services		7,441.51
	Invoice			Description		Amount
	8685		07/01/2020	VMware vSphere Essential Plus Kit		7,441.51
Check	07/17/2020	95548	Accounts Payable	Toshiba Financial Services		817.20

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AP Check Register 07-17-20

Bank Account: 905 - Chase - Checking

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice		Date	Description		Amount
	418327524		07/02/2020	Copier Maintenance/Records 6/29 thru 7/29/20		817.20
Check	07/17/2020	95549	Accounts Payable	Trudoor, LLC		308.59
	Invoice		Date	Description		Amount
	23191		07/02/2020	B521_Additional Exterior Door Missed on Previous Inv. No. 103906		308.59
Check	07/17/2020	95550	Accounts Payable	U.S. Bank Equipment Finance		216.32
	Invoice		Date	Description		Amount
	417845567		06/26/2020	CDD Copier Lease Payment - July 2020		216.32
Check	07/17/2020	95551	Accounts Payable	Verizon Wireless		1,732.95
	Invoice		Date	Description		Amount
	9856878722		06/18/2020	Cell Phone Service/PD 5/19 thru 6/18/20		1,732.95
905 Chase - Checking Totals:						
Checks: 61						\$1,007,844.33
Transactions: 61						
						\$1,007,844.33

Marina, CA

SA Check Register 07-17-20

Bank Account: 921 - Chase - Successor Agency

Batch Date: 07/17/2020

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 921 - Chase - Successor Agency						
Check	07/17/2020	50	Accounts Payable	Civicplus		303.12
	Invoice		Date	Description		Amount
	197031_SA		04/01/2020	City Website Hosting Services_SA		303.12
Check	07/17/2020	51	Accounts Payable	Keyser Marston Associates		3,812.50
	Invoice		Date	Description		Amount
	0034715		07/06/2020	Successor Agency Fiscal Services_June 2020		3,812.50
921 Chase - Successor Agency Totals:						3,812.50
Checks: 2						\$4,115.62
Transactions: 2						\$4,115.62

July 8, 2020

Item No: **8f(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-,
CREATING A POST EMPLOYMENT HEALTH PLAN (PEHP) FOR CITY
OF MARINA EMPLOYEES**

REQUEST: That the City Council consider:

- (1) Adopting Resolution No. 2020-, adding as an employee benefit a Post-Employment Health Plan (PEHP) benefit. Funding of the plan would come from compensation earned by employees designated by bargaining group to be deposited in the PEHP.

BACKGROUND: One of the largest expenses for a retiree is health benefits. One way to pay for these health benefit premiums is through a Post-Employment Health Plan (PEHP). This plan, authorized by the Internal Revenue Code, allows an employer to make contributions into the PEHP on behalf of the employee without taxation. Later, the retired employee may make withdrawals for specified health costs without taxation. Thus, contributions are never taxed. A fact sheet is attached for Council's review.

The Internal Revenue Code does place certain requirements on the plan. It requires that all participants to follow the same contribution rule. For collectively bargaining groups, the contributions may be used for any health cost in retirement. For non-collectively bargained groups, the contributions may only be used for health care premiums. So, a bargaining group might require all members of the group to contribute a percentage of their pay or portion of leave accruals to be deposited into the plan. Or a group's plan may state that at retirement a certain percentage of leave accruals will be paid into the health plan. Variations of the contribution rules are endless but whatever rule is agreed upon by a bargaining group it must be applied to all group members until changed by the group. This universal plan application is difficult for groups to agree upon. However, if the group agrees upon the plan, the financial benefit of contributing and withdrawing the funds tax-free is substantial.

The City considered the two deferred comp providers the City currently has and selected Nationwide because their plan administration fee is only \$30 per year per participant. This fee is paid by the participant. The investment options for the plan include Nationwide's investment options.

ANALYSIS: The ability of offer this plan to all the City's employees will provide another method for employees to leverage the City's resources to more effectively use the compensation the City provides employees. The cost to the City is the staff time required to administer the plan. However, the trustee (Nationwide) will do almost all the work. Since Nationwide is a Deferred Comp plan provider, the extra work will be minimal. The potential tax savings to employees will be substantial.

All the employee groups have been approached about the plan. The Department Heads are ready to move forward. After the plan is adopted, the other groups may take advantage of this plan when they chose to do so.

FISCAL IMPACT: A small amount of staff time to administer the plan, probably less than 2-3 hours a year.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Eric Frost
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

SOURCE OF FUNDING: Employee compensation

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CREATING A
POST EMPLOYMENT HEALTH PLAN (PEHP) FOR CITY OF MARINA EMPLOYEES

WHEREAS, a Post Employment Health Plan for Public Employees has been established for eligible public employees, pursuant to section 501(c)(9) of the Internal Revenue Code permitting such plans; and,

WHEREAS, the Plan may be funded with Employer contributions, mandatory Eligible Employee contributions or combination of both on behalf of the eligible employees in a manner permitted under the Plan; and,

WHEREAS, under the PEHP program, Nationwide Retirement Solutions (NRS), Inc. will provide administrative services in exchange for a fee as agreed upon by the Employer and NRS;

WHEREAS, access to health benefits is an important benefit provided by the City of Marina; and,

WHEREAS, this PEHP will allow employees to pay for their post-employment health insurance in a tax-benefited manner; and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY
RESOLVE AS FOLLOWS:

The City Council of the Marina hereby adopts this PEHP program on behalf of the eligible employees of Marina. The officers of Marina are hereby authorized to execute, on behalf of the eligible employees of the Marina, a participation agreement with NRS, authorizing NRS to act as the Administrator of the Plan and the agent of the Employer, and other such agreements and contracts as are necessary to implement the program.

PASSED and ADOPTED by the City Council of the City of Marina at a special meeting duly held on this 21st day of July 2020 by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS

ABSTAIN, COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk



Post Employment Health Plan (PEHP®) Fact Sheet and Investment Options

PEHP® Fact Sheet and Investment Options

Type of plan	• Employee benefit plan • Health reimbursement arrangement (HRA) • Internal Revenue Code Section 501(c)(9)
Assets held	• Tax-exempt multiple-employer voluntary employees beneficiary association (VEBA) trusts
Tax advantages	• Employer pays no FICA taxes on plan contributions • Employees pay no FICA or federal income taxes on: - Contributions made on their behalf - Investment earnings - Benefits paid from the plan
Plan contributions	Employer, mandatory employee and/or contributions on behalf of retirees are permitted.
Plan benefits	Contributions accumulate tax free, and qualified post-employment medical expenses (as defined by Internal Revenue Code Section 213(d)) are reimbursable. Examples include: - Health insurance premiums - Medicare Part B premiums - Medicare supplemental insurance premiums - Qualified long-term care premiums - Qualified out-of-pocket medical expenses, including prescription drugs, eyeglasses and doctor co-pays
Benefit flexibility	Upon the employee's separation from service or retirement, requests may be made for the reimbursement of qualified medical expenses and/or medical insurance premiums. Plan-to-plan transfers are also available among accounts with the same employer for plans administered by Nationwide.
Funding options	• Universal reimbursement account (105) - Funded ongoing with equal dollar contributions per employee, per submission - Minimum annual ongoing contribution is \$120 per employee - Reimbursements may be made for any qualified out-of-pocket medical expense; examples include: health insurance premiums, prescription drugs, eyeglasses, hearing aids and doctor co-pays • Insurance premium reimbursement account (106) - Can be funded solely with accrued sick and/or vacation leave (must be required by employer of all eligible plan participants) - May also be funded with a percentage of salary - Minimum annual ongoing contribution is .5% of salary per employee - Reimbursements may only be used for qualified health insurance premium expenses; examples include: health insurance premiums, dental premiums, Medicare Part B premiums and Medicare supplements • Contribution details must be submitted separately for the universal reimbursement account (105) and insurance premium reimbursement account (106) • For collectively bargained plans whose benefits were the subject of good faith bargaining, Nationwide will allow all contributions, including those that are determined as a percentage of the eligible employee's compensation and earnings and any combination of vacation pay, sick pay or other accumulated absence pay, to be directed to the 105 Universal Reimbursement Account and used for any qualifying medical care expense as defined under Internal Revenue Code Section 213(d)(1), which includes but is not limited to health care insurance premiums
Investment options	There are 29 investment options available for employees. Employees have the ability to elect managed account services—Nationwide ProAccount®—for independent, professional financial money management of PEHP accounts (additional fees apply).
Plan fees	• Employer—Patient-Centered Outcome Research Institute (PCORI)¹ • Employee—0.50% asset management fee plus \$30 administrative fee per year Note: There is no charge for claims reimbursements.
Death of participant	Money is immediately made available to the surviving spouse and/or qualified dependents (as defined by IRC§152(a)) to use for health care expenses. If no surviving spouse or qualified dependents remain to request reimbursement, the account balance is reallocated to the accounts of the remaining members of the immediate employer group for their qualified medical expenses.

¹ The PCORI fee results from Affordable Care Act requirements and is payable to the IRS by July 31 each calendar year.

PEHP® Investment Options

PEHP Variable Annuity, a group variable annuity contract issued by Nationwide Life Insurance Company

Asset allocation		Category
The Nationwide Investor Destinations Funds can be selected based on your personal objectives and risk tolerance, and they are designed to provide asset allocation across several types of investments and asset classes, primarily by investing in underlying funds. Principal value of the fund(s) is not guaranteed at any time, including at the target date. Therefore, in addition to the expenses of the Investor Destination Funds, investors are indirectly paying a proportionate share of the applicable fees and expenses of the underlying funds.	American Funds 2020 Target Date (Class R4)	U.S. Fund
	American Funds 2025 Target Date (Class R4)	U.S. Fund
	American Funds 2030 Target Date (Class R4)	U.S. Fund
	American Funds 2035 Target Date (Class R4)	U.S. Fund
	American Funds 2040 Target Date (Class R4)	U.S. Fund
	American Funds 2045 Target Date (Class R4)	U.S. Fund
	American Funds 2050 Target Date (Class R4)	U.S. Fund
	American Funds 2055 Target Date (Class R4)	U.S. Fund
	American Funds 2060+ Target Date (Class R4)	U.S. Fund
	Nationwide Investor Destinations Aggressive Fund (Service Class)	Large Growth
	Nationwide Investor Destinations Moderately Aggressive Fund (Service Class)	Large Growth
	Nationwide Investor Destinations Moderate Fund (Service Class)	Moderate Allocation
	Nationwide Investor Destinations Moderately Conservative Fund (Service Class)	Moderate Allocation
	Nationwide Investor Destinations Conservative Fund (Service Class)	Conservative Allocation
Small-cap stock funds		
"Small-cap" is an abbreviation of the term "small market capitalization." It's a company whose market capitalization is small or newer. A small-cap stock fund is made primarily of investments in companies that are considered small or newer companies. Small-cap funds involve increased risk and volatility.	Franklin Small Cap Value Fund (Class A)	Small Value
	Nationwide Small Cap Index Fund (Class A)	Small Blend
	Neuberger Berman Small Cap Growth Fund (Class A)	Small Growth
Mid-cap stock funds		
Mid-cap is an abbreviation of the term "middle market capitalization," a company whose market capitalization is mid-range. A mid-cap stock fund is made primarily of investments in companies that are considered mid-range or midsize companies.	AllianzGI NFJ Mid Cap Value Fund (Class A)	Mid-Cap Value
	Nationwide Mid Cap Market Index Fund (Class A)	Mid-Cap Blend
	Invesco Oppenheimer Discovery Mid Cap Growth Fund (Class A)	Mid-Cap Growth
Large-cap stock funds		
Large-cap is an abbreviation of the term "large market capitalization," and that's a company whose market capitalization is very large. A large-cap stock fund is made primarily of investments in companies that are considered large-cap, big corporations.	American Century Ultra® Fund (Investor Class)	Large Growth
	MFS Value Fund (Class R3)	Large Value
	Nationwide Fund Institutional Service Class	Large Blend
	Nationwide S&P 500 Index Fund (Institutional Service Class)	Large Blend
International stock funds		
These are mutual funds that invest primarily in companies located anywhere outside of its investors' country of residence. International investing involves additional risks, including currency fluctuations, political instability, differences in accounting standards and foreign regulations.	MFS International Diversification Fund (Class R3)	Foreign Large Blend
	Oppenheimer Global Fund (Class A)	World Stock
Bond funds		
These are funds invested primarily in bonds, which could include government, corporate, municipal or convertible bonds.	Lord Abbett High Yield Fund (Class R4)	High-Yield Bond
	PIMCO Total Return Fund (Class A)	Immediate-Term Bond

PEHP® Investment Options cont'd

PEHP Variable Annuity, a group variable annuity contract issued by Nationwide Life Insurance Company

Fixed-income securities/cash		
Fixed-income security options are designed to protect principal and may not keep pace with inflation. Their goal is to have lower risks than alternative options, but they're not insured or guaranteed by the FDIC or any other government agency.	Nationwide Money Market Fund (Prime Shares) is made of bonds that might be short or intermediate term with longer maturities than other choices, such as money market funds. An investment in a money market underlying fund is not insured or guaranteed by the FDIC or any other government agency. Although money market funds seek to preserve the value of an investment at \$1.00 per share, it is possible to lose money by investing in the money market.	Money Market
	Nationwide Fixed Account: Guarantees are subject to the claims-paying ability of Nationwide Life Insurance Company.	Fixed Account



The underlying fund prospectuses can be obtained by calling 1-877-677-3678. Before investing, carefully consider the fund's investment objectives, risks, charges and expenses. The underlying fund prospectus contain this and other important information. Read the prospectuses carefully before investing.

Retirement Specialists are registered representatives of Nationwide Investment Services Corporation, member FINRA, Columbus, Ohio.

Nationwide and its representatives do not give legal or tax advice. An attorney or tax advisor should be consulted for answers to specific questions.

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For more complete information, including all charges and expenses, please consult your Nationwide representative or call 1-877-677-3678.

Nationwide Retirement Solutions Inc. and its affiliates (Nationwide) offer a variety of investment options to public sector retirement plans through variable annuity contracts, trusts or custodial accounts. Nationwide may receive payments from mutual funds or their affiliates in connection with those investment options. For more details about the payments Nationwide receives, please visit www.nrsforu.com.

Nationwide Retirement Solutions (Nationwide) makes payments to the National Association of Police Organizations (NAPO) for the value of services and endorsements related to the Nationwide Post Employment Health Plans (PEHP). Under the arrangement, NAPO exclusively endorses the National Association of Counties, the United States Conference of Mayors and the International Association of Fire Fighters-Financial Corporation. More information about the endorsement relationships may be found online at www.nrsforu.com or www.FrontLinePlan.com.

Nationwide Retirement Solutions Inc. and Nationwide Life Insurance Company (collectively "Nationwide") have endorsement relationships with the National Association of Counties, the United States Conference of Mayors and the International Association of Fire Fighters-Financial Corporation. More information about the endorsement relationships may be found online at www.nrsforu.com or www.FrontLinePlan.com.

The PEHP unregistered group variable annuity is issued by Nationwide Life Insurance Company, contract number APO-3350.

Nationwide, the Nationwide N and Eagle, Nationwide is on your side, Nationwide ProAccount and PEHP are service marks of Nationwide Mutual Insurance Company. © 2019 Nationwide

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020,
APPROVING THE DESTRUCTION OF PAYROLL RECORDS
ACCORDING TO THE CITY'S RECORDS RETENTION POLICY
COVERING THE YEARS OF 2009 to 2011.**

REQUEST:

It is requested that the City Council:

1. Adopt Resolution No. 2020-, approving the destruction of payroll records according to the City's Records Retention Policy covering the calendar years of 2009 to 2011.

BACKGROUND:

The City has adopted a records retention policy. The policy specifies when records may be destroyed. The policy requires the employee in custody of the records, the department head responsible for the record and the City Attorney to certify that the records can be destroyed according to the City's records retention policy.

ANALYSIS:

The City's requirements for maintaining records vary. Retirement and Payroll Register records are to be kept forever. All other records, however, may be disposed after 7 years as shown in Table I, Records Retention Requirements for Payroll.

Table I
Records Retention Requirements for Payroll

City of Marina

Records Retention/Disposition Schedule

			RETENTION PERIODS			FORMAT	VITAL	DoR	REMARKS	CITATION
			Active	Inactive	Total	See legend on last page				See legend on last page
402		PAYROLL								
402	01	Payroll General Information	2	--	2	HC	--	FF		GC 34090
402	02	Payroll Register	1	P	P	D	Yes	FF		GC 34090; GC 37207
402	03	Employee Time Sheets	Au	6	Au+6	DE	Yes	FF	Signed by employees	GC 34090; 29CFR 516.2; 20 CFR 516.6(1); IRS Reg 31.6001-1(3)(a); R&T 19530; LC 1174(d)
402	04	Other Payroll-Related Documents	Au	6	Au+6	D HC	Yes	FF	Includes W-2 Forms, W-4 Forms, leave balance sheets, employee deferred compensation contributions and city payments etc.	GC 34090; 29 CFR 516.2; CAC22-1085.2; 26 CFR 160011; 29 CFR 1627.3(2)
402	05	Salary Records	2	P	P	E	--	Yes	Salary Schedules	GC 34090; 29 CFR 516.2; CAC 22-1085-2
402	06	Retirement		P	P	E		FF		

The destruction of these records meets the requirements of the policy. Attached is the Records Destruction Form certifying these are being properly disposed of.

FISCAL IMPACT:

The disposal of these records will relieve the Finance Department of the burden of maintaining these records.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Eric Frost
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

Attachment: Records Destruction Form

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING THE
DESTRUCTION OF PAYROLL RECORDS ACCORDING TO THE CITY'S RECORDS
RETENTION POLICY COVERING THE YEARS OF 2009 TO 2011

WHEREAS, the City of Marina is required to retain records permanently or for a set period of time;
and

WHEREAS, the City of Marina has adopted a records retention policy to provide for an orderly
disposal of records when allowed by law; and

WHEREAS, the employee in possession of the records, the department head responsible for the
records and the City Attorney have all approved the destruction of the records as shown on the
Records Destruction Form; and,

WHEREAS, the City Council approves the final destruction of all records; and

WHEREAS, a permanent record of what records have been destroyed will be retained by the City
Manager's Office.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARINA DOES HEREBY
RESOLVE AS FOLLOWS:

SECTION 1. The City Council authorizes the destruction of the following records:

Various Payroll Records from 2009 to 2011

PASSED and ADOPTED by the City Council of the City of Marina at a special meeting duly
held on this 21st day of July 2020 by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS

ABSTAIN, COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

RECORDS DESTRUCTION FORM

The records listed below are scheduled to be destroyed, as indicated on:

x Retention Schedule adopted by City Council

____ Law. Specific Code Section: GC 34090 and others below

____ City Council Resolution Number _____

Pursuant to the City's Records Retention Policy and Records Retention Schedule adopted by Resolution No. 2020-08 __ I am recommending that the following records be destroyed:

The attached shows which payroll records are being proposed to be destroyed. The newest record is from 2011, 9 years old. The City's retention policy dealing with Payroll records is shown below.

402		PAYROLL								
402	01	Payroll General Information	2	--	2	HC	--	FF		GC 34090
402	02	Payroll Register	1	P	P	D	Yes	FF		GC 34090; GC 37207
402	03	Employee Time Sheets	Au	6	Au+6	DE	Yes	FF	Signed by employees	GC 34090; 29CFR 516.2; 20 CFR 516.6(1); IRS Reg 31.6001-1(3)(a); R&T 19530; LC 1174(d)
402	04	Other Payroll-Related Documents	Au	6	Au+6	DHC	Yes	FF	Includes W-2 Forms, W-4 Forms, leave balance sheets, employee deferred compensation contributions and city payments etc.	GC 34090; 29 CFR 516.2; CAC22-1085.2; 26 CFR 160011; 29 CFR 1627.3(c)
402	05	Salary Records	2	P	P	E	--	Yes	Salary Schedules	GC 34090; 29 CFR 516.2; CAC 22-1085.2
402	06	Retirement		P	P	E		FF		

DOCUMENTS HAVE BEEN REVIEWED AND APPROVED FOR DESTRUCTION:

And Villaverde
Employee

July 15, 2020
Date

[Signature]
Department Head

7/15/20
Date

[Signature]
City Attorney

7/17/2020
Date

(Complete after destruction has been performed)

I HEREBY CERTIFY that the items listed above have been destroyed in accordance with City policies and procedures:

Employee

Date

form RM-4

Council Chambers

Box #	Contents
1	Payroll ADP Records 2011, PSOA retro calcs and salary adjustments
2	Payroll ADP Records 2011
3	Various Payroll Reports (AFLAC, ICMA, W-2 Copies ADP Payroll Reports all from 2010
4	ADP Labor Distribution Report 06/09-12/09. ADP Payroll Records 2009
5	ADP Payroll Reports 2009
6	ADP Payroll Reports 2009
7	ADP Payroll Reports 2009
9	ADP Payroll Reports 2009

All these records have had the payroll register and any CalPERS retirement records removed. These records are eligible for destruction under the City's records retention policy 402.04 or 402.03.

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2020

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2020-,
CONFIRMING LEVY OF THE SPECIAL TAX FOR THE CITY OF
MARINA COMMUNITY FACILITIES DISTRICT NO. 2015-1 (THE DUNES)
FOR FISCAL YEAR 2020-21 AS AUTHORIZED BY ORDINANCE NO. 2015-
03; AND RESOLUTION NO. 2020-, CERTIFYING CITY OF MARINA
COMPLIANCE WITH STATE LAW (PROPOSITION 218) WITH RESPECT
TO A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY
FACILITIES DISTRICT NO. 2015-1 AS AUTHORIZED BY ORDINANCE
NO. 2015-03 FOR FISCAL YEAR 2020-21**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2020-, confirming levy of the special tax for the City of Marina Community Facilities District No. 2015-1 (The Dunes) for Fiscal Year 2020-21 as authorized by Ordinance No. 2015-03, and;
2. Resolution No. 2020-, certifying City of Marina compliance with State law (Proposition 218) with respect to a special tax for the City of Marina Community Facilities District No. 2015-1 as authorized by Ordinance No. 2015-03 for Fiscal Year 2020-21

BACKGROUND:

Pursuant to a special election held on June 2, 2015, on June 16, 2015, the City Council unanimously passed Ordinance No. 2015-03, forming the City of Marina Community Facilities District No. 2015-1 (commonly referred to as The Dunes CFD). Ordinance 2015-03 also authorized an annual special tax levy for the purpose administration and services of District maintenance of streets, sidewalks, curb & gutters, street lighting and storm drains. The special tax was first levied for fiscal year 2015-16, in the amount of \$437.22 for each of the assessed residential units and \$5,187 per acre of undeveloped property. Each subsequent year, Ordinance 2015-03 requires the special tax to be increased by the lesser of 4% or the Construction Cost Index as published in the Engineering News Record (ENR) from the previous approved Maximum Special Tax. For Fiscal Year 20/21, the Construction Cost Index increased by approximately 5.4%. The Rates and Apportionment for this District applies a maximum annual rate increase of 4%.

On June 21, 2016, the City Council adopted Resolution 2016-96, accepting annexation of property into the City of Marina Community Facilities District No. 2015-1(The Dunes). The annexation area incorporates the Dunes Residential Subdivision Phase 1C Final Map 2.

On April 4, 2017, the City Council adopted Resolution 2017-35, accepting annexation of property into the City of Marina Community Facilities District No. 2015-1(The Dunes). The annexation area incorporates the Dunes Residential Subdivision Phase 1C Final Map 3.

Accordingly, the special tax for each fiscal year since inception has been as follows (NOTE: Monterey County requires that rates be divisible by 2 for placement on the rolls, so calculations are rounded each year):

Fiscal Year	Tax Per Parcel	Tax Per Acre	Total Special Tax (to be) Collected
FY 15/16	\$437.22	\$5,187.00	\$54,228.30
FY 16/17	\$452.66	\$5,369.89	\$101,268.60
FY 17/18	\$459.46	\$5,450.69	\$162,605.34
FY 18/19	\$470.92	\$5,586.73	\$160,509.62
FY 19/20	\$484.24	\$5,744.70	\$160,767.68
FY 20/21	\$501.52	\$5,974.48	\$166,504.64

ANALYSIS:

Each year's special tax is collected by the Monterey County Tax Collector, and then distributed to the City. When received by the City, special taxes are credited in the accounting system to Fund 252 - CFD Dunes No. 2015-1. Likewise, as expenditures and costs are incurred on behalf of the District, invoices are coded by City Staff, paid through the Accounts Payable system, and posted to Fund 252 expenditure accounts. As of June 30, 2020, the fund balance in Fund 252 (cumulative tax revenue in excess of expenditures since inception) is projected to be approximately \$459,223. Due to the age of the District improvements, scheduled maintenance service expenditures for this coming fiscal year (2020-2021) are anticipated be approximately \$171,710.

Ordinance 2015-03 authorizes the finance director "...to determine the specific special tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD (including any parcel or parcels in the future annexation area that annex into the CFD), in the manner and as provided in the resolution of formation."

However, Monterey County will not impose or collect the special tax on the District's behalf unless the City submits, in a form provided by the County, a certification of compliance with State Law (Proposition 218) that includes a hold harmless and indemnification provision for administrative expenses of the County associated with collection of the City's taxes, assessments, fees or charges, other than the Constitutionally authorized 1% ad valorem tax.

Attached is a resolution which, if adopted by the Council will satisfy the County's certification, hold-harmless and indemnification requirements with respect to the City of Marina Community Facilities District No. 2015-1 Special Tax for the 2020-21 fiscal year.

FISCAL IMPACT:

Special assessments finance the CFD's approved maintenance services. Planned maintenance services estimates include storm drains and street lights. Total to be credited to the district is as follows:

Fund 252 Community Facilities District No. 2015-1	\$166,504.64
---	--------------

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer, Engineering Division
City of Marina

REVIEWED/CONCUR:

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

Eric Frost
Finance Director
City of Marina

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY OF MARINA CONFIRMING LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2015-1 AS AUTHORIZED BY ORDINANCE NO. 2015-03 FOR FISCAL YEAR 2020-21

WHEREAS, Ordinance 2015-03 authorized the levy of a special tax for the benefit of The City of Marina Community Facilities District 2015-1 starting in Fiscal Year 2015-16 and increasing by the lesser of 4% or the Construction Cost Index as published in the Engineering News Record (ENR) from the previous approved Maximum Special Tax. For Fiscal Year 20/21, the Construction Cost Index increased by 5.4%. The Rates and Apportionment for this District applies a maximum annual rate increase of 4.0%, and;

WHEREAS the Administrator has calculated the maximum Fiscal Year 2020/21 special tax to be \$501.52 per parcel and \$5,974.48 per Acre of undeveloped property, and;

WHEREAS, the CFD administrator having further considered the special tax requirements in accordance with Exhibit A to Ordinance 2015-03, by which Community Facilities District 2015-1 was established and continues, has determined that a special tax for fiscal year 2020-21 be assessed at \$501.52 per parcel and \$5,974.48 per Acre of undeveloped property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marina that:

1. The City does hereby confirm the diagram and assessment as described in the Engineer's Report on file with the City Clerk.
2. The City does hereby order the levy and collection of said assessment \$501.52 per parcel and \$5,974.48 per Acre of undeveloped property for FY 2020/21 assessment for The Dunes CFD No. 2015-1.
3. It is the intention of the City of Marina that any monetary advance made by it during any fiscal year to cover a deficit in the improvement fund of Community Facilities District No. 2015-1 shall be repaid from the next annual assessments levied and collected within Community Facilities District No. 2015-1
4. The City Clerk is hereby authorized and directed to file a certified copy of said diagram and assessment with the Monterey County Auditor prior to August 1, 2020.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 21st day of July 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Bruce Delgado, Mayor

Anita Sharp, Deputy City Clerk

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW (PROPOSITION 218) WITH RESPECT TO
LEVYING OF SPECIAL TAXES ON BEHALF OF CITY OF MARINA COMMUNITY
FACILITIES DISTRICT NO. 2015-1 FOR FISCAL YEAR 2020-2021

WHEREAS, the City of Marina “Public Agency” requests that the Monterey County Auditor-Controller enter those general or special taxes, assessments, or property-related Fees or charges identified in Exhibit “A” on the tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2020-21

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Public Agency hereby certifies that it has, without limitation, complied with all legal procedures and requirements necessary for the levying and imposition of the general or special taxes, assessments, or property-related fees or charges identified in Exhibit “A”, regardless of whether those procedures and requirements are set forth in the Constitution of the State of California, in State statutes, or in the applicable law of the State of California.
2. The Public Agency further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees, and agents, with regards to the handling of the Cd or electronic file identified as Exhibit “A”, the Public Agency shall be solely liable and responsible for defending, at its sole expense, cost, and risk, each and every action, suit, or other proceeding brought against the County of Monterey, its officers, employees, and agents for every claim, demand, or challenge to the levying or imposition of the general or special taxes, assessments, or property –related fees or charges identified in Exhibit “A” and that it shall pay or satisfy any judgment rendered against the County of Monterey, its officers, employees, and agents on every such action, suit, or other proceeding, including all claims for refunds and interest thereon, legal fees and court costs, and administrative expenses of the County of Monterey to correct the tax rolls.

PASSED AND ADOPTED by the City of Marina City Council at a regular meeting duly held on the 21st day of July 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

EXHIBIT A

ATTACHMENT TO RESOLUTION NO. 2020-___ OF THE CITY OF MARINA, COUNTY OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW WITH RESPECT TO THE LEVYING OF SPECIAL TAX

FISCAL YEAR 2020-21

SPECIAL TAXES:

City of Marina CFD No. 2015-1 (The Dunes)

- Developed Property (Per-Parcel Rate) \$501.52
- Undeveloped Property (Per-Acre Rate) \$5,974.48

Special Tax Levy Summary		
Developed Property	332 Parcels	\$166,504.64
Undeveloped Property	0.00 Acres	\$0.00
Total		\$166,504.64

Fiscal Year Budget Scenario
The Dunes Community Facilities District (CFD 2015-1)

Summary	Estimates FY 2019-2020	Estimates FY 2020-2021	Estimates FY 2021-2022
Beginning Cash Balance, July 1st	\$ 460,767	\$ 459,223	\$ 459,090
(a) Total Special Tax Revenue	\$ 160,768	\$ 165,269	\$ 171,880
(b) Expenditures			
Maintenance Services			
Facilities Maintenance	\$ 21,500	\$ 21,930	\$ 22,807
Maintenance Cycle Deposit	\$ 133,094	\$ 135,755	\$ 141,186
Administrative Services			
Financial Administration	\$ 4,948	\$ 4,948	\$ 4,948
Cost Allocation Charges	\$ 2,770	\$ 2,770	\$ 2,770
(c) Total Services Costs	\$ 162,311	\$ 165,403	\$ 171,710
Ending Fund Balance, June 30th	\$ 459,223	\$ 459,090	\$ 459,260

^(a) Maximum Assessment per Rate of Apportionment is \$501.52 per parcel & \$5,974.48 per undeveloped acre for FY 20/21 (ENR Construction Cost Index increase of 5.4%, applying Rates & Apportionment annual increase of 4.0%).

^(b) Expenditures for FY 20/21 are estimated with City acceptance of CFD improvements.

^(c) Total Services Costs include Facilities Maintenance and Administration expenditures. Deposits are held for schedule maintenance projects.

July 21, 2020

Item No. **8f(4)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
July 21, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-,
APPROVING CITY'S RESPONSE TO THE 2019-2020 MONTEREY
COUNTY CIVIL GRAND JURY FINAL REPORT – "SEXUAL
HARASSMENT PREVENTION #TRAINING COMPLIANCE"**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2020-, approving response to the Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance".

BACKGROUND:

The Grand Jury is an investigatory body created for the protection of society and the enforcement of the law. The U.S. Constitution's Fifth Amendment and the California Constitution call for Grand Juries. Grand juries were established throughout California during the early years of statehood. As constituted today, the Grand Jury is a part of the Judicial Branch of government, an arm of the Court.

One of the functions of the Civil Grand Jury is to investigate and report on the operation of county and local government entities.

The Monterey County Civil Grand Jury has chosen to review the responsibility of local governments to train workplace supervisors in sexual harassment prevention in accordance with Assembly Bill 1825 (AB 1825).

AB 1825 was adopted and was to be enforced by January 1, 2006. An employer having 50 or more employees must provide at least two hours of training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position. The training and education required is to include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

ANALYSIS:

On June 24, 2020, the City received a copy of the 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance". Pursuant to Penal Code Section 933.05, the City of Marina is required to submit comments on the report to the Honorable, Stephanie E. Hulse, Judge of the Superior Court within ninety (90) days following its transmittal. The report requires the City of Marina to respond to Findings F19-F23 and Recommendations R10-R13. (**"EXHIBIT A"**)

The Civil Grand Jury investigation determined, “that compliance levels vary widely among the different jurisdictions in Monterey County. Three jurisdictions stood apart in their ability to achieve AB 1825 training compliance at 80% or above. These were: King City, Marina, and Soledad.” Overall, the report concluded the jurisdictions investigated by the Civil Grand Jury recognize the requirement and the practical value of doing AB 1825 supervisor training properly, but many did not devote the resources or the priorities to ensuring the training was done in accordance with state mandates.

While the City of Marina is one of the better compliance cities in Monterey County, there are still areas we can improve. City staff and the City Manager have prepared the draft response from the City of Marina. The City’s draft response reaffirms the importance of compliance with AB 1825 training and improvements the City will make in its training and record compliance. (“EXHIBIT B”)

FISCAL IMPACT:

No fiscal impact implementing recommendations.

CONCLUSION:

This request is submitted for City Council consideration and action.

Respectfully submitted,

Catrina Scharf
Human Resource Analyst
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

RESOLUTION NO. 2020 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA DIRECTING THAT THE REPOSE TO THE 2019-2020 MONTEREY COUNTY CIVIL GRAND JURY'S FINAL REPORT – "SEXUAL HARASSMENT PREVENTION #TRAINING COMPLIANCE" BE SUBMITTED TO THE HONORABLE STEPHANIE E. HUSEY, JUDGE OF THE SUPERIOR COURT, MONTEREY COUNTY.

WHEREAS, On June 24, 2020 the City received a copy of the 2019-2020 Monterey County Civil Grand Jury Final Report – Sexual Harassment Prevention #Training Compliance; and,

WHEREAS, the Report requires the City of Marina to respond to Findings F19-F23 and Recommendations R10-R13; and,

WHEREAS, the City Council has reviewed the responses to the required comments set forth in the Final Report; and,

WHEREAS, pursuant to Penal Code Section 933.05, the City of Marina is required to submit comments on the Report to the Honorable, Stephanie E. Hulse, Judge of the Superior Court within ninety (90) days following its transmittal;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marina hereby:

1. Accepts the responses to the 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #Training Compliance", and;
2. Directs that the responses be submitted to the Honorable, Stephanie E. Hulse, Judge of the Superior Court.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 21st day of July 2020 by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

MONTEREY COUNTY



OFFICE OF THE COUNTY COUNSEL
168 WEST ALISAL STREET, 3RD FLOOR, SALINAS, CALIFORNIA 93901-2439
(831) 755-5045 FAX: (831) 755-5283

IMMEDIATE ATTENTION REQUIRED

June 24, 2020

Via Electronic Mail Only
Bdelgado62@gmail.com
Marina City Council
c/o Mayor Bruce Delgado
211 Hillcrest Avenue
Marina, CA 93933

Re: 2019-2020 Monterey County Civil Grand Jury Final Report – "Sexual Harassment Prevention #TrainingCompliance"

Dear Members of the City Council:

On behalf of the 2019-2020 Monterey County Civil Grand Jury, and pursuant to Penal Code section 933.05(f), I am enclosing for your review the Grand Jury's Final Report entitled "Sexual Harassment Prevention #TrainingCompliance", which has been approved for publication.

This report constitutes a Final Report for purposes of Penal Code section 933. Pursuant to that section, you must submit comments on the report to the Honorable, Stephanie E. Hulse, Judge of the Superior Court, 240 Church Street, Salinas, CA 93901, within ninety (90) days following its transmittal. The Council is responsible for Findings F19-F23 and Recommendations R10-R13. With respect to each finding, the Council shall indicate one of the following:

- 1) That the Council agrees with the finding; or
- 2) That the Council disagrees wholly or partially with the finding, in which case the Council must specify the portion of the finding that is disputed and shall include in the response an explanation of the reasons for the disagreement.

With respect to each recommendation, the Council must report one of the following actions:

- 1) That the recommendation has been implemented, with a summary regarding the implemented action;
- 2) That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation;
- 3) That the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the Council (this timeframe not to exceed six months from the date of publication); or

Marina City Council
June 24, 2020
Re: Sexual Harassment Prevention #TrainingCompliance
Page 2

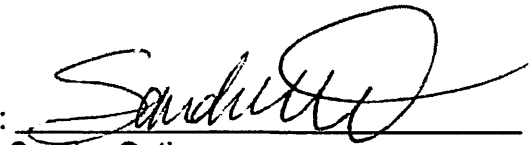
- 4) The recommendations will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

Pursuant to Penal Code Section 933.05(f) the contents of this report may not be disclosed prior to its public release, which will occur no earlier than 48 hours following delivery.

Thank you for your attention to these matters; the Civil Grand Jury looks forward to your response.

Sincerely,

By:



Sandra Ontiveros
Civil Grand Jury Liaison

so

Enclosure

cc: Grand Jury

Hon. Stephanie E. Hulse, Judge of the Superior Court
Layne Long, City Manager, llong@cityofmarina.org

SEXUAL HARASSMENT PREVENTION #TrainingCompliance

SUMMARY

It is an unfortunate reality of our times that sexual harassment remains a challenge in our workplaces. California has enacted many measures to prevent harassment, and to mandate that our communities combat this problem both in action and by education. The Civil Grand Jury has chosen to review one part of that education, the responsibility of local governments to train workplace supervisors in sexual harassment prevention in accordance with Assembly Bill 1825 (AB 1825).

Government enacts labor laws to protect workers and to create safe, productive workplace environments for all employees. Therefore, governmental entities should be held to the highest standards under the law and should serve as models of compliance.

This Civil Grand Jury investigation determined that compliance levels vary widely among the different jurisdictions in Monterey County. Three jurisdictions stood apart in their ability to achieve AB 1825 training compliance at 80% or above. These were: King City, Marina, and Soledad. This is more remarkable than it first appears. For example, two other cities had no AB 1825 training records prior to 2017 but are now getting on track. Several other cities had incomplete or inaccurate supervisory rosters, were missing training records to document timely training, had out-of-date policies, or had other substantial deficiencies. Four other local jurisdictions offer a choice of classroom or e-learning training, or even webinar training. This is a sound approach to ensuring wide access to AB 1825 training, but it also complicates their recordkeeping systems, and resulted in gaps in timely training for some supervisory employees. Finally, one city had 75% compliance based on their elected training tracking method but would have had a 100% compliance with the alternate tracking option.

Overall, the jurisdictions investigated by the Civil Grand Jury recognize the requirement and the practical value of doing AB 1825 supervisor training properly, but many did not devote the resources or the priorities to ensuring the training was done in accordance with state mandates.

GLOSSARY

2 CCR §11024 (Title 2, California Code of Regulations, Section 11024): the state administrative regulation, having the force of law, implementing the G.C. §12950.1 law mandating sexual harassment prevention training and education based on sex, gender identity, gender expression, and sexual orientation.

24-Month Tracking Method: requires that a supervisory employee be retrained within 24 months since his or her prior AB 1825 training.

AB 1825 (Assembly Bill 1825): legislation enacted in 2004 that imposed a supervisory employee sexual harassment training requirement on California employers effective January 2005.

AB 2053 (Assembly Bill 2053): a 2014 legislative amendment, effective January 1, 2015, which expanded the AB 1825 training requirement to include prevention of “abusive conduct.”

Civil Grand Jury: Monterey County Civil Grand Jury.

CJPIA (California Joint Powers Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

Classroom Training: in-person, trainer-lead instruction, with instruction conducted in person by a qualified trainer in an organized manner, utilizing lesson plans in a setting removed from the supervisor’s daily duties.

CY (Calendar Year) January 1 – December 31

DFEH (Department of Fair Employment and Housing): the state governmental agency responsible for enforcement of the Fair Employment and Housing Act (FEHA) and Title VII of the federal Civil Rights Act of 1964 statutory and case law principles concerning the prohibition against and the prevention of unlawful harassment, discrimination, and retaliation in employment.

EEOC: The federal Equal Employment Opportunity Commission

E-Learning Training: individualized, interactive, computer-based training created by a trainer and an instructional designer. Requires access to a live trainer who can answer questions.

Employer (as defined in AB 1825): private employers with 50 or more employees, the State of California, any political or civil subdivision of the state, and cities.

FEHC (Fair Employment and Housing Council): the implementing agency for California anti-discrimination laws and policies, also (DFEHC).

FY (Fiscal Year): July 1 – June 30: the one-year period used by the State of California for financial reporting and budgeting.

G.C. (California Government Code of Regulations) §12950.1: The AB 1825 law mandating California employers to train employees with the objective of changing workplace behaviors that create or contribute to harassment.

HR (Human Resources): a department of an organization that deals with the hiring, administration, and training of personnel.

JPA (Joint Powers Authority): Joint Powers Authorities are legally created entities that allow two or more public agencies (e.g. local governments, or utility or transport districts), to jointly exercise common powers for the purpose of providing public services more efficiently and in a cost-effective manner.

LEARN/LDS: Monterey County's Learning Development System

LMS (Learning Management Specialist): an employee who serves as a liaison and an AB 1825 training coordinator between the Monterey County Civil Rights office and various departments and divisions within the county.

Jurisdiction (local jurisdiction): a county, city, or incorporated town.

MBASIA (Monterey Bay Area Self Insurance Authority): a joint powers authority focused on risk management and regulatory compliance.

MCCRO (Monterey County Civil Rights Office): the responsible office for AB 1825 training for the county's government employees.

Municipality: a city or town that has corporate status and is a local government entity.

Regulation: a rule or requirement enacted by a governmental agency appointed by a governing federal or state body to implement and enforce compliance of a given law (a statute).

SB 396 (Senate Bill 396): California legislation signed into law in 2017 and effective January 1, 2018, that expanded AB 1825 training requirements to include harassment based on gender identity, gender expression, and sexual orientation.

SB 1343 (Senate Bill 1343): a further amendment to G.C. §12950.1 (effective January 1, 2019) expanding AB 1825 training requirements to private employers with five or

more employees (rather than 50) and requiring harassment abusive conduct training for *all* employees (not just supervisors), as of January 1, 2020. This compliance date was extended one year to January 1, 2021 by SB 778, effective August 30, 2019).

Statute: written law passed by a legislative body (federal or state).

Supervisor and Supervisory Employees: supervisors located in California, as defined under CCR Section 12926. Attending a training does not create an inference that an employee is a supervisor or that a contractor is an employee or a supervisor.

Training Year Tracking Method: requires a supervisory employee be retrained sometime within the year in which 24 months has passed since his or her prior AB 1825 training.

Webinar Training: an internet-based seminar whose content is created and taught by a trainer and transmitted over the internet or an intranet in real time. Acceptable webinars must allow supervisors to ask the trainer questions.

BACKGROUND

Title VII of the Civil Rights Act of 1964 prohibits discrimination in the workplace, and subsequent federal regulations prohibit workplace harassment in more detail. Mandatory harassment prevention training, however, is currently required by only six states—California, Connecticut, Delaware, Illinois, Maine, and New York.¹ (It is important to note that 13+ other states require training of only a specific group.) It is not surprising that workplace sexual harassment remains a problem across the nation.

¹ Johnson, Michael. "Sexual harassment training essential in all states, not just those with mandatory state training laws." Clear Law Institute. 6 January 2020. <https://clearlawinstitute.com/blog/harassment-training-essential-employees-states-not-just-california-supervisors/>

California's actions to address the issue of workplace harassment have been many and far reaching. California's statute governing mandatory sexual harassment prevention training originated in 2004 with the enactment of AB 1825. This law first launched a supervisory employee sexual harassment training requirement for California employers starting in 2005. "Employer" was specifically defined in the statute to include private employers with 50 or more employees, the state and all county governments in California, political or civil subdivisions, and all California cities. This law required employers to provide sexual harassment training to all supervisors within six months of assumption of their positions, and every two years thereafter.

The statute was amended in 2014 by AB 2053, that became effective January 1, 2015. This law extended the training requirement to include "abusive conduct." It was further amended in 2017 by Senate Bill 396 (SB 396), effective January 1, 2018, to include harassment based on gender identity, gender expression, and sexual orientation. Both laws were directed to be part of the training and education specified in G.C. §12950.1(a).

SB 1343, effective January 1, 2019, extended the law's reach to employers with as few as five employees (beyond the previously mandated employers with 50 or more employees), and it mandated harassment/abusive conduct training for *all* employees (not just supervisors), starting January 1, 2020. The California legislature extended the compliance date one year, to January 1, 2021, via Senate Bill 778 (SB 778).

The SB 396 amendment (gender identity, etc.) is self-explanatory. The AB 2053 amendment (abusive conduct) requires further explanation. "Abusive conduct," commonly referred to as "bullying," is defined in G.C. §12950.1(h)(2) to be: "verbal or physical workplace conduct by either employer or employee, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests," or the "gratuitous sabotage or undermining of a person's work performance." A single act will suffice if "especially severe and egregious."

California Government Code §12950.1 is the codified statute for the AB 1825 training requirement. A statute involving government enforcement typically delegates that responsibility to an appropriate government agency. For G.C.12950.1, that agency is the California Department of Fair Employment and Housing (DFEH). (See G.C. §12935(a)(1).

Acting on behalf of DFEH, the state Fair Employment and Housing Council (FEHC) has adopted a regulation titled, *Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation*. This regulation is found in Title 2, section 11024 of the California Code of Regulations (2 CCR §11024). The most recent amendments, effective April 1, 2016, do not reflect the 2017 gender/orientation additions.

The regulation explains the essential elements of an anti-harassment policy and how to utilize it if a harassment complaint is filed. It requires employers to provide supervisors with a copy of the employer's policy regardless of whether the policy is used as part of its AB 1825 training. Each supervisor is required to read the employer's policy and to acknowledge receipt of that policy.

This is the complicated framework under which AB 1825 supervisor training must be provided for all supervisory employees within six months of when they assume their duties, and every two years thereafter.

METHODOLOGY

Measuring compliance with the training requirements in G.C. §12950.1 can be as complicated as the code itself. Enforcement metrics are provided in the code, and practical standards for meeting the compliance guidelines for training content and even recordkeeping have evolved concurrent with changes to the code. The Civil Grand Jury used the 2 CCR §11024 regulation as its roadmap to measure compliance in the 13 jurisdictions investigated. As noted above, the regulation provides direction that the Civil

Grand Jury used to assess the essential areas of content subject matter and process (trainer qualifications, method of delivery, recordkeeping, etc.)

Investigatory Framework

The Civil Grand Jury adopted a straightforward investigative model. It chose DFEH regulation 2 CCR §11024 as the benchmark for measuring mandated training compliance, and subsequently collected documentary evidence and witness testimony. Thereafter, the Civil Grand Jury analyzed the material to assess the extent to which it matched the respondent jurisdiction's efforts to comply with the regulation. Next, the Civil Grand Jury conducted in-person interviews with personnel from each government entity investigated, in order to validate compliance, gather more detail, and develop an accurate picture of each jurisdiction's situation. Lastly, the Civil Grand Jury arranged exit interviews with appropriate representatives from the County of Monterey and the 12 cities investigated to confirm its findings.

The first step in the investigation focused on written materials—specifically, recordkeeping requirements mandated by the applicable state laws and imposed on the responsible parties. Subsection (b)(2) of 2 CCR §11024 details the training documentation that an employer must maintain. On October 15, 2019, the Civil Grand Jury issued letters to the above-referenced Monterey County government entities that were selected for this investigation. The Civil Grand Jury requested the following documentation which was quoted directly from 2 CCR §11024:

Documentation of Training. To track compliance, an employer shall keep documentation of the training it has provided its employees under this section for a minimum of two years, including but not limited to the names of the supervisory employees trained, the date of training, the sign in sheet, a copy of all certificates of attendance or completion issued, the type of training, a copy of all written or recorded materials that comprise the training, and the name of the training provider.

The county and municipalities responded to the request and the Civil Grand Jury evaluated the materials provided.

Some jurisdictions also submitted additional training records through Year End 2019 (YE2019) to validate supervisor retraining within a two-year period. These jurisdictions used the Training Year Tracking method (see Glossary). Our training calculations excluded supervisory employees who separated employment, or who were on a leave of absence before the Training Year or before the 24-month training deadline ended.

DISCUSSION

It has been 29 years since Anita Hill shocked the nation with her testimony at Supreme Court Justice Clarence Thomas' confirmation hearing. Fifteen years later, in 2006, Tarana Burke coined the phrase "Me Too" to help women who had survived sexual violence, and to raise awareness of the pervasiveness of sexual abuse and assault in society. Today, our media still reports on far too many accounts of sexual abuse and assaults, with allegations and even convictions against famous celebrities and public figures alike.

High profile celebrity cases, however, are not the only setting where sexual harassment may occur. Those who work and live in all parts of our society, both in private enterprise and public government can encounter this crime. This is true even for our own local jurisdictions, where threats from sexual harassment and toxic work environments can exist as well. In 2018, for example, local media reported on the toll of sexual harassment within some Monterey Peninsula city governments. Sexual harassment not only harms our citizens, it has a significant monetary cost. Hundreds of thousands of dollars in fines and settlements divert funds from essential government-provided services. Sexual harassment harms victims and harms our communities' trust in society and each other, but it also harms us financially. This report cannot address those issues, but it can review the compliance with training that is essential to prevent those issues from occurring in our community governments.

Training

All employers know that *training* is a key preventive measure to safeguard the workplace, and the organization, against a hostile workplace environment and the liability, litigation, and damages that can result from such an environment.² California recently established the Government Operations Agency to oversee and ensure that all government agencies were “at or near full compliance” with supervisors’ sexual harassment training. This is the California governor’s personal response to multiple media reports that pointed out our state’s inability to comply with requirements to “provide sexual harassment training to all supervisors.” One of these reports³ for example noted that in 2018, nearly 60% of state agencies surveyed did not provide sexual harassment training to their supervisors. California DFEH Director, Kevin Kish, admitted, “You have an enforcement model where basically people are not incentivized to comply up front.”⁴

Based on this background, the Civil Grand Jury decided to investigate compliance with mandated sexual harassment prevention training for supervisors in Monterey County’s 13 local jurisdictions. These jurisdictions included the County of Monterey and the 12 incorporated cities within the county’s borders. The scope of the investigation focused on training materials and delivery, training management procedures, and administrative compliance.

2 Feeney, E. “The importance of effective sexual harassment prevention training.” ADP Spark blog. 2 April 2020. <https://www.adp.com/spark/articles/2020/01/the-importance-of-effective-sexual-harassment-training.aspx#>

3 Rodd, S. (2018, May 28). “It’s Inexcusable’: Dozens of California Government Agencies Failed to Provide Sexual Harassment Training to Nearly 1,800 Supervisors.” *Capital Public Radio (KXJZ Sacramento)*. <http://www.cpradio.org/articles/2019/05/28/its-inexcusable-dozens-of-california-government-agencies-failed-to-ensure-sexual-harassment-training-to-nearly-1800-supervisors/>

4 *Associated Press*. “California State Agencies Not Giving Required Harassment Training.” *KPIX CBS SFBayArea*, 28 May 2019. <https://sanfrancisco.cbslocal.com/2019/05/28/california-state-agencies-not-giving-required-harassment-training/>

Although local media noted that Monterey Peninsula cities also had been reviewing and updating their AB 1825-related policies,⁵ our investigation found that not all jurisdictions had completed this update, even two years later.

The objective of AB 1825 training requirements for supervisory employees is to eliminate, or at least reduce, incidents of harassment in the workplace. The goal is a safe and productive workspace for all employees. Despite long-standing training legislation, sexual harassment claims continue to be a source of liability. This has caused many cities and counties to band together in risk management consortiums to share resources for regulatory compliance, legal services, insurance, and training.

The risk management consortium with the largest local membership is the Monterey Bay Area Self Insurance Authority (MBASIA), whose members include the cities of Del Rey Oaks, Gonzales, Greenfield, King City, Marina, Sand City, and Soledad. MBASIA is a joint powers authority which is a division of the California Public Entity Agency Risk Management Association. It offers insurance coverage and risk management programs.

This was important for our investigation since many of the jurisdictions we reviewed rely on MBASIA's free online training modules that feature turn-key recordkeeping systems offered through TargetSolutions, and which meet AB 1825 training requirements.

In its examination of sexual harassment training policies, practices, and recordkeeping, the Civil Grand Jury found that the County of Monterey and its incorporated cities are conducting sexual harassment training, but not always in a consistent and timely fashion that complies with governing AB 1825 regulations. Systematic recordkeeping is a key factor in successful management of training compliance.

5 Mayberry, C. "In wake of recent cases, Peninsula cities examine sexual harassment policies." Monterey Herald. 19 May 2018. <https://www.montereyherald.com/2018/05/19/in-wake-of-recent-cases-peninsula-cities-examine-sexual-harassment-policies/>

The small staffs of several local cities are challenged by handling multiple roles which include providing support to their city's officials, juggling daily priorities, and also scheduling, arranging, delivering, and tracking mandated trainings. This is in addition to reminding supervisory employees to attend that training. Staff of smaller cities who have adopted a simplified training management system appear to be more effective in this role. On another note, some city staff reported that they feel they are not supported by their superiors when they attempt to enforce training requirements. This is especially true in cities with veteran supervisory employees who do not find value in sexual harassment training.

A July 2019 article⁶ noted that many HR professionals view harassment training as more of a protection for employers and find no evidence to confirm that delivering training and written policies alleviates workplace harassment. This research suggests that culture change, driven by the top organization leaders, is key. Mid-managers and HR workers simply do not have the authority to enforce training compliance without active support from upper management and without a credible zero tolerance policy.

Our investigation found that HR workers in some local jurisdictions did lack authorization from their superiors to enforce training requirements, and this created compliance roadblocks when that workforce did not think it needed sexual harassment training. This was illustrated by cases of lack of follow-up for missed training or even having no one person assigned to ensure AB 1825 training compliance. In some cases, just scheduling the training was perceived as compliance.

On the other hand, several cities provide supervisory training to non-supervisory employees as well. The Civil Grand Jury found that this was more common in instances where public safety personnel or part-time recreation staff have part-time supervisory duties outside of their normal classification.

⁶ Flanagan, C. "The problem with HR." The Atlantic. July 2019.
<https://www.theatlantic.com/magazine/archive/2019/07/hr-workplace-harassment-metoo/590644/>

Several cities with turnovers in their HR staff during the three fiscal years surveyed were missing training records. Therefore, their records were not easily accessible and were often incomplete. In most cases these cities have restarted their compliance efforts. The investigation also found some jurisdictions had tracking systems that are hard to maintain and that do not ensure retraining is completed within the mandated timeframes. Finally, some archive their records offsite or in employee files, which makes them difficult to access or use for planning and monitoring training.

Some cities could not provide copies of their training materials because they were no longer accessible from their online training provider. These on-line programs are non-compliant with 2 CCR §11024. One conclusion from this investigation is that, regardless of the training approach or modality, a jurisdiction must capture all its course materials for recordkeeping purposes and for future reference by employees if needed. This is a requirement of 2 CCR §11024.

Some of the Civil Grand Jury's generalized suggestions for achieving full AB 1825 training compliance are:

- Choose the Training Year Tracking Method for planning and tracking training. This gives all employees the same "time-block" deadline to complete training (for example, assigning a January 31 deadline, with a 30-day notice avoids the challenges of managing individual supervisory employee dues dates under the 24-month Training Method, dates that may come due throughout the year).
- Use just one authorized online vendor to ensure the most efficient method of tracking training. It provides the following: electronic recordkeeping for all required training in one place, automatic training reminders, copies of certificates of training completion, a live adviser for questions, access to training course materials required by 2 CCR §11024, and flexibility to train at the employee's convenience.
- Set and actively enforce serious and meaningful consequences for failing to train. This could include reprimands, or work performance penalties.

- Create a training tracking spreadsheet and assign it to one accountable staff person. The Civil Grand Jury found this to be the most effective means for smaller cities to manually track multiple training modes. A single worksheet can include a detailed employee roster with name, job title, date of hire, date of promotion, date of separation, and columns to track type and dates of everyone's training over three to four calendar years.
- Perform annual reviews and update, if required, harassment, discrimination, and retaliation policies. A comprehensive written AB 1825 harassment, discrimination, retaliation prevention policy should be consistent with 2 CCR §11023; the policy should contain a provision covering the employer's obligation under G.C. §12950.1 and 2 CCR §11024.

The following 13 sections are the Civil Grand Jury's summary reports for each local jurisdiction's AB 1825 supervisory employee training program.

City of Carmel-by-the-Sea

Carmel-by-the-Sea initially submitted the following records for review: a supervisory employee roster for FY 2016/17, 2017/18, and 2018/19, and written program materials for the 2018 federal Equal Employment Opportunity Commission (EEOC) classroom training (PowerPoint slide set captioned "Leading for a Respectful Environment"). Absent were a sign-in sheet for that live event, and completion certificates for any of the 2018 trainings (classroom or online). Certificates for three 2018 online trainings were later provided. The city does not use "training year" tracking to monitor training compliance. The other method allowed by DFEH regulation is to use the 24-month training Tracking Method for each employee's training attendance as the outer boundary to re-train ("individual" tracking).⁷

⁷ The biannual "training year" method must be premeditated: "An employer may designate a 'training year' in which it trains some or all of its supervisory employees and thereafter must again retrain these supervisors by the end of the next 'training year,' two years later. . ." See: 2 CCR 11024(b)(1)(B).

The city offers both classroom and E-learning training, directing most employees to complete classroom training in even years. The city has expressed an affinity for the classroom modality, where personal interaction is a key element, due to what they see as a stronger likelihood of information retention.

According to the city, online training is made available for supervisory promotions and new hires in order to satisfy AB 1825's requirement that training of these employees take place within six months of promotion or hire. It is also available to supervisory employees whose work schedules extend beyond normal work hours.

Most of the city's training materials were reviewed and appear to adhere to the content areas mandated by 2 CCR §11024, and the qualifications of the trainer appear to be compliant (see 2 CCR §11024(a)(10)). The city provided records of a classroom training session conducted by the EEOC Training Institute on November 15, 2018. However, it was evident that the EEOC program was not developed with specific reference to the sexual harassment/abusive conduct requirements of AB 1825 and the implementing DFEH regulations. Of note, the focal point California Government Code section cited in the material is 12940 (unlawful employment practices, in general). Section 12950.1 (sexual harassment/abusive conduct) is nowhere mentioned. The EEOC training, although four hours in length, did comply with the required time elements for proper AB 1825 training.

The city's online E-learning provider is TargetSolutions. The city supplied no written materials relating to services supplied by this provider, other than a completion certificate for one October 29, 2019 training. However, materials obtained from other jurisdictions using this provider appear to be fully compliant with the applicable administrative regulation, 2 CCR §11024. Additional employee training occurred and was documented but without AB 1825 specified materials.

The 2016 classroom training by a local law firm was provided on January 16-17 of that year. The EEOC classroom training was done on November 15, 2018. There were no AB 1825 trainings offered in-between these two.

If the city were to apply the 24-month Training Tracking Method, its compliance rate for this period would be 0% for timely training. However, using the Training Year Tracking Method that requires training to be completed within target calendar years, the city's retraining compliance rate would have been 90%. This fact indicates that the city should adopt a written policy to use the training year tracking, even if it continues the actual practice of individual training tracking.

The supervisory employee roster supplied by the city reflects that there were people either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year. The DFEH regulation (and the authorizing statute itself) provide that such supervisory employees must be given AB 1825 training within six months of their hire or promotion date. Because the city could not provide compliance data for these supervisory hires' AB 1825 training the Civil Grand Jury could only conclude that it did not meet the required standard for this training.

This investigation noted that prior to the EEOC event, the last AB 1825 training of any kind had been nearly three years earlier, in early 2016. When interviewed about this issue, the respondents only stated that there had been nobody in charge of employee training.

Apart from the January 2016 training by an outside law firm, the November 2018 EEOC classroom event, and three subsequent individual online trainings, the history of the city's compliance with AB 1825 supervisory training is undocumented. In response to a Civil Grand Jury query about how long the city had provided sexual harassment training for its workforce, the city's response was that this was unknown.

Currently, the city has arranged to do individual tracking of employee training both manually and by electronic means. An HR employee maintains an online calendar that is annotated with supervisory employees who are periodically due for re-training.⁸ In addition, for instances when new hires and promotions occur, the TargetSolutions online provider maintains training data for each participant that is accessible online to the city, and allows HR staff to check-in periodically to see who is due for re-training.

When questioned as to why there was no attendance or completion paperwork (rosters or completion certificates) for the November 2018 EEOC training event, the city responded that it was assumed the provider (EEOC) would take care of those details.

The city informed the Civil Grand Jury that a written policy that addresses, wholly, or in part, AB 1825 employee training is stored on the city's shared computer drive, and thereby available to employees. While the Policy reveals a detailed, thorough, and comprehensive treatment of the subject of workplace harassment, it contains nothing whatsoever about employee training.

City of Del Rey Oaks

The Civil Grand Jury determined that, based on interviews and material made available to its investigation, the City of Del Rey Oaks' AB 1825 training was not offered or required until sometime during fiscal year 2017/18. This was surprising since the law required such training take place as early as 2005. The first AB 1825 training date recorded on the personnel roster the city provided to the Civil Grand Jury was March 2, 2018. City records show the city trained 80% of its eligible supervisory employees in 2018 with 60% of the supervisors training in March 2018, 20% training in October 2018, and the remaining 20% not training at all.

Because Del Rey Oaks did not offer AB 1825 training for supervisors until 2018, the Civil Grand Jury is unable to determine two-year training timeliness. In addition,

⁸ Ibid.

submitted records for newly hired and promoted supervisors showed no training for new supervisors within six months. One supervisor did receive the training, but it was three months prior to his promotion. The city's compliance with the AB 1825 standard for six-month training is 0%.

Del Rey Oaks uses E-Learning through Apex Solutions exclusively. This is a certified AB 1825 training provider. The city uses E-learning as opposed to classroom-style training due to its small number of supervisory staff. This was particularly suitable to the city's situation where most supervisors are law enforcement employees who work irregular shifts. Del Rey Oaks will occasionally be offered space in classroom-style trainings provided by other local cities, and one supervisor did take advantage of that offer.

The city's Assistant City Clerk maintains records of training taken and training due by using a computer-based calendar system, and by accessing Apex Solutions online training records for the city's employees. The Civil Grand Jury concluded that this simple system could work well for Del Rey Oaks based on its small staff numbers. With only 15 employees, including six supervisors, AB 1825 training records are easily maintained.

A harassment policy is included as Section 3.05 in the city's out-of-date Personnel Manual, which was last revised over ten years ago. This manual does include a sexual harassment policy but lacks any of the more current forms of harassment stipulated in AB 1825 amendments. The policy also lacks AB 1825 mandates for sexual harassment prevention training of supervisory employees.

Del Rey Oaks went through a significant turn-over of management and elected officials in 2017 and 2018. Since then, the city has contracted with a consulting firm specializing in the administrative needs of local governments. This firm's scope of work focuses on Del Rey Oaks human resource systems. This is a welcome effort by the city to improve its HR system.

City of Gonzales

Gonzales has been providing AB 1825 training since 2005. All employees, not only supervisory employees, participate in this training. The city has expressed an affinity for the classroom training modality believing there is better information retention where personal interaction is a key element of the training. Online methods are employed in the event a supervisory position is filled by new hires or promotions. Gonzales uses the Training Year Tracking Method to schedule and monitor training compliance.

Gonzales is a member of the MBASIA and utilizes MBASIA's sexual harassment training resources. Therefore, cost is not an issue with respect to participation in AB 1825 training activities.

Based on the supervisory employee roster that the city initially provided, 14 listed supervisory employees were eligible for training in 2016. Eleven of those employees participated in the December 6, 2016 classroom training conducted by Concern-EAP, a provider of short-term counseling services for employees and their family members.

Submitted training materials included a PowerPoint presentation and a participant guide both captioned "Preventing Sexual Harassment." Both items make specific reference to both federal and California state law—in the case of the state, AB 1825, the original 2004 training mandate, and AB 2053, the 2015 amendment expanding coverage to include abusive conduct. Significantly, a promotional flyer prepared by Concern-EAP, and bearing its logo, states:

This course meets the requirements of California AB 1825, Training for Supervisors, AB 2053 Abusive Conduct, SB 396 Gender Issues, & SB 1343 Training for Non-Supervisors.

Notwithstanding the foregoing, the Civil Grand Jury's review of these materials reveals significant deficiencies when matched up against the training content requirements set forth in the applicable DFEH implementing regulation, 2 CCR §11024. Specifically,

neither the PowerPoint nor participant guide materials contain any mention of the following:

- Remedies for victims of harassment
- Strategies to prevent workplace harassment
- Supervisor reporting responsibility
- The limited confidentiality of the complaint process
- Necessary corrective steps (e.g. investigation of complaint)
- How to handle situation where a supervisor is accused
- Essential elements of an anti-harassment policy and how to use it

The Civil Grand Jury finds that although the 2016 Concern-EAP training materials were non-compliant with the relevant state administrative regulation, they were represented to the city as being fully-compliant with the requirements of California law, and the city had no reason to believe otherwise. Therefore, the Civil Grand Jury concludes that the city acted in accordance with the training mandate of G.C. §12950.1.

Three newly promoted supervisory employees completed online training in 2017. The provider was EVERFI, which is a provider of online training for businesses and higher education, including AB 1825. The city could not provide EVERFI training materials, because it did not have access to them. Because of this the Civil Grand Jury could not determine whether EVERFI's online supervisory employee training complied with 2 CCR §11024, and it could not validate that the city met the AB 1825 requirements for newly promoted supervisors for that year.

The City of Gonzales provided no AB 1825 training records for 2018 and provided none for the first half of 2019 (when the final fiscal year of this review ended). The Civil Grand Jury therefore concluded that the 14 supervisory employees who had been trained in 2016 were not retrained as required in 2018. This was affirmed by information later obtained by the Civil Grand Jury, which revealed that training was not done in a timely manner due to staff changes and workload issues. This was a surprising breakdown in managing mandated training. When coupled with the inability to confirm AB 1825

training for the three supervisory employees hired in 2017, the compliance picture for the city was problematic.

After this initial review, Gonzales subsequently provided AB 1825 records for classroom and online training completed during December 2019. The December 11 classroom event was conducted by Concern-EAP. This training was attended by 15 supervisors and 41 non-supervisors. It was structured as a 2-hour event, with the first hour for all employees, and the second hour reserved for managers and supervisors only. The training content for this session was examined. It was found to be meaningfully different from the substandard material by Concern-EAP used in 2016 and appeared to be compliant with 2 CCR §11024 content requirements. Additionally, the three supervisory employees first trained in 2017 were retrained in 2019. However, this training was outside the scope of this Civil Grand Jury's inquiry.

Finally, the Civil Grand Jury noted that Gonzales has no written policy for AB 1825 sexual harassment/abusive conduct training. However, the city attorney is currently updating city policies for consideration in June 2020.

City of Greenfield

Greenfield conducts AB 1825 supervisor training under the direct supervision of the City Manager's Office. The executive assistant to the City Manager tracks compliance and facilitates AB 1825 supervisor new or biannual training for the city's approximately 19 supervisors, and for all new supervisors required to complete the training within six months. The city's sexual harassment prevention policy is provided to all employees upon hire, and the city has posted its sexual harassment prevention policy on the city's public internet.

Greenfield's compliance in AB 1825 supervisor training recordkeeping is currently marginal. During this inspection, the Civil Grand Jury determined that the recent year's records of AB 1825 training were irregular or incomplete. Although many training sessions, both on-line and classroom, had been held in recent years, the historical

records for these training events are incomplete. However, the manual entry process for tracking now has been augmented by the TargetSolutions training management system.

The Greenfield City Manager's Office facilitates AB 1825 supervisor training and tracks compliance. The executive assistant to the City Manager is the focal point for these actions. The number of supervisors who require AB 1825 training in Greenfield varies each year, both because AB 1825 supervisor training is biannual and because the number of city supervisory employees varies. Also, all new supervisors are required to complete AB 1825 training within six months of hire.

The increasingly detailed AB 1825 requirements suggest that even with the improved TargetSolutions records management system, compliant AB 1825 recordkeeping will remain problematic for the city if this task remains as an additional duty for the City Manager's Office.

The city's sexual harassment prevention policy is posted on the city's website. That policy, "Harassment Policy and Complaint Procedure," is incorporated by reference as Attachment B to Rule 17, of Section 7 to the city's Personnel Rules and Regulations (adopted December 1993). This policy is provided to all employees upon hire. The policy has no notations to indicate if, or when, this policy was ever updated. It does not specify or reference AB 1825 or any supervisor-specific training responsibilities.

The city training records provided to the Civil Grand Jury for this investigation did not identify which attendees were supervisors (for AB 1825 purposes). However, interviewees estimated that there was an average of 12 supervisors on the city payroll at any one time. Based on city rosters, position titles, and training records that could be cross referenced by the Civil Grand Jury, the number of supervisors appears to average about 19.

The Civil Grand Jury found that much of the city's sexual harassment prevention training is conducted with supervisors and employees attending together. This was

documented for sexual harassment prevention (AB 1825) and anti-abusive conduct (AB 2053) training sessions in both 2017 and 2019.

As noted above, since at least July of 2019, the city has used TargetSolutions for online delivery of individual AB 1825 training, and to track the training status of supervisory and other employees. The city also conducts in-person classroom AB 1825 training and has used both the City Attorney and outside firms as providers. The training course materials reviewed by the Civil Grand Jury were current or compliant with state requirements at the time of presentation. In accordance with state requirements, the city also maintains some training rosters, and some training certificates. However, the city did not provide any requested training records or material for FY 2017/18, one of the three years (FY 2016/17, FY2017/18, FY2018/19) of AB 1825 sexual harassment prevention training that was investigated. Based on interviews conducted by the Civil Grand Jury, some sexual harassment prevention training was conducted in FY2017/18, but the Civil Grand Jury was not able to verify any training during that period.

Greenfield's compliance in tracking AB 1825 supervisor training is currently marginal. As noted above, since at least July 2019, the city was able to produce some required tracking data for several, but not all, requested fiscal years, and it could not present complete AB 1825 training records for any fiscal year. Based on records made available to the Civil Grand Jury, and even accepting the unverifiable assumption provided by the city that session rosters submitted to the Civil Grand Jury likely represented AB 1825 supervisor training, the city's recorded AB 1825 supervisor training rates appear low.

AB 1825 Training Fiscal Year *	Total Supervisors Trained (AB 1825) %	Total Supervisors for FY
FY 2016/17	10 (53%)	19
FY 2017/18	No records	20
FY 2018/19	7 (37%)	19
* based on materials provided by City of Greenfield		

At least one person interviewed by the Civil Grand Jury noted that many supervisory personnel had completed the FY 2018/19 AB 1825 training, but records had not been

updated at the time of this investigation. One training-due roster was provided with four supervisors' names to show that they were in the process of completing AB 1825 training. The Civil Grand Jury could not verify completion of that training but noted that even with an additional four supervisors added to the "completed" numbers, the overall compliance rate for the City of Greenfield for FY 2018/19 would be **58%**. This percentage could be higher if AB 1825 supervisor training had been conducted in FY 2017/18. Those supervisors trained in the prior year would still be qualified for the next year's training period. However, the city had no records to document any training attesting to this situation.

The Civil Grand Jury also determined that, according to all records provided by the city, a total of nine current supervisory personnel had not taken, nor are there records of them taking, any AB 1825 training during the three fiscal years reviewed in this investigation. That represents 47% of the current supervisory staff.

On a positive note, the Civil Grand Jury recognized that the city is changing its recordkeeping and training tracking system. Since July 2019, the manual entry process of names, dates and periodic spreadsheet updates have been augmented by the TargetSolutions training management records system. This is a positive measure, and together with continued focus by the city's leadership, Greenfield's training compliance levels may reach closer to the state-required 100%.

Yet, due to the increasingly detailed AB 1825 training and recordkeeping requirements, and the high volume of administrative functions that is managed by the City Manager's Office, the Civil Grand Jury fears that even with the limited population of supervisors in the city and with improved TargetSolutions learning management system records processes, compliant AB 1825 recordkeeping will remain problematic if it remains an additional duty located in the City Manager's Office.

King City

King City's sexual harassment prevention training for supervisors and managers is provided exclusively through a *ThinkHR* online AB 1825 training course. This E-learning training—from method, trainer qualifications, training content, access to training records, certificates of completion, and access to live advisers—appears to be fully compliant with the applicable administrative regulation 2 CCR §11024.

During the three fiscal years from July 1, 2016 through June 30, 2019, all but two of King City's supervisory employees completed timely AB 1825 training. Both of those employees had taken a leave of absence. One did not return to work, and the other completed timely training upon return from the leave. After a follow-up records review, the Civil Grand Jury concluded that King City has maintained 100% compliance to AB 1825 for the past three fiscal years.

For the fiscal periods reviewed, King City hired or promoted two supervisory employees and one contract supervisor. All three received AB 1825 training within six months of their date of hire or promotion. These training records demonstrate a **100%** compliance level for training of new and promoted supervisory employees.

King City uses the Training Year Tracking Method to track when training is due. HR calendars individual training due dates and notifies those supervisors whose training is due prior to their two-year anniversary. By choosing to focus on AB 1825 training every other year (odd years), King City has been able to simplify recordkeeping and achieve 100% compliance with training. Supervisory employees who are hired or promoted and receive their initial six-month training in even years, train again the following calendar year (in odd years) to maintain a streamlined biannual tracking system.

Because King City tracks training for 18 supervisory employees and contractors, their training compliance system is handled with a simple Excel spreadsheet and Outlook calendar reminders. Using a single training mode, training records are easily tracked and are well-maintained. HR also implements a routine of personal follow-up to ensure

untrained supervisors train before the year end. Training expectations are supported by the City Manager, who promotes timely training.

King City's Policy No. 10, titled, *Harassment, Discrimination, and Retaliation*, is posted on the city's public website. Subsection 7 of the policy, titled, *Training*, covers the necessary requirements of AB 1825. All employees receive a copy of this policy as a part of their initial orientation with the city and sign an acknowledgement of receipt. The policy is deemed fully compliant with current 2 CCR §11024 regulations.

All elements of King City's AB 1825 supervisory training program comply with the 2 CCR §11024 regulations. King City is to be commended for this excellent record.

City of Marina

Marina takes advantage of its MBASIA membership to access its AB 1825-compliant training programs. The membership provides free online training through TargetSolutions, and a fee-for-service classroom training option with a local law firm.

E-learning with TargetSolutions is the primary method for AB 1825 training in Marina. The city offered live classroom training twice: once in 2013 and again during 2019. HR staff reported employees prefer this training mode, because it is interactive, allowing employees to ask specific questions. However, classroom training is dependent on available budget allocations.

The Civil Grand Jury conducted a review of the PowerPoint presentation and handout for training titled "Preventing Harassment, Discriminations and Retaliation." The course appears to be fully compliant with applicable administrative regulation 2 CCR §11024. It includes qualified trainers, certificates of completion, training sign-in sheets, and training data report capability.

Thirty-five supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Thirty employees had timely training. One

employee missed 2017 training. One employee, a senior city official, missed both 2017 and 2019 trainings. Two employees had late new hire/promoted training that coincided with training due in 2019. One employee completed non-supervisory training in 2019 but previously had supervisory training in 2017. Marina demonstrated **85.7%** timely supervisory training.

Seven new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. Five out of seven received timely supervisory training within the prescribed six-month period. The city had a **71.4%** timely training compliance record for the period. One staff member has responsibility for the city's HR function, which includes AB 1825 compliance and program management. The HR staff uses the 24-Month Tracking Method in odd year cycles. Marina staff is effective at assigning training to employees and giving them deadlines of up to one month to encourage timely training. However, a break in online training occurred in 2018 when TargetSolutions went offline to update their materials to include new California regulations. This training inaccessibility may have impacted timely training for two employees who had training due in 2018.

The city's HR maintains AB 1825 training records for its management groups using the online TargetSolutions roster which can be manually updated for classroom training based on completed sign-in sheets. Public safety groups, such as police and fire, primarily use TargetSolutions online training and manage training of their own personnel in a timely fashion. Marina appears to have well-functioning recordkeeping systems on these two fronts.

For new hires, the city provides these employees with a written sexual harassment policy and a brochure from the Department of Fair Employment and Housing, and has the employees sign an acknowledgement of receipt for the policy. It is a stand-alone harassment policy document, titled *Policy Against Sexual Harassment*, which is missing a reference to certain protected classes of employees with respect to gender, gender identity, gender expression, marital status, genetic characteristics, and military/veteran

status. It also lacks a section on training mandated by 2 CCR §11024 regulations. The policy is therefore marginally compliant with AB 1825 and AB 2053.

All employees are given a copy of this stand-alone policy, as part of their initial orientation, as well as a brochure from the California Department of Fair Employment and Housing concerning sexual harassment prevention training. The city is in the process of updating its *Personnel Policy Manual*, which was adopted in 1995 and last updated in 1999.

City of Monterey

Monterey prefers using classroom training to meet AB 1825 requirements. Classroom training in 2019 was provided by a Human Resources employee who was formerly an attorney and certified trainer with a large local law firm that specializes in AB 1825 training. Copies of the training materials, entitled "Workplace Harassment and Bullying Prevention Training," were reviewed. The State Laws section is missing any specific reference to AB 1825 regulation governing 2-year and 6-month training requirements for supervisory employees.

For its 2018 classroom training, Monterey selected a two-hour course facilitated by the federal Equal Employment Opportunity Commission's (EEOC) Training Institute, entitled "Working in a Respectful Environment." The Monterey workshop materials that were submitted for the EEOC course only covered the two-hour training attended by all employees. Those training materials did cover California Laws and Regulations, including §12950.1 California Training Requirements for AB 1825. However, the duties of a supervisor were not covered. The supervisory employees had extended training of one additional hour. No program materials were submitted for that portion of the training, so the Civil Grand Jury is unable to ascertain the compliance level of the supervisory portion of the EEOC training program.

Furthermore, the focus of the EEOC training workshop was creating and maintaining a "respectful workplace," not sexual harassment and abusive conduct prevention. The

§12950.1 content is only dealt with in the second of six modules for the two-hour session. The Civil Grand Jury concluded a majority of the training concerned other topics, which did not satisfy the two-hour sexual harassment/abusive conduct training requirements for supervisors. Therefore, this training program was deemed deficient for AB 1825 compliance purposes.

E-Learning through TargetSolutions is used for employees unable to attend classroom training due to scheduling issues (usually public safety personnel), for newly promoted supervisors, and for supervisors who were found to need additional training based on decisions made by their departments. The TargetSolutions' AB 1825 E-Learning training program is fully compliant with AB 1825 mandates. It provides certificates of completion and training data for each employee that is accessible online by the employer.

In order to determine if the City's supervisory employees received AB 1825 training within six months of hire or promotion and every two years thereafter, the Civil Grand Jury requested Monterey provide a list of employees in supervisory positions during the period of fiscal years 2016/17, 2017/18, and 2018/19. A handwritten comment on the top of the list provided by the city stated, "List of supervisors 2018/2019." This list was inadequate for the Civil Grand Jury's purposes as it may not have included supervisors who had been hired, promoted, or separated during the two prior fiscal years.

Monterey was subsequently asked to provide a list of supervisors employed during the three fiscal years of 2016 through 2019 that included their hire, promotion, and if applicable, separation dates. The city responded that their database could not provide the requested information because the database's reporting capabilities were limited to currently active supervisors. This led the Civil Grand Jury to conclude that the "Active Supervisors List" that was submitted and dated October 30, 2019 only included supervisory personnel on payroll at that time and not in prior years and it did not include former positions that the employee may have held with the city.

Therefore, the Civil Grand Jury concluded that if a supervisor was initially hired as a non-supervisory employee and later promoted to a supervisory position, Monterey's Human Resources Department could not track the employee's date of promotion or what former position classifications that employee may have held. In addition, Monterey was unable to provide names of employees who received AB 1825 training during FY 2016/17. The city reported to the Civil Grand Jury that they did not have a list of supervisors on payroll for that period.

This failing of Monterey's personnel tracking system results in an inability to determine if current supervisory employees had received their required AB 1825 training within six months of hire or promotion and then every two years thereafter. Because of these deficiencies in Monterey's tracking system, the Civil Grand Jury was unable to determine if the City of Monterey is compliant with AB 1825's training mandates. Because training timeliness cannot be verified, the Civil Grand Jury determined that Monterey's compliance with AB 1825 supervisory employee training requirements was 0% for supervisory employee retraining and 0% for new and promoted supervisor training.

Monterey reports it is creating a new system in 2020 that will capture all employee classifications (supervisory or non-supervisory) and whether each employee has completed mandated AB 1825 training.

Monterey's sexual harassment policy, titled *Harassment/Discrimination/Retaliation/Abusive Conduct/Bullying Policy* is contained in city code 25-3.03. The ordinance was originally adopted in 2008 and amended on March 20, 2018. While the policy accurately reflects the conduct prohibitions in 2 CCR §11023, it does not include the mandated employee training requirements in 2 CCR §11024. Below is a PowerPoint slide illustrating the city's policy and used in Monterey's 2019 classroom trainings.



City of Monterey

- City Code, Article 25 Section 3.03 Harassment/Discrimination (2008), in part:

The City of Monterey is committed to providing all current and prospective employees with a work environment that is free of discrimination and harassment. This rule describes the City regulations designed to achieve this goal.

The City will not tolerate or condone unlawful discrimination or harassment of employees by managers, supervisors, co-workers, or non-employees with whom City employees have a business, service, or professional relationship. This policy prohibits retaliation of any kind against individuals who report a violation of this policy or who assist in the City's investigation of a discrimination or harassment complaint. The City will take disciplinary action up to and including termination, against an employee who violates this policy.

City of Pacific Grove

The city of Pacific Grove exclusively trained its supervisory employees with classroom sessions during FY 2016/17, FY 2017/18, and FY 2018/19. The city prefers classroom-style training as the best method for fulfilling the interactive requirement of 2 CCR §11024 regulations, and it is more focused to organizational culture rather than to the liability aspects of the regulation.

The city contracts for the training with DeLay & Laredo, Attorneys at Law, whose partner also serves under a separate contract as Pacific Grove's city attorney. The firm is located in Pacific Grove and is a qualified AB 1825 training provider.

The city's AB 1825 classroom training course titled, *Sexual Harassment Prevention – A Guide for Elected Officials & Senior Staff – AB 1825*, is offered throughout each calendar year. AB 1825 supervisory training content appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. It provides training sign-in sheets for each employee. Certificates of completion are not issued.

The classroom schedule included two training dates in 2017, six training dates in 2018, and two training dates in 2019 (one of which was held after FY ending June 30, 2019).

Staff in the city's HR Department changed in 2016. The newer employees were unable to access AB 1825 training records for 2016 and prior years. Therefore, the city's current training records start in 2017. Forty-five supervisory employees were eligible for training during the three fiscal years reviewed. Thirty-four trained timely which equated to **75.5%** timely training. Five employees who were trained in 2018 did not have training that was verifiable as timely because of missing 2016 training records. If 2016 training could be confirmed for these five employees, the timely training rate would increase to 80%.

Fifteen new or promoted supervisory employees, plus one other new hire who had training due by July 20, 2016, were subject to the mandated six-month training for new supervisors. Four had confirmed timely training, and two employees' records confirmed late training. For the other ten employees, timely training could not be determined—because nine of those employees were missing a date of hire or promotion, and one was missing 2016 training records. So, out of 16 eligible new or promoted supervisory employees, timely training was confirmed for four based on the available training records, resulting in a **25%** training compliance level.

Pacific Grove's two most significant training challenges deal with employees who work outside normal business hours, such as public safety officers, and new and promoted supervisory employees who are required to train within six months. HR occasionally

offers online options as needed in special cases. No record of online training was received for the period of the Civil Grand Jury's review.

Two supervisory employees were trained more often than the two-year statutory requirement. The city also trained 63 non-supervisory employees in the same sessions as supervisors and managers in order to include staff who may have lead duties.

Given its small HR staff, Pacific Grove should consider streamlining the AB 1825 training system to concentrate training in even or odd years to simplify recordkeeping and improve timely training for its supervisory employees. Training records were maintained on an Excel spreadsheet that has tabs for each training calendar year. It included the following: employee name, assignment title, training completion date, training provider, and comments such as new hire, promoted, separated.

The city did revise its training tracking system into a single spreadsheet for the Civil Grand Jury, which allows an easier means of viewing training compliance over several calendar years.

The city's harassment policy is posted on its public website within the *Administrative Policies and Procedures Manual*, which was last updated on February 7, 2017. Found in Sections 100.080–100.110, titled *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, the policy discusses harassment and abusive conduct, protected classes, retaliation, reporting, and complaint procedure consistent with 2 CCR §11023; it does not contain a provision covering the employer's training obligation under G.C. §12950.1 and 2 CCR §11024.

Pacific Grove's *Employee Handbook*, which is also posted on the city's website, is dated August 1, 2016. Review of the handbook showed it is missing all reference to a policy pertaining to sexual harassment or abusive behavior required by 2 CCR §11023. Therefore, it is assumed employees sign a required acknowledgement of receipt of the

handbook in their new-hire orientation, but it is deficient in the acknowledgement of a legally required receipt of the harassment, discrimination, and retaliation policy.

City of Salinas

The city of Salinas AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. New employees are provided with the *Employee Guidelines on Preventing Sexual Harassment* including the (2017) Salinas Administrative Memorandum *Addressing Discrimination and Harassment Prevention*. These documents are also available on the city's intranet and can be accessed at the HR office.

Salinas' approach toward AB 1825 supervisor training compliance monitoring has been evolving in recent years. In 2017 the City's municipal financial and personnel functions support software package, New World ERP, was extended to HR training tracking to automate tracking of training deadlines and create an archive of historical training records.

Based on the materials provided to the Civil Grand Jury during this investigation, the city maintains complete AB 1825 course materials as well as some sign in rosters, some certificates of training, and additional AB 1825 reference materials used to organize or conduct the courses. While selected records of training data were missing, the overall organization of AB 1825 supervisor training program records were clear and well-managed.

Supervisors must take AB 1825 training biannually or within six months of assuming a supervisory position. Supervisor participation for the years reviewed by the Civil Grand Jury fell short of state requirements. In FY 2018/19 for example, only 45% of the City's supervisory employees were trained or qualified by prior training in AB 1825 sexual harassment prevention. Also, an issue is the city's approach for tracking six-month new supervisor AB 1825 training. Currently, the city manually tracks this requirement. There is no automated method to link a new supervisor's hire or promotion to the AB 1825

supervisor training requirement. The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's process for that training. TargetSolutions online training, however, still must be manually cross loaded into the New World ERP system.

Overall, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally managed and focused on delivering city-centric training that was relevant to its supervisors and employees. Our assessment was that improving supervisor compliance and continuing to develop more automated records keeping systems will make Salinas' current good system even better. The city's AB 1825 supervisor training is coordinated by the Human Resources (HR) Department. The HR Director has three employees that can assist with all AB 1825 training-related processes.

According to personnel interviewed by the Civil Grand Jury, prior to 2017 the city generally conducted a biannual sexual harassment prevention classroom training class for supervisors on pace with the AB 1825 (and prior) requirements. In 2017, the city started presenting the AB 1825 course annually and, starting in 2020, has begun presenting quarterly sessions for AB 1825.

Salinas has a strong preference for classroom/in-person AB 1825 supervisor training. The Civil Grand Jury was told that city leadership believes that the hands-on sessions provide more direct contact, greater interaction, and allow the course to be tailored to city-specific conditions and situations. The City Attorney and HR section AB 1825-instruction qualified personnel are the main trainers for this course. The city also has availed itself of law firms and even the National League of City's AB 1825 courses, on an opportunistic basis. Online training is made available by exception. TargetSolutions was mentioned as the current main provider of the city's online AB 1825 training. Online instruction is used primarily for catch-up or if a new supervisor cannot meet the six-month requirement for AB 1825 training after being hired or promoted into position.

The city provided complete course materials to the Civil Grand Jury and stated that these materials are available (per state requirement) if sought by employees. In addition to course materials, the city-maintained sign in rosters, some certificates of training, and additional AB 1825 reference materials that were used to organize or conduct the courses. While selected records of training or completion were missing, the overall organization of AB 1825 supervisor training records and materials was clear, logical, and well-documented.

The well-organized, comprehensive approach that the HR department applies to AB 1825 supervisor training is not reflected in supervisor participation rates. A summary of supervisor participation for the years reviewed by the Civil Grand Jury provided the following results:

AB 1825 Training Fiscal Year *	Nr. of Supervisors Trained or Qualified (%)	FY Supervisor Count
FY 2016/17	66 (47%)	139
FY 2017/18	91 (64%)	137
FY 2018/19	52 (45%)	116
* Data from City of Salinas		

Supervisors must take AB 1825 training every two years, based on the Training Year Tracking Method or within six months of assuming a supervisory position. For FY 2017/18 and FY 2018/19 the above numbers reflect the combined total of actual AB 1825 training, plus supervisors who already taken AB 1825 training within the past 24 months (or within two training years). For example, in FY 2018/19, the number of supervisors who took AB 1825 training, according to records provided to the Civil Grand Jury, was 21 personnel. In addition, 31 supervisors were still qualified by prior AB 1825 training (for two years). This meant that 52, or 44.8%, of the city's supervisors were compliant with the state requirements for timely training during the fiscal year period. It also meant that 64 supervisors were out of phase and not compliant. The Civil Grand Jury determined that of those non-compliant supervisors, 41 or 35% of *all* supervisors for FY2018/19 had not done any AB 1825 training for the past three years. Interviewees did caveat the data provided above by noting that in some cases, rosters of supervisors

provided to the Civil Grand Jury reflected a managers group, or a supervisors group. This meant that in some cases, some individuals on the list may not be supervisors. However, the Civil Grand Jury was not able to parse all lists to exclude non-supervisory personnel included in the requested supervisors' rosters.

Investigation into the reasons for suboptimal compliance revealed several conditions. First, the new tracking system (New World ERP) has been implemented backward from the newest employees/supervisors. This meant that as a new hire is processed or "on-boarded," that employee (if a supervisor) is given a target date for AB 1825 training in the New World system. Other supervisors have been added into the system working back among all employees. Periodic checks of the New World ERP will allow HR personnel to know who is due for the next AB 1825 sessions—if they have been entered into the system. The second reason that the Civil Grand Jury determined that compliance was an issue is supervisor personal responsibility.

This investigation noted several examples of city HR notices for AB 1825 training that had been sent to all listed supervisors. The Civil Grand Jury was even told that "global" notices of upcoming training have been posted on occasion. This suggested that a certain percentage of supervisors simply don't attend.

When questioned on this point, city personnel provided a different perspective. In the past, shift work, special assignments, or duty away from the city's training classrooms were reasons for supervisors to miss the once-each-two years (pre-2017), or the once-a-year (2017-2020) AB 1825 training. Those supervisors who missed should have sought out the online programs that the city makes available. However, waiting for the next class appeared to be a default approach for many supervisors. Starting in 2020, the city started quarterly AB 1825 supervisor training. Interviewees stated that this approach is a method that the city will use to raise its compliance rates to better levels.

The use of the New World ERP system to track AB 1825 training occurrences and due dates is a good improvement to the city's program. However, this system still requires

manual operation by HR staff to determine the population of supervisors due for training prior to any given class. This is a point of potential failure in working to achieve compliance. So, too, this investigation did not show how the TargetSolutions online training is integrated into the New World system. This appears be a manual action required between the two systems. That is another point where accountability and tracking can breakdown.

Finally, in spite of the challenges the city faces in raising supervisor compliance rates, the Civil Grand Jury noted that the management and direct execution of the AB 1825 program was professionally executed and tightly focused on delivering city-centric training that was relevant to its supervisors and employees. Continuing the current course, and taking a macro look at the overall status and results for the city's AB 1825 supervisor training, are the next steps. The Civil Grand Jury determined that this approach has not been routinely incorporated in the otherwise crisp and efficient AB 1825 supervisor training program.

Sand City

Sand City has been providing sexual harassment prevention training for its workforce at least as far back as the inception of the AB 1825 requirements (2005). The city has expressed an affinity for the online modality because it is thought more convenient for employees. The city has used the online provider AJ Novick Group, Inc. for many years. Cost is not an issue with respect to participation in AB 1825 training activities, because Sand City is an MBASIA member with access to a variety of educational functions, including sexual harassment prevention trainings.

The city did not submit requested training materials relevant to AJ Novick Group's training. The AJ Novick website advertises compliance with California anti-harassment law; in particular, AB 1825, AB 2053, SB 396, and SB 1343. The online course is timed at "at least two hours to complete."

As for content, the course curriculum includes information on relevant state and federal law, gender/sexual orientation harassment, remedies available to harassment victims, and practical examples. It is asserted that the training materials are “designed by experts in sexual harassment and corporate training.”

The website claims to have an interactive modality because of the presence of “periodic quizzes.” The provider states that it retains copies of written and recorded training materials. Thus, the material requested from Sand City likely could have been supplied to the Civil Grand Jury had the city sought it.

Therefore, it appears that the online supervisory employee training provided by Sand City likely substantially conformed to the requirements of 2 CCR §11024.

The city does not use the Training Year Tracking Method to monitor training compliance. The other method allowed by DFEH regulation is the 24-Month Tracking Method which tracks the dates of individual employees training, requiring them to be retrained within 24 months of their most recent training.⁹

The city-prepared compilations contain the names of nine supervisory employees. Two of them appeared as employees for only one of the subject years: One of the supervisors—whose date of hire was November 5, 2005—separated on March 31, 2017. It is unknown when he might have done any prior training, so he is dropped from the assessment because it is outside the scope of this review. The other supervisor—whose date of hire was November 21, 2018, separated on June 30, 2019. He did the training the day after he was hired, November 22, 2018.

Of the remaining seven under the 24-Month Tracking Method, one who trained on August 22, 2017 was due for retraining no later than August 22, 2019. This supervisor re-trained on August 27, 2019, and therefore was not in compliance. Another supervisor

⁹ Ibid.

who trained on October 3, 2017 was due for retraining no later than October 3, 2019, but re-trained on September 3, 2019, and therefore is compliant.

Two supervisors who trained on October 28, 2017, and were due for retraining no later than October 28, 2019, were re-trained on September 15, 2019 and November 2, 2019, respectively; therefore, there was one within compliance and one was not. Three other supervisors received timely re-training prior to the end of FY 2018/19.

Accordingly, six of the eight eligible supervisors retrained in a timely manner. The other two were less than a week past due when they retrained. The compliance rate under this method is **75%**. In contrast, the compliance rate under the Training Year Tracking Method would assume eight out of eight eligible employees took retraining in a timely manner, which would result in 100% compliance.

One new supervisor was hired during the three-year period of review and was required to train within six months. As indicated above, the employee's date of hire was November 21, 2018, and the training was completed on November 22, 2018, the day after he was put on the payroll. Therefore, Sand City's training compliance rate for new supervisors is **100%**.

A harassment policy is included in the city's *Personnel Manual* and Sand City noted that its written policy regarding AB 1825 training is in this document. A review of section 2.03 of the *Personnel Manual* reveals a standard workplace anti-harassment policy. The only part of section 2.03 that in any way touches on the topic of employee training is the last sentence of subsection A, *Statement of Intent*, which reads as follows:

In keeping with our commitment to a harassment-free environment, The City will comply with all applicable rules and regulations regarding the training of employees in supervisory positions.

Sand City has assigned an administrative staff member to maintain training records, which are kept in a binder at City Hall. This staff member also coordinates training reminders. The city is effectively managing AB 1825 training for their supervisory employees.

City of Seaside

The city of Seaside has offered AB 1825 supervisory training to its employees for many years. The city recognizes employees have different learning styles, so their workforce is offered flexible training options from online, classroom, and webinar courses. Flexibility, however, has created a complex recordkeeping challenge for staff.

Seaside facilitates a wide range of training opportunities throughout the year. Their training providers are well-qualified, and materials are comprehensive and compliant. Written policies are fully compliant and distributed in person, on the city's website, at trainings, and available in the resource library. Classroom training with California Joint Powers Insurance Authority (CJPIA) is preferred by most employees, but online training is necessary for employees such as police and fire personnel who have unique schedules and cannot attend a daytime training session.

E-learning is handled with the TargetSolutions AB 1825 supervisory training program, *Smart Workplaces: Sexual Harassment Prevention for Office Managers & Supervisors, California, AB 1825* and appears to be fully compliant with the applicable administrative regulation 2 CCR §11024. TargetSolutions provides certificates of completion and reports of training data for each employee that is accessible online to the employer.

Seaside has access to classroom training through its membership in the CJPIA. The Civil Grand Jury conducted a review of training handouts prepared by CJPIA titled, *Workplace Harassment Training*, and dated April 10, 2018, January 23, 2019, and January 24, 2019. The courses appear to be fully compliant with applicable administrative regulation 2 CCR §11024.

Webinar training was provided by Burke, Williams & Sorenson LLP, a Los Angeles-based law firm serving public agencies and private business entities across California. Their webinar program was titled, *Not Your Average Harassment Training*. Training materials were not provided for review, so AB 1825 compliance cannot be confirmed. The website does establish the two trainers as qualified employment law attorneys. A submitted sign-in sheet and certificates indicate a single training date of October 25, 2017.

Employees are responsible for registering for their AB 1825 training, and they are not limited to how often they train. They can view their training records on the TargetSolutions dashboard. The Fire and Police Departments handle their own staff's training reminders apart from the HR Department. HR staff sets up credentialing reminders within the TargetSolutions system, which is not fail safe. Some employees train more than needed, while others ignore training reminders or delay training past the deadline. Credentialing reminders drop off after a certain time period, which leads to late and uncompleted training.

The submitted supervisory roster combined records for FY 2016/17, FY 2017/18, FY 2018/19 and was well-organized. Training records, such as sign-in sheets and certificates of completion, were a piecemeal submission of separate documents that were matched to the submitted employee roster. Several listed supervisors with gaps in training were short-term, interim supervisors who were excluded from the compliance analysis.

Gathering the training records for nearly 100 employees and alternately training between the three training methods presented a challenge because some training records are archived off-site. Although they are training their employees, Seaside does not have a systematic way to track AB 1825 training from year-to-year. Eighty-seven supervisory employees were eligible for supervisory training during FY 2016/17, FY 2017/18, and FY 2018/19. Fifty-five employees had timely training. Fourteen employees had late training, beyond two calendar years. Six employees completed non-supervisory

training only. Twelve employees had no training records. Seaside demonstrated 63% timely supervisory training.

Twenty-four new supervisors were hired or promoted between FY 2016/17, 2017/18, and 2018/19. One new supervisory employee who was hired in Quarter two of 2016 had new hire training due in FY 2016/17 and is included in the timely training calculation. Nine of 25 new supervisors received timely supervisory training within the prescribed six-month period. The city had a 36% timely training compliance record for the period.

Twenty-one supervisory employees trained more often than required. The city does not monitor or limit the number of employee trainings.

Thirty-nine non-supervisory employees completed 48 supervisory training sessions. Seaside has firefighters and recreation employees who may work out of class and have lead employee duties, where they are called to supervise others in a flexible capacity. Erring on the side of caution, Seaside should continue to encourage or require all employees with occasional lead responsibilities to complete supervisory training for AB 1825 purposes as a risk prevention measure.

Seaside has three Human Resources staff who share HR duties. No one person is responsible for maintaining AB 1825 training records. AB 1825 records are not accessible in one place. Recordkeeping and timely training are the major problems Seaside contends with in an otherwise well-functioning AB 1825 training program.

A harassment policy document, entitled *Policy Against Harassment, Discrimination, and Retaliation*, is included on the city website under *Human Resources Policies and Procedures*, which was last updated in 2018. The policy is compliant with AB 1825, AB 2053, AB 1661 (pertaining to elected officials). It requires supervisory employees be trained on preventing sexual harassment and abusive conduct in the workplace every two years. In addition, it requires that all persons appointed or promoted to supervisory

positions be trained within six months of appointment or promotion from a non-supervisory position.

All employees are given a copy of the policy as part of their initial orientation and are to receive a copy in conjunction with any training they attend. Supervisory employees are required to sign an acknowledgement of receipt of the *Policy Against Harassment, Discrimination, and Retaliation* at their time of hire.

City of Soledad

During the three fiscal years from July 1, 2016 through June 30, 2019, the city of Soledad had an average of 19 supervisory employees on payroll. Except for one supervisor who was on leave in 2019, every supervisor in the city received timely AB 1825 training. The Civil Grand Jury concluded that Soledad demonstrated **100%** compliance with AB 1825 training regulations.

The city hired four new or promoted supervisors during the period of review. All four supervisory employees received AB 1825 training within six months of hire, achieving a **100%** rate of compliance.

E-learning is the only method the city uses for AB 1825 training. It is provided online through TargetSolutions. TargetSolutions' supervisory training program appears to be fully compliant with 2 CCR §11024. It provides certificates of completion and training data for each employee that is accessible online to the employer.

The city uses the Training Year Tracking Method to track when training is due. In early January of each year, the city's Human Resources Department notifies those supervisors whose training is due in that year and informs them that they must complete the training by January 30. All newly hired or promoted supervisors receive AB 1825 training within 30 days of hire, a full five months earlier than the law requires.

Because Soledad averages just 19 supervisory employees on their payroll at any one time, their training compliance system is a simple Excel spreadsheet. By choosing only one month out of each year (January) to focus on AB 1825 training, Soledad has been able to achieve **100%** compliance with training new supervisors within the required six months and other supervisors every two calendar years.

A policy titled, *Policy Against Harassment, Discrimination, and Retaliation* is included as Section 4 in the city's *Personnel Rules and Regulations Manual* adopted in September 2016 and available on the city's public website. Subsection 4.04 of the policy, titled *Training and Policy Dissemination*, spells out all requirements of AB 1825.

Soledad is to be commended for this excellent compliance record.

County of Monterey

Monterey County conducts a high volume of AB 1825 supervisor training. This training is managed by the Monterey County Civil Rights Office (MCCRO). MCCRO has a robust AB 1825 training program that is centered on online training delivered by EVERFI corporation and augmented by classroom/in-person training led or monitored by qualified professionals from MCCRO.

An active but labor-intensive outreach program has been developed by MCCRO to support department managers and to coordinate with each department's learning management specialists (LMSs). This network is necessary for MCCRO to help ensure that Monterey County government delivers a model work environment and meets all AB 1825 and other Civil Rights training requirements. However, some AB 1825 training is not documented accurately in records, and the training tracking system, at least for AB 1825, is problematic in that it still reflects the transition among three different online learning systems used during the past four years. This is an area that requires more attention and improvement.

Because of MCCRO's limited access to certain HR data, it is not able to routinely audit compliance with all AB 1825 supervisor training rules. However, MCCRO works actively with department heads and department LMSs to promote compliance with AB 1825 regulations.

While MCCRO is responsible for AB 1825, this is just one portion of the large portfolio managed by this small office. MCCRO promotes a spirit for personnel to "respect civil rights, provide equal opportunity for all, and pursue equity in all operations by developing a culture of diversity and inclusion" in the Monterey County government and for the Monterey County community.

MCCRO prefers delivering AB 1825 training primarily via EVERFI's online training because County government is large and spread out among many facilities. Online training is augmented by MCCRO's classroom/in-person trainings. The Civil Grand Jury investigation determined that MCCRO leadership is well-informed of all changes and requirements for AB 1825 training, and they review and validate all training delivered by its online vendor and by MCCRO staff. MCCRO manages and audits all training requirements in their area of responsibility—including AB 1825, via close and ongoing contacts with the LMSs who are placed in each County department. LMSs are two-way conduits for information and situational awareness for MCCRO issues, including AB 1825.

Starting this year, MCCRO began publishing a monthly e-note or update that is tailored for each department. This periodical provides both relevant information and overviews of that department's compliance with requirements like AB 1825. Concurrent with the MCCRO e-note is a more detailed list for each LMS. The Civil Grand Jury was told that this is a two-way process where the LMSs work closely with MCCRO to ensure each department's compliance. Because of MCCRO's limited access to certain HR personnel data, MCCRO must coordinate with LMSs for data on supervisor training and changes in supervisor status—changes that would require additional AB 1825 training. While AB 1825 requires newly hired or promoted supervisors to receive AB 1825 training within

six months, Monterey County requires new supervisors to complete AB 1825 training within 60 days of hire/promotion.

In recent years, MCCRO has migrated, in part or full, among three different online training networks. Currently, MCCRO uses the County's Learning Development System (LEARN/LDS) but retains EVERFI for its preferred quality of AB 1825 modules. MCCRO interviewees noted that EVERFI provides a bilingual capability for training that allows county supervisory employees to take their AB 1825 training in either English or Spanish. A drawback with the current state of training infrastructure for MCCRO is that all training records are dispersed among several legacy training systems. Although all county training data is still accessible, there is yet no unified application interface (API) to seamlessly retrieve all MCCRO training records. The Civil Grand Jury was told that this is an ongoing project that had not yet been completed at the time of this investigation.

As mentioned in other portions of this report, there are many different requirements for monitoring scheduled training, managing training records and even overseeing the storage of AB 1825 materials. The Civil Grand Jury reviewed how MCCRO completes these functions.

MCCRO provided real-course training materials, past rosters, and data to show how the office managed AB 1825 compliance. The training materials and rosters provided complied with state guidelines, however training certificates were not provided for supervisory employees.

Based on data provided to the Civil Grand Jury by MCCRO, the number of supervisors on payroll each year varied. For the years examined by the Civil Grand Jury, the rosters reflected the following supervisor counts: FY 2016/17 = 940 supervisors, FY 2017/18 = 1,108 supervisors, and FY 2018/19 = 1,018.

The Civil Grand Jury requested information on the *total number of supervisors trained* in AB 1825 during each fiscal year for the three years (FY 2016/17, FY 2017/18, FY 2018/19). The data that MCCRO provided are summarized below:

AB 1825	Total Trained	Main Roster of AB 1825 training	Other AB 1825 Rosters Provided
FY 2016/17	441	425	16
FY 2017/18	429	347	82
FY 2018/19	976	933	43

These records show that a significant amount of AB 1825 supervisor training was presented during this period. These numbers are compared with the corresponding years' supervisor rosters. The data for FY 2018/19 suggests a positive picture.

AB 1825	Total Trained	Roster of Supervisors (FY)	% Supervisors trained
FY 2016/17	441	940	46.9% (441 / 940)
FY 2017/18	429	1108	38.7% (419 / 1108)
FY 2018/19	976	1018	95.8% (976 / 1018)

However, this conclusion is not completely accurate, and it is not completely verifiable. Instead of having 95.8% of supervisory personnel trained in AB 1825 in FY 2018/19, the Civil Grand Jury uncovered an opposite picture: 38.6% (393) of all listed supervisors for FY 2018/19 had not only not received *any* AB 1825 training that year—they had not received any AB 1825 training for the entire three-year period.

The Civil Grand Jury sought to determine how this significant difference could occur. The primary reason suggested by this investigation is a deficiency in training tracking, in this case, supervisor AB 1825 training tracking.

The Civil Grand Jury noted that the names on all AB 1825 training rosters provided by the MCCRO were frequently different from the names on the rosters of supervisors as

provided for the corresponding fiscal years. For example, one AB 1825 training roster for FY 2018/19 listed 933 supervisors trained. The Civil Grand Jury discovered that 41.4% of the names on that list (386 supervisors) were *not* listed on the official supervisor roster provided for that same year. This same gap, with varying proportions, existed for every year's training lists and every year's supervisor rosters.

So, instead of having 976 of 1,018 (95.8%) supervisors trained in AB 1825 in 2018/19, the actual number of supervisors (on the roster) either trained that year, or qualified that year under the AB 1825 biannual training requirement was only 593 or 58%. This included 510 roster-supervisors who did attend AB 1825 training during that fiscal year, and also included another 83 (roster) supervisors who were qualified because they had already taken training within 24 months, or within the two years allowed (using the Training Year Tracking Method).

When asked during interviews why there were name and training discrepancies in the rosters provided, MCCRO personnel replied that there were several issues. First, MCCRO requests supervisor rosters from the departments. Sometimes rosters may include non-supervisors when departments provide "management group" rosters that include more than actual supervisors. Sometimes departments have personnel who are acting in supervisory positions, and even attend required AB 1825 training, but they are not reflected on actual supervisory rosters. Finally, they added that MCCRO does not have HR control over individual records—so data like "date hired," or "date promoted," which are important for ensuring AB 1825 compliance, require extra steps and additional coordination to obtain.

MCCRO personnel interviewed by the Civil Grand Jury also suggested that this problem is mitigated to an extent because department LMSs "self-track" training. MCCRO actively works with the LMSs, who are part of each department. These LMSs work to ensure that their departments comply with required training regardless of what rosters or lists are on file. This suggests that many, if not all the "non-roster" personnel who

took AB 1825 training—the 446 personnel (976-510) difference in FY 2018/19 example above, may have been supervisors or acting supervisors.

The Civil Grand Jury could not confirm this at the department level, but it did note that the training rosters provided were also inaccurate. The computer-generated training rosters included more than a half-dozen names that were listed backward—an individual whose first name was listed as the last name and last name as a first name. This turns the tracking process for individuals into a manual stop-and-search action. While it is a repeated yet small lack of attention to detail on a training list, this same lack of attention to detail is mirrored at the macro level for AB 1825 training.

For all three years of requested data, there is an unacceptable lack of accuracy for the list of each FY's supervisors. This lack of precision undermines MCCRO's tracking of AB 1825 training compliance. The Civil Grand Jury determined that in part this is an issue of LMS training and supervision, and in part it this is an issue of MCCRO standards for data required for managing state AB 1825 supervisor training. The Civil Grand Jury recommends that MCCRO specialists who manage training compliance be provided more access to the HR Department. The Civil Grand Jury determined that the workload for compliance management is greater than the current staffing for that function can perform professionally.

FINDINGS

Findings – City of Carmel-by-the-Sea

- F1. A November 2018 classroom training by the United States Equal Employment Opportunity Commission was not in compliance with AB 1825 and 2 CCR §11024: a) it was not undertaken within 24 months of the last training event for any of the attendees, b) insufficient time was allocated to the required subject matter, and c) written proof of attendance and/or course completion was not generated.
- F2. A contributing factor to the city's failure to meet the two-year timeframe for sexual harassment/abusive conduct re-training was the absence of city staff with the responsibility to oversee employee training.
- F3. The lack of attendance and completion of paperwork for the November 2018 EEOC classroom training was due in part to the city's assumption that the trainer would be responsible for all such documentation, and in part to the EEOC's practice of not generating certificates.
- F4. There were six people who the city either hired or promoted to supervisory positions at some point during the 2017/18 fiscal year, and who should have received AB 1825 training within six months of hire/promotion. The November 15, 2018 EEOC training could have afforded a timely compliance scenario only for those FY 17/18 employees that were hired/promoted during the six-week period between May 16 and June 30, 2018. There were no other AB 1825 trainings of city employees during the period May 16, 2017 to November 15, 2018.

Findings – City of Del Rey Oaks

- F5. The city of Del Rey Oaks has not ensured that every employee who is required to take AB 1825 training, completes that training in a manner and at a time as required by law.
- F6. The city has not provided their employees with an updated and accurate Personnel Manual that includes all AB 1825 and related training requirements.

Findings – City of Gonzales

- F7. Gonzales currently has a viable dual approach toward of AB 1825 training through use of group-oriented classroom presentations and e-learning (i.e. computer-based training). Classroom presentations are preferred but E-learning is used for supervisory promotions/new hires (e.g. where a classroom training is unavailable).
- F8. A December 6, 2016 classroom training by Concern-EAP, although deficient with reference to 2 CCR §11024, was sufficient to render the city of Gonzales compliant with the training mandate imposed by AB 1825.
- F9. Online AB 1825 training by EVERFI that was done in 2017 was not in compliance with AB 1825 and 2 CCR §11024: the Civil Grand Jury was provided with insufficient information upon which to make a determination whether or not the online supervisory employee training complied with 2 CCR §11024.
- F10. The city failed to meet the timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.

- F11. The city's failure to meet the timeframe for sexual harassment/abusive conduct re-training established by 2 CCR §11024 was due to staff changes and workload issues.
- F12. The city has no written policy about AB 1825 sexual harassment/ abusive conduct training.

Findings – City of Greenfield

- F13. Greenfield's Office of the City Manager should be recognized for its clear understanding of state requirements for AB 1825 supervisor training, and its dedicated approach to actively conducting both online and in-person classroom AB 1825 supervisor training in spite of lack of support from some city supervisory employees.
- F14. The city's sexual harassment prevention policy (Attachment B to Rule 17, Section 7) is incomplete and out of date. It does not provide adequate information to assist employees or guide supervisors in dealing with sexual harassment situations.
- F15. The city's Office of the City Manager's AB 1825 compliance records management is inadequate. The combination of a lack of a viable tracking system and a single staff point of contact has made effective tracking and compliance problematic.
- F16. The city's Office of the City Manager's decision to use an automated learning management system, like TargetSolutions, was a positive measure that may facilitate more timely training delivery and better records keeping in the future.
- F17. Even with an automated learning management system for AB 1825 training and records compliance, the city's Office of the City Manager will have continued difficulty meeting state standards for AB 1825 training compliance because of

competing work requirements in the City Manager's office and the limited time and resources devoted to this training. The current approach does not recognize the expanded range of compliance measures required by AB 1825.

Findings – King City

- F18. King City is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18 and 2018/19.

Findings – City of Marina

- F19. Marina has implemented a streamlined, effective training year tracking system for AB 1825 training for supervisory employees in its general management group.
- F20. The city did not address an alternate online training source for new and promoted supervisors during 2018, which may have resulted in two late trainings.
- F21. A high-ranking official is the only supervisory employee with no record of training for 2017 or 2019 and is assumed to have failed to complete required AB 1825 training.
- F22. The city's written, stand-alone harassment policy needs updating, because it is missing certain language governing protected classes required by the California Department of Fair Employment and Housing's 2 CCR §11023 regulations, and it does not contain a reference to AB 1825 supervisor training mandated under 2 CCR §11024 regulations.
- F23. Revision of the city's Personnel Policy Manual is extremely overdue.

Findings – City of Monterey

- F24. The city of Monterey's personnel tracking system does not include enough data to ascertain whether employees promoted to a supervisory position received AB 1825 training within six months of hire or promotion as a supervisory and then every two years thereafter.
- F25. Monterey was unable to provide a complete and accurate roster of all of its supervisory employees along with their AB 1825 training dates resulting in the Civil Grand Jury having insufficient information to determine if the city was indeed training all of its supervisors timely and according to AB 1825 mandates.
- F26. Monterey's sexual harassment policy titled, *Harassment/Discrimination/Retaliation/Abusive Conduct/Bullying Policy*, in city code 25-3.03 accurately reflects the 2 CCR §11023 conduct prohibitions, but it does not include the mandated employee training requirements in 2 CCR §11024.

Findings – City of Pacific Grove

- F27. Pacific Grove has a first-rate classroom training program. However, its structured in-person training dates sometimes make it hard to achieve timely training for all employees who have training due.
- F28. The city's existing AB 1825 recordkeeping system does not facilitate tracking two-calendar year retraining and six-month supervisory employee training.
- F29. The city's electronic onboarding or induction does not ensure timely six-month training for new and promoted supervisors, which has resulted in a low percentage of timely training.
- F30. The city's policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, found in the

Administrative Policies and Procedures Manual posted on the website, are missing a reference to mandated AB 1825 training requirements contained in 2 CCR §11024 regulations.

- F31. The city's Employee Handbook, for which employees sign an acknowledgement of receipt, is missing references to AB 1825 policy and mandated training requirements.

Findings – City of Salinas

- F32. The city of Salinas HR Department should be recognized for its clear understanding of state requirements for AB 1825 supervisor training and its active and professional approach to that training for the city.
- F33. The city's AB 1825 compliance program is generally compliant with state requirements but is somewhat deficient in identifying and ensuring new supervisor six-month AB 1825 training compliance.
- F34. The city currently manages AB 1825 using the New World ERP system and using online vendors like TargetSolutions. This dual systems approach is a point of potential failure in tracking.
- F35. The city currently manages AB 1825 using the New World ERP system and HR records to generate notices for supervisors of required training. However, the Civil Grand Jury found there is insufficient senior management accountability or focus on the individual city supervisory employee to complete required training in a timely manner. Absent senior management emphasis, complete compliance or even high rates of compliance with AB 1825 training requirements may be difficult to achieve.

Findings – Sand City

- F36. For two employees, Sand City failed to meet the two-year timeframe for sexual harassment/abusive conduct re-training of supervisory employees, as directed by California Government Code §12950.1 and more particularly specified in 2 CCR §11024.
- F37. The city has no written policy regarding AB 1825 sexual harassment/abusive conduct training.

Findings – City of Seaside

- F38. Seaside is commended for its fully compliant AB 1825 written policy.
- F39. The city has a comprehensive AB 1825 training program that allows employees to select their preferred training method.
- F40. The city does not fully coordinate course completion between its three AB 1825 training modalities (classroom, online, and webinar) and does not limit employee training, which has resulted in some supervisory employees training more than required and other training late or not at all.
- F41. Seaside's onboarding procedures are ineffective at ensuring new and promoted supervisory employees complete AB 1825 training within six months.
- F42. The city lacks an efficient recordkeeping system for AB 1825 training compliance, and some training records for supervisory employees are archived off-site and are not readily accessible.

Findings – City of Soledad

- F43. Soledad is to be commended for their excellent record in maintaining **100%** compliance with AB 1825 requirements for the fiscal years 2016/17, 2017/18, and 2018/19.

Findings – County of Monterey

- F44. Monterey County Civil Rights Office (MCCRO) has a strong, professional understanding of all requirements to comply with AB 1825 training in the Monterey County government, and delivers high quality, compliant AB 1825 training to County supervisory employees in both online and classroom/in-person settings.
- F45. MCCRO's AB 1825 compliance records management is inadequate. The office (1) lacks a unified interface for accessing or directly managing all past training, and (2) lacks sufficient access to individual personnel records to actively track ongoing AB 1825 training deadlines for current or new supervisors.
- F46. MCCRO's AB 1825 compliance records management process is a complex series of push-pull actions—requiring careful, ongoing interaction between the MCCRO and other County departments. Each department has Learning Management Specialists to help make this process work, but the MCCRO itself does not have sufficient staff to keep up with the coordination and planning work of ensuring AB 1825 training requirements are met for supervisors in all departments.
- F47. Monterey County Civil Rights Office leadership and staff displayed a high degree of professionalism and personal commitment to the spirit as well as the letter of the AB 1825 law. All office personnel were forthcoming, honest, and helpful for this investigation.

RECOMMENDATIONS

When the 2019/20 Civil Grand Jury began our investigations, COVID-19 had not yet become a public health crisis. However, as we conclude our reports, we are tasked to specify a time frame within which to address our recommendations. We have done so, attempting to allow some extra time given the current situation. We ask the County Supervisors, Departments, Cities, and Special Districts responsible for enacting our recommendations to do their best to accomplish these goals as expeditiously as possible, given the effect of the current pandemic crisis on staffing availability.

Recommendations – City of Carmel-by-the-Sea

- R1. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Carmel-by-the-Sea should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.
- R2. By September 30, 2020, Carmel-by-the-Sea should always have a staff member whose responsibility includes oversight of AB 1825 sexual harassment/abusive conduct workforce training.

Recommendations – City of Del Rey Oaks

- R3. By December 31, 2020, those Del Rey Oaks supervisory employees who received AB 1825 training in 2018, should have completed the training again, as the law mandates the training must be completed every two calendar years or every 24 months, whichever method is chosen by the employer.
- R4. By September 30, 2020, Del Rey Oaks should have published an updated Personnel Manual that references current law on harassment of all types and on

mandated harassment training. Del Rey Oaks should make the revised manual available to all employees.

Recommendations – City of Gonzales

- R5. By September 30, 2020, AB 1825 sexual harassment/abusive conduct training undertaken by and/or at the direction of the city of Gonzales should follow the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.
- R6. By September 30, 2020, the city should retain a full and complete written record with respect to all AB 1825 trainings that it provides, sponsors, or otherwise uses, regardless of whether delivered via classroom, e-learning, or webinar format.
- R7. By December 31, 2020, the city should prepare a written AB 1825 harassment, discrimination, retaliation prevention policy that is consistent with 2 CCR §11023; the policy should contain a provision covering the employer's training obligation under G.C. §12950.1 and 2 CCR §11024.

Recommendations – City of Greenfield

- R8. Greenfield should revise its sexual harassment prevention policy to reflect current state law, city practices, and to make it a useful guide for employee and supervisors alike. This revision should be completed by December 20, 2020.
- R9. The city's Office of the City Manager should review and revise current management practices for AB 1825 supervisory training and tracking. This revision should include: (1) development of a city supervisory responsibility system that will create a "demand pull" for AB 1825 supervisor training to complement the current "requirement push" approach that the city has used; (2) integration of all in-person classroom AB 1825 training rosters and training data with the TargetSolutions learning management system to ensure one unified

management, tracking, and reporting system for all AB 1825 training; and (3) off-loading the AB 1825 training and tracking responsibilities from the Office of the City Manager to a new or existing HR section, or augmenting the Office of the City Manager's personnel with part-time or dedicated personnel responsible for tracking and coordinating AB 1825 training and compliance data. This revision should be completed by June 30, 2022.

Recommendations – City of Marina

- R10. Marina should employ a back-up online training provider in the event of a future hiatus in the TargetSolutions training program. This recommendation should be implemented no later than 6 months after this report is published.
- R11. Department heads should be models to other supervisory employees on the importance of respect in the workplace. Therefore, by September 30, 2020, the one city official who did not train in 2017 and 2019 should complete online AB 1825 training in 2020, 2021, and subsequent odd years.
- R12. The city should update its written, stand-alone, "Policy Against Sexual Harassment," and its associated Acknowledgement of Receipt form, within 90 days of the publication of this report.
- R13. The city should revise its *Personnel Policy Manual* so that it reflects the mandated training requirements outlined in 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Monterey

- R14. Monterey should revise their personnel tracking system to include all city employees regardless of department, each employee's date of hire as a supervisor or date of promotion to a supervisory position, and date of classification change to a non-supervisory position, in order to accurately determine if AB 1825 training mandates are being met. This recommendation should be completed no later than 12 months after this report is published.
- R15. The city should review its *Harassment/Discrimination/Retaliation/Abusive Conduct/Bullying Policy* to include the employee training requirements mandated by 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.
- R16. The city should diligently assess whether the AB 1825 training programs it uses, such as those offered by the federal EEOC, meet the training curriculum mandates outlined in AB 1825 and its amendments. This recommendation should be completed no later than 12 months after this report is published.

Recommendations – City of Pacific Grove

- R17. By September 30, 2020, Pacific Grove should continue to improve its recordkeeping efforts and fully update its supervisory employee roster worksheet to better track and address potentially late AB 1825 training before it becomes late.
- R18. The city should develop a practice to individually counsel and refer new and promoted supervisors to online training when classroom training is not available within six months of their hire. Those employees also should be encouraged to take the next session of in-person classroom training to reinforce the city's culture of respect. This recommendation should be completed no later than six months after this report is published.

- R19. By December 31, 2020, the city should amend their Administrative Policies and Procedures Manual, policies no. 100.80 –100.110, *Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure*, to reference AB 1825 training requirements per 2 CCR §11024 regulations.
- R20. The city should publish an updated Employee Handbook that references current law on harassment of all types, on abusive conduct, and on mandated harassment training. Pacific Grove should distribute the revised handbook to all employees and require them to sign a new acknowledgement of receipt. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – City of Salinas

- R21. By June 30, 2021, the city of Salinas should automate the six-month new supervisor training signal for AB 1825 training. The city's HR Department should develop an automated HR noticing process that informs all newly hired or appointed supervisors of the six-month AB 1825 supervisor training requirement, and signals HR to (automated or manually) enter that training suspense in the New World ERP system.
- R22. By June 30, 2022, the city should continue to advance HR integration and automation of training processes and functions. This should include (1) automated notices or "ticklers" to supervisors on AB 1825 training deadlines, (2) integrating online training records with the New World ERP system, and (3) routinely creating global city reports of compliance that can provide HR and senior city leadership with a comprehensive snapshot of AB 1825 training compliance by city supervisory personnel.
- R23. By September 30, 2020 the city's senior management should adopt a stronger emphasis on promoting individual city supervisory employee responsibility to

complete required training, including AB 1825 supervisor training, in a timely manner.

Recommendations – Sand City

- R24. By December 31, 2020, Sand City should ensure that AB 1825 sexual harassment/abusive conduct prevention training undertaken by and/or at the direction of the city follows the directives and protocols laid out in 2 CCR §11024, including but not limited to the following areas: frequency, duration, and documentation of training; content of training; method of delivery of training; qualification of the trainer.
- R25. Sand City should develop a system to ensure that a full and complete written record of all AB 1825 trainings that it sponsors, regardless of whether delivered via classroom, e-learning, or webinar format, is in place and includes the date of the trainings and the names of attendees. This recommendation should be completed within 18 months of the publication of this report.
- R26. By December 31, 2020, Sand City should engage with the City Attorney, other staff, or an outside contractor to prepare a written policy regarding AB 1825 sexual harassment/abusive conduct prevention training for its workforce.

Recommendations – City of Seaside

- R27. By September 30, 2020, the city of Seaside's HR Director should assign one HR staff member to oversee AB 1825 training requirements and recordkeeping, so that all employees with training due in 2020 are trained by December 31, 2020.
- R28. Seaside should implement an onboarding system that effectively captures new or promoted employees and requires them to complete AB 1825 training within six

months of their hire or promotion. This recommendation should be completed within 90 days of the publication of this report.

- R29. Seaside should adopt an effective training tracking system to assemble all AB 1825 recordkeeping in one location, preferably saved to electronic files with cloud access. This recommendation should be completed within 18 months of the publication of this report.

Recommendations – County of Monterey

- R30. The Monterey County Civil Rights Office should review and revise the processes used to manage AB 1825 supervisory employee records to include the following: (1) develop a unified interface for accessing and directly managing all past training; (2) develop a method either with Learning Management Specialists, or centralized with an automated and trackable notice or tickler for AB 1825 training due dates; and (3) increase staffing and authority for personnel responsible for tracking and coordinating AB 1825 training and compliance data. This recommendation should be completed within 18 months of the publication of this report.

REQUIRED RESPONSES

Pursuant to Penal Code §933 and 933.05, the Civil Grand Jury requests responses as follows:

City of Carmel-by-the-Sea

- The City Council of City of Carmel-by-the-Sea
 - Respond to Findings: F1 – F4
 - Respond to Recommendations: R1 – R2

City of Del Rel Oaks

- The City Council of Del Rel Oaks
 - Respond to Findings: F5, F6
 - Respond to Recommendations: R3 – R4

City of Gonzales

- The City Council of Gonzales
 - Respond to Findings: F7 – F12
 - Respond to Recommendations: R5 – R7

City of Greenfield

- The City Council of City of Greenfield
 - Respond to Findings: F13 – F17
 - Respond to Recommendations: R8 – R9

City of Marina

- The City Council of City of Marina
 - Respond to Findings: F19 – F23
 - Respond to Recommendations: R10 – R13

City of Monterey

- The City Council of City of Monterey
 - Respond to Findings: F24 – F26
 - Respond to Recommendations: R14 – R16

City of Pacific Grove

- The City Council of City of Pacific Grove
 - Respond to Findings: F27 – F31
 - Respond to Recommendations: R17 – R20

City of Salinas

- The City Council of City of Salinas
 - Respond to Findings: F32 – F35
 - Respond to Recommendations: R21 – R23

City of Sand City

- The City Council of Sand City
 - Respond to Findings: F36 – F37
 - Respond to Recommendations: R24 – R26

City of Seaside

- The City Council of City of Seaside
 - Respond to Findings: F38 – F42
 - Respond to Recommendations: R27 – R29

County of Monterey

- The Monterey County Board of Supervisors
 - Respond to Findings: F44 – F47
 - Respond to Recommendations: R30

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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WORKS CITED

2 CCR (California Code of Regulations) §11024. Required Training and Education Regarding Harassment Based on Sex, Gender Identity, Gender Expression, and Sexual Orientation.

[https://govt.westlaw.com/calregs/Document/I4597AA3786DE4A7B820F9D02C8795550?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I4597AA3786DE4A7B820F9D02C8795550?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

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CITY OF MARINA

211 Hillcrest Avenue
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www.cityofmarina.org

July 22, 2020

Honorable Stephanie E. Hulsey
Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, California 93901

Re: 2019-2020 Monterey County Civil Grand Jury Final Report – “Sexual Harassment Prevention #Training Compliance”

Dear Judge Hulsey:

This letter is written in response to the 2019-2020 Monterey County Civil Grand Jury Final Report – “Sexual Harassment Prevention #Training Compliance”. As per the report dated June 24, 2020, this letter shall serve as the response to that Report pursuant to Penal Code section 933.05. The responses contained in this correspondence were approved by the City of Marina City Council at their regular meeting of July 21, 2020.

The City of Marina recognizes the importance of addressing the issue of workplace harassment and the importance of sexual harassment prevention training as one mechanism to help supervisors recognize and prevent harassment in the workplace. As noted in the Report summary, while the City of Marina stood out as one of three jurisdictions to achieve AB 1825 training compliance at 80% or above, we have areas that we can improve in our compliance and have already instituted some of these changes.

As requested by the Monterey County Civil Grand Jury, the City of Marina respectfully submits the following responses to Findings F19 – F23 and Recommendations R10 – 13.

Findings

Finding 19: Marina has implemented a streamlined, effective training year tracking system for AB 1825 training for supervisory employees in its general management group.

The City Council agrees with the finding. The City has implemented the required training program.

Finding 20: The city did not address an alternate online training source for new and promoted supervisors during 2018, which may have resulted in two late trainings.

The City Council agrees with the finding. In 2018, TargetSolutions went offline to update their materials and this break in online training may have impacted two employees who had scheduled training due in 2018. The city did not have a backup training system in place.

Finding 21: A high-ranking official is the only supervisory employee with no record of training for 2017 or 2019 and is assumed to have failed to complete required AB 1825 training.

The City Council agrees with the finding. When it was discovered that this high-ranking official did not have a record of training for 2017 and 2019, it was immediately addressed, and the training was completed in March 2020.

Finding 22: The city's written, stand-alone harassment policy needs updating, because it is missing certain language governing protected classes required by the California Department of Fair Employment and Housing's 2 CCR §11023 regulations, and it does not contain a reference to AB 1825 supervisor training mandated under 2 CCR §11024 regulations.

The City Council agrees with the finding. The City will update its harassment policy as required by the California Department of Fair Employment and Housing and AB 1825.

Finding 23: Revision of the city's Personnel Policy Manual is extremely overdue.

The City Council agrees with the finding. While the City Personnel Policy Manual has had updates over the years, a major comprehensive update is overdue. The City is in the process of this major update and is also considering moving towards an Administrative Policy Handbook that provides for easier and more timely updating of policies.

Recommendations

Recommendation 10: Marina should employ a back-up online training provider in the event of a future hiatus in the TargetSolutions training program. This recommendation should be implemented no later than 6 months after this report is published.

This recommendation has not yet been implemented but will be implemented before December 1, 2020. The City is currently researching options and proposals for a back-up online training provider and will have this back-up provider selected and in place prior to December 1, 2020.

Recommendation 11: Department heads should be models to other supervisory employees on the importance of respect in the workplace. Therefore, by September 30, 2020, the one city official who did not train in 2017 and 2019 should complete online AB 1825 training in 2020, 2021, and subsequent odd years.

This recommendation has been implemented by the City of Marina. When it was discovered that this high-ranking official did not have a record of the required training, the individual was immediately notified, and the training was completed in March 2020. The training will be scheduled to be completed again in 2021 and in subsequent odd years as required by AB 1825. The Human Resource Division will provide updates to the City Manager of all Department Heads, the Assistant City Manager and the City Manager AB 1825 compliance requirements, and will notify the City Manager prior to when the training needs to be completed, so that measures can be taken to ensure the training is completed timely.

Recommendation 12: The city should update its written, stand-alone, “Policy Against Sexual Harassment,” and its associated Acknowledgement of Receipt form, with 90 days of the publication of this report.

This recommendation has not yet been implemented, but the City will have this policy updated by September 1, 2020. The City contracts with Liebert Cassidy Whitmore for employment related services and training. The City will have Liebert Cassidy Whitmore update its stand-alone “Policy Against Sexual Harassment” and its associated Acknowledgement of Receipt form prior to September 1, 2020.

Recommendation 13: The city should revise its Personnel Policy Manual so that it reflects the mandated training requirements outlined in 2 CCR §11024. This recommendation should be completed no later than 12 months after this report is published.

This recommendation has not yet been implemented but will be implemented prior to April 1, 2021. The City contracts with Liebert Cassidy Whitmore for employment related services and training. An initial draft update of the Personnel Policy Manual has already been completed. The City needs to continue working with Liebert Cassidy Whitmore to complete revisions to the Personnel Policy Manual and meet and confer with its bargaining groups and have the revisions approved prior to April 1, 2021. The City is also considering implementing an Administrative Policy Manual that provides for easier and more timely updating of policies.

We hope that this information addresses the Monterey County Civil Grand Jury findings and recommendations. Please contact City Manager Layne Long at (831) 884-1224 or llong@cityofmarina.org if you have any questions or require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Delgado", with a stylized flourish extending from the end.

Bruce Delgado, Mayor
City of Marina



FOR IMMEDIATE RELEASE

13 July 2020

Contact: Ikuyo Yoneda-Lopez
Marketing and Customer Service Manager
831-264-5880

**MST ANNOUNCES A NEW PARTNERSHIP WITH CALTRANS, VISA INTRODUCING
CONTACTLESS FARE PAYMENT DEMONSTRATION**

Monterey-Salinas Transit announced on Monday a first-of-its-kind partnership with Caltrans and Visa to implement contactless fare payment technology in public transit buses to allow riders to use a contactless credit, debit, prepaid card, or contactless-enabled mobile device to pay their fare on any MST bus line. MST is the first transit agency in California to introduce a contactless payment solution on its system as part of the California Integrated Travel Project, an initiative to facilitate easy and accessible travel planning and payments.

Beginning in mid-September, MST riders can get around the Monterey-Salinas area by tapping a Visa contactless card or digital wallet to ride MST buses, removing the need to stand in line to purchase or load a separate transit card or handle cash while boarding. Whether a local or visitor to the Monterey area, the rider experience is the same – fast, easy and secure. Cybersource, a Visa solution, is supporting the project's enablement by providing the integral connection points between MST and other partners, making it quicker and easier to implement and launch.

Caltrans' California Integrated Travel Project highlights the need for transit customers across the state to access a suite of common tools to seamlessly plan and pay for their transit trip and receive any special discounts for which they may be eligible due to age, disability, income, or veteran status. Caltrans selected MST to assess the feasibility of seamless contactless payments for transit in a "real-life" environment for six months. There are hundreds of transit agencies in California, with no uniform way to plan and pay for a trip. This technology demonstration sets the stage for passengers traveling from one area to another to possess the ability to simply pay for a trip with their contactless credit, debit or prepaid card, or mobile device as they board the local transit system of their choice.

"Creating an easy-to-use, standardized payment method across different transit agencies is an important element of the California Integrated Travel Project's goal of increasing transit ridership, reducing greenhouse gas emissions, and supporting equity throughout our state's vast transportation network," said Caltrans Director Toks Omishakin.

Advocating and delivering quality public transportation as a leader within our community and industry.

Transit District Members Monterey County • Carmel-by-the-Sea • Del Rey Oaks • Gonzales • Greenfield • King City • Marina • Monterey
Pacific Grove • Salinas • Sand City • Seaside • Soledad **Administrative Offices** 19 Upper Ragsdale Drive, Suite 200 Monterey, CA 93940

PH 1-888-MST-BUS1 (1-888-678-2871) • FAX (831) 899-3954 • WEB mst.org

The demonstration between MST, Caltrans and Visa beginning in September will focus on establishing an improved rider experience for MST customers that can scale to create consistency across hundreds of transit agencies throughout California. Through results collected from the MST Rider Survey conducted during the ongoing COVID-19 pandemic, MST learned that customers would prefer a contactless fare payment option over using cash. In line with this trend, MST will join a growing number of cities that offer open, contactless fare payments in transit.

“Contactless payments have shaped the way consumers pay all over the world, saving valuable time and delivering a safe and secure way to pay. We are excited to be working with Monterey-Salinas Transit and Caltrans to not only improve the daily journeys of MST riders with a safe and convenient way to get around, but also showcase the benefits of open, contactless payments for transit customers and operators across California,” said Josh Martiesian, Senior Director of Transit, North America, Visa.

“As we begin the recovery of the region, MST is driven to protect, serve, and innovate as we continue providing safe, convenient and affordable mobility solutions. This pilot will protect our passengers and drivers by enabling credit and debit card holders to tap to pay for their ride quickly rather than spending time at the farebox with loose change. In a recent survey of our riders, 81% said they felt that MST’s COVID-19 cleanliness protocols are excellent or good, and 68% said they had heard about contactless credit and debit cards, so we think the time is right to launch this partnership with Caltrans and Visa,” said Carl Sedoryk, MST’s General Manager/CEO.

“The City of Monterey is known as California’s First City, so it is befitting that MST is first to implement this new technology. Many of our riders pay with coins and dollar bills. Well, now, riders can pay with any credit or debit card with the tap to pay symbol. We think this will be a major advantage for our customers,” said Dan Albert, MST Board Chair and City of Monterey vice-mayor.

“The Monterey-Salinas Transit demonstration is a great example of how transit operators can quickly and easily implement contactless fare payments to deliver safe and seamless journeys, regardless of the size or scale of their system,” said Fernando Souza, Vice President, Cybersource. “Cybersource is proud to enable and facilitate payments for this important milestone for the transit experience across California.”

The contactless readers will be installed on buses in early September, and passengers can start taking advantage of this payment option shortly thereafter. During the ensuing six months, MST will evaluate the performance of the fare payment option to determine whether it makes sense for MST and the community it serves.

For schedule information, visit www.mst.org or call MST toll free at 1-888-MST-BUS1 (1-888-678-2871). For RealTime bus arrival information, text “Next” and your four-digit bus stop ID (ex., “Next 9103”) to 25370, call 1-888-MST-BUS1 with your four-digit bus stop ID, download the free Transit App, or use Google Maps. Follow MST on Twitter at www.twitter.com/mst_bus for the latest service alerts.

###

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2020

CITY COUNCIL TO OPEN A PUBLIC HEARING AND TAKE TESTIMONY FROM THE PUBLIC AND CONSIDER ADOPTING RESOLUTION 2020-, SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION A MEASURE AMENDING PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE REGULATION, PERMITTING AND TAXATION OF COMMERCIAL CANNABIS BUSINESSES, ACTIVITIES AND LAND USES WHICH WOULD REPEAL TITLE 19 “COMMERCIAL CANNABIS ACTIVITIES,” REPEAL CHAPTER 5.76 “CANNABIS RETAILER,” ADD CHAPTER 5.80 “COMMERCIAL CANNABIS BUSINESS REGULATIONS” AND ADD CHAPTER 17.47 “COMMERCIAL CANNABIS USES.

REQUEST:

It is requested that City Council consider:

1. City Council to open a public hearing and take testimony from the public and consider adopting Resolution 2020-, submitting to the voters at the November 3, 2020, General Municipal Election a Measure amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses which would repeal Title 19 “Commercial Cannabis Activities,” repeal Chapter 5.76 “Cannabis Retailer,” add Chapter 5.80 “Commercial Cannabis Business Regulations” and add Chapter 17.47 “Commercial Cannabis Uses.”

BACKGROUND:

On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Cannabis Act (AUMA), which legalized the possession, use and cultivation of non-medical cannabis for those who are 21 years of age or older and established a state system to regulate commercial cannabis activity. On June 27, 2017, Governor Jerry Brown signed into law Senate Bill 94, the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which repealed the Medical Cannabis Regulation and Safety Act (MCRSA), incorporated certain licensing provisions from MCRSA, and effectively merged the recreational statutory framework under AUMA and the medical statutory framework under MCRSA and created a single regulatory scheme for both medical and non-medical cannabis administered and enforced by the Bureau of Cannabis Control within the State Department of Consumer Affairs. Pursuant to the new merged framework under MAUCRSA, the State began issuing both commercial medical and commercial recreational licenses on January 1, 2018, unless expressly prohibited by local jurisdictions. MAUCRSA authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed pursuant to state law.

At the November 6, 2018, General Municipal Election a majority of the voters in the election adopted a voter-proposed initiative ordinance entitled “An Ordinance of the People of the City of Marina allowing Cannabis Business Activity and Establish Taxes and Fees for such Businesses within the City Of Marina, Amending Title and Chapter establishing Cannabis Business Activities as a Use allowed subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety & Welfare.” The final vote was 4,351 votes in favor of the Ordinance and 2,130 votes against the passage of the Ordinance. This ordinance, included as **“EXHIBIT A”**, took effect on April 1, 2019.

On February 5, 2019, the City Council approved an Agreement with Hinderliter, De Llamas & Associates, Inc. (dba HdL) to assist with implementing the City’s Cannabis Business Activities Program. The first task that staff and HdL took on was to develop the program to implement the ordinance. This required a thorough review and mapping of the process that the ordinance provided. The next step was to create application procedure guidelines and an application package.

As staff, HdL and the City Attorney’s Office worked to develop procedure guidelines and the application package, it was discovered that the voter-approved commercial cannabis ordinance was cumbersome to administer. The ordinance limited the number of retail cannabis permits that could be issued by the City but allowed an unlimited number of applicants for such permits to work their way through the full process of applications and reviews, even though not all would receive permits even if they met all basic qualifications. The scoring criteria written into the ordinance resulted in many applicants having essentially identical scores, and the ordinance required that issues be decided multiple times for each applicant by staff, consultants, the Planning Commission, and the City Council. The ordinance mixed land use issues (“Should _____ be built and operate at this location?”) with licensing issues (“Should this person be permitted to operate a commercial cannabis business?”). The ordinance was duplicative of state rules regarding issues like operating hours, and in some cases state regulations were subsequently amended to be more restrictive than the City ordinance. Because the ordinance was adopted by the voters and could not be amended by the City Council, these problems could not be fully addressed without a new ballot measure.

To address the challenges and inconsistencies within the Commercial Cannabis Activities Ordinance, the City Council directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered, and if approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot.

ANALYSIS:

On June 17, 2020 the Planning Commission and City Council held a Joint Study Session meeting to receive a proposed first draft of the Commercial Cannabis Business Ordinance of 2020. At that meeting staff and Special Counsel Mark Mandell presented the proposed first draft of the document and received feedback for incorporation into the second draft document, which was presented to the Planning Commission on July 9, 2020 for its consideration and recommendation to the City Council.

The draft Commercial Cannabis Business Ordinance of 2020 is included as **“EXHIBIT B”** to this report. The draft ordinance was drafted to: retain major substantive requirements of existing ordinance; streamline application and licensing processes; and allow future changes and amendments to the ordinance by the City Council. For reference, a full markup version of the draft ordinance with all changes made since the June 17, 2020 Joint Study Session is included as **“EXHIBIT C”**.

The proposed draft Commercial Cannabis Business Ordinance of 2020 takes a regulatory approach instead of a competitive process. This entails first holding a lottery drawing to select the potential cannabis business permittees that will be allowed to proceed to the full application process. The competitive process works in the opposite and has been demonstrated with the first group of applicants over the last year and a half. In the existing competitive permitting system, twelve applicants spent considerable time and resources and three were ultimately selected to receive a conditional use permit, which is prerequisite to receiving a cannabis business license.

The draft Commercial Cannabis Business Ordinance of 2020 repeals Title 19 (Commercial Cannabis Activities) and Chapter 5.76 (Cannabis Retailer) as they were established in the 2018 voter initiative. These code sections are being replaced by Chapter 5.80 (Commercial Cannabis Business Regulations) and Chapter 17.47 (Commercial Cannabis Uses).

The new proposed regulatory process contained in the draft Commercial Cannabis Business Ordinance of 2020 focuses on licensing through an administrative process and zoning.

Proposed Chapter 5.80 (Commercial Cannabis Business Regulations)

The licensing process is included in the new Chapter 5.80 (Commercial Cannabis Business). This proposed Chapter requires that:

- A permit is necessary to operate a cannabis business.
- Where there are a limited number of permits, a pre-application lottery determines who can apply for a permit.
- A permit can only be issued after:
 - All owners and managers have obtained background clearance from the police.
 - The business has obtained a state cannabis license.
 - The business has an approved safety & security plan and has passed an inspection under that plan.
 - The site has complied with all zoning requirements.
- Permits have a one-year term but are renewable upon obtaining new background clearance and safety & security plan approval/inspection.
- Owners and Managers can be added/changed upon obtaining background clearance.
- Permit is tied to a location. A business can be moved if it obtains a new permit at the new location. The permit “slot” transfers to the new permit.
- A single license can authorize more than one type of commercial cannabis activity at the same location. But adding an activity to a license requires new application process.
- Maintains the cannabis business tax rate of 5% of gross receipts, which was established through the 2018 Cannabis Business Activities ordinance and Council Action taken in April 2019.

Proposed Chapter 17.47 Commercial Cannabis Uses

The draft Commercial Cannabis Business Ordinance of 2020 includes typical zoning parameters and involves restrictions on what activities are allowed in what zones. The zoning process in the draft ordinance works like the zoning process for any proposed new use of a parcel. It is about what can be done at the location and how the location can be improved, not about who can do it. In the draft ordinance, all cannabis businesses are made a conditional use. As a conditional use, all cannabis uses require approval of the Planning Commission in a public hearing.

Other zoning related items included in the draft Commercial Cannabis Business Ordinance of 2020 include:

- Removing the cannabis use provisions contained in Chapter 17.06.020 that concern alcohol establishments. This will revert this section to read as it did prior the voter approved Commercial Cannabis Business Activities ordinance.
- Chapter 17.47 (Commercial Cannabis Uses) is added to the zoning code to
 - required that a conditional use permit be acquired for cannabis uses consistent with the standards for all conditional use permits in the City (same findings and hearing process);
 - specify that buffer zones between cannabis uses and child day care center and public recreation center or park are 600 feet;
 - require that a condition be imposed that cannabis business will not generate offensive noise or odors;
 - require a 1,000-foot buffer between retail cannabis business uses

Proposed Moratorium

The proposed draft Commercial Cannabis Business Ordinance of 2020 also includes a moratorium. This moratorium language states: No application for a Permit for Cultivation, Manufacturing, Testing Laboratory, Nursery or Distribution shall be accepted prior to July 1, 2021. The purpose of this paragraph is to permit the City Council to adopt additional regulations, beyond those existing under state law, on such businesses (Chapter 5.80.090 (h)).

Treatment of Applications submitted prior November 3, 2020

Prior Commercial Cannabis Businesses applicants that were reviewed by the City Council on June 10, 2020 will be subject to Section 8 of the draft Commercial Cannabis Business Ordinance of 2020. This section provides that:

- a) Any commercial cannabis permit issued pursuant to Title 19 of the Municipal Code prior to the repeal of that Title by this Ordinance shall be treated as a valid permit issued pursuant to this ordinance and may be renewed pursuant to this ordinance.
- b) Any application for a permit that was submitted prior to the effective date of this ordinance will be processed under the laws existing laws at the time of application.
- c) Notwithstanding subdivision (b), an applicant for a non-retail commercial cannabis permit may request that such permit be processed pursuant to this law instead of pursuant to the prior law.

Planning Commission Recommendation

At its July 9, 2020 Public Hearing, the Planning Commission received a staff presentation, took public comment and approved a recommendation to the City Council that the 2020 Ordinance, as considered by the Commission, be adopted with the restoration of a 600-foot buffer zone requirement between any commercial cannabis business and certain schools, day care centers and parks (see “**EXHIBIT D**”). This 600-foot buffer requirement has been incorporated into Section 17.47.010(a) of the draft ordinance contained in “**EXHIBIT B**”.

In addition to the restoration of a 600-foot buffer zone requirement between any commercial cannabis business and certain schools, day care centers and parks, the Planning Commission also directed that its approving resolution also include a recommendation that the City Council consider funding a youth education program regarding the dangers of using cannabis.

Also discussed extensively, but not documented in the Planning Commission’s approving resolution, was the subject of cannabis business signs and whether additional restrictions should be added to protect the health and welfare of the community. Based on this dialogue, staff has also restored the sign provisions below from the existing Cannabis Activities Ordinance, into the draft Commercial Cannabis Business Ordinance of 2020 contained in **“EXHIBIT B”**.

17.47.030 Signage and Display of Cannabis Products

With respect to all cannabis land uses:

- (a) No graphics depicting cannabis or cannabis products shall be painted, attached, or otherwise affixed to the exterior of any building and no such graphic shall be included on any exterior sign.
- (b) No graphics depicting cannabis or cannabis products shall be displayed in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.
- (c) No cannabis or cannabis products shall be displayed or handled in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.

Youth Education

As described above, the Planning Commission directed that its approving resolution include a recommendation to the City Council to consider funding for a youth education program regarding the dangers of using cannabis products. At this time, staff has not been able to identify a specific method for implementing youth education programs. Should the City Council desire this effort can be further investigated and implemented at a later date as this action does not require inclusion in the draft Commercial Cannabis Business Ordinance of 2020, which must be submitted shortly to the County of Monterey Elections Department.

ENVIRONMENTAL REVIEW:

Approval of the Commercial Cannabis Business Ordinance of 2020 amending provisions of the Municipal Code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses can be determined exempt from environmental review under the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq. and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) as the Ordinance is not a commitment to any particular action nor does it authorize any private activity and does not involve the commitment to any specific project that may result in a potentially significant physical impact on the environment. For any project undertaken pursuant to the Commercial Cannabis Business Ordinance of 2020 that would have either such effect the City will undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required at this time.

MAUCRSA (Business and Professions Code Section 26055(h), also provides an exemption until July 1, 2021, for the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity provided that the project-level discretionary review includes applicable environmental review pursuant to CEQA.

The City can also find, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378(a), that this Resolution is exempt from the requirements of CEQA in that it is not a project which has the potential for causing a significant effect on the environment.

This Resolution is further exempt under the definition of “Project” in Section 15378(b)(2) in that it concerns general policy and procedure making.

FISCAL IMPACT:

There will be no additional cost to the General Fund as a result of this action. The draft Commercial Cannabis Business Ordinance of 2020 will be submitted in a consolidated general election and the City’s election costs will not increase as a result. Should the voters approve the ordinance, the streamlined regulatory process will result in less staff and City Attorney’s Office time in reviewing and processing applications. Additionally, City cost recovery will still be captured through fees paid by cannabis applicants and businesses.

CONCLUSION:

The City Council has directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered and, if recommended by the Planning Commission and approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot. Adopting the attached Resolution will submit the draft Commercial Cannabis Business Ordinance of 2020 to the Monterey County Elections Department and fulfill this Council direction.

Respectfully submitted,

Matt Mogensen
Assistant City Manager
City of Marina

Reviewed and Concurred by,

Layne Long
City Manager
City of Marina

Attachments:

1. Exhibit A: Ordinance No. 2018-09 An Ordinance of the People of the City of Marina allowing Cannabis Business Activity and Establish Taxes and Fees for such Businesses within the City Of Marina, Amending Title and Chapter establishing Cannabis Business Activities as a Use allowed subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety & Welfare.
2. Exhibit B: An Ordinance of the City of Marina amending provisions of the Municipal Code relating to the Regulation, Permitting and Taxation of Commercial Cannabis Businesses, Activities and Land Uses.
3. Exhibit C: Full markup version of draft Ordinance with all changes made since the June 17, 2020 Joint Study Session
4. Exhibit D: Planning Commission Resolution No. 20-

RESOLUTION NO. 2020-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA SUBMITTING TO THE VOTERS AT THE NOVEMBER 3, 2020, GENERAL MUNICIPAL ELECTION A MEASURE AMENDING PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE REGULATION, PERMITTING AND TAXATION OF COMMERCIAL CANNABIS BUSINESSES, ACTIVITIES AND LAND USES WHICH WOULD REPEAL TITLE 19 “COMMERCIAL CANNABIS ACTIVITIES,” REPEAL CHAPTER 5.76 “CANNABIS RETAILER,” ADD CHAPTER 5.80 “COMMERCIAL CANNABIS BUSINESS REGULATIONS” AND ADD CHAPTER 17.47 “COMMERCIAL CANNABIS USES

WHEREAS, the Medical and Adult-Use Cannabis Regulation and Safety Act (Section 26000 et seq. of the California Business & Professions Code) (“MAUCRSA”) establishes a comprehensive system of regulation and taxation for commercial cannabis activities in California; and

WHEREAS, MAUCRSA reserves to local jurisdictions substantial powers to tax, regulate and prohibit commercial cannabis activities; and

WHEREAS, on November 6, 2018, the City’s voters adopted Measure V, which permitted certain commercial cannabis activities in the City of Marina and established local regulations and permitting requirements for commercial cannabis businesses; and

WHEREAS, the City recently conducted its first permit issuance proceedings under the system established by Measure V; and

WHEREAS, it has become apparent that it would be advisable to streamline, clarify and revise the requirements of Measure V; and

WHEREAS, the City Council directed staff to prepare an ordinance to revise the requirements of Measure V; and

WHEREAS, such ordinance is known as the “Commercial Cannabis Business Ordinance of 2020;” (the “2020 Ordinance”); and

WHEREAS, on June 17, 2020, the Planning Commission and the City Council of the City of Marina held a Joint Study Session meeting to receive and review a draft of the 2020 Ordinance; and

WHEREAS, on July 9, 2020, the City of Marina Planning Commission held a noticed public hearing and unanimously recommended to the City Council that the 2020 Ordinance, as considered by the Commission, be adopted with the restoration of a 600-foot buffer zone requirement between any commercial cannabis business and certain schools, day care centers and parks; and

WHEREAS, adoption of the 2020 Ordinance requires voter approval; and

WHEREAS, Elections Code Section 9222 authorizes the Council to submit ordinances to the voters for adoption; and

WHEREAS, by its Resolution No. 2020-44, adopted on May 5, 2020, the City Council called a General Municipal Election for November 3, 2020, and requested that such election be conducted by Monterey County election officials and consolidated with the statewide general election to be held on that date; and

WHEREAS, pursuant to Elections Code 10002, the City Council may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election; and

WHEREAS, the City must reimburse the county in full for the services performed upon presentation of a bill to the City; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting consolidation, and setting forth the exact form of any questions, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon request, the Board of Supervisors may order the consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, on July 21, 2020, the City Council of the City of Marina held a noticed public hearing to consider the 2020 Ordinance; and

WHEREAS, the City Council desires to submit the 2020 Ordinance to the voters at the November 3, 2020, election; and

NOW THEREFORE BE IT RESOLVED AND ORDERED by the City Council of the City of Marina as follows:

1. The foregoing recitals are true and correct and are hereby adopted by the City Council; and
2. That pursuant to Elections Code Section 10400 and 10403, the City Council of the City of Marina hereby orders an election be called and consolidated with any and all elections also called to be held on November 3, 2020, within the same territory.
3. Pursuant to Elections Code Section 9222 the City Council of the City of Marina hereby calls an election for the purpose of submitting the 2020 Ordinance to the qualified voters of the City. This proposition shall be designated by letter by the Monterey County Elections Department.

4. Pursuant to Elections Code Section 10002 said City Council hereby requests the Board of Supervisors of the County of Monterey to permit the Monterey County Election Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full.

5. The Monterey County Elections Department shall conduct the election to be held on November 3, 2020, and submit to the electorate the following question:

“COMMERCIAL CANNABIS BUSINESSES. Shall the ordinance revising the City of Marina’s regulations and permit process for commercial cannabis businesses and land uses, while restricting the proximity of such businesses to public parks and recreation centers and retaining the existing 5% gross receipts tax on cannabis businesses, the existing cap on retail businesses at 3 adult-use retailers and 3 medical dispensaries, and the existing prohibition against recreational sales to persons under 21 years old be adopted?

YES

NO”

6. The full text of the 2020 Ordinance to be submitted to the voters is set forth in **Exhibit A** attached hereto. The City Council hereby approves the form thereof, and its submission to the voters of the City at the November 3, 2020, election.

7. The Monterey County Elections Department is requested to print the entire text of the measure attached hereto in the voter information guide for the November 3, 2020, election, and a copy of the entire text of the measure will be mailed at the City’s cost to any voter upon request. In addition, the entire text of the measure will be available on the City’s website at the following website address: <https://cityofmarina.org>.

8. The voter approval requirement is the approval of a majority of qualified electors casting votes.

9. Arguments for and against the ballot measure may be filed consistent with Elections Code Section 9282 *et seq.* The last day for submission of direct arguments for or against the ballot measure shall be by 5:00 P.M. on August 13, 2020. Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.

10. Rebuttals to arguments for and against the ballot measure may be filed. The last day for submission of rebuttal arguments for or against the ballot measure shall be 5:00 P.M. on August 20, 2020. Rebuttal arguments shall not exceed two hundred-fifty words and shall be signed by not more than five persons, those persons may be different persons than the persons who signed direct arguments.

11. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare by August 13, 2020, an impartial analysis of the ballot measure.

12. The Deputy City Clerk is hereby designated as the City's Election Official and is instructed, directed and authorized to do all things required by law to effectuate the November 3, 2020, General Municipal Election and to present the ballot measure submitted herewith to the electorate, including but not limited to working with the Monterey County Elections Department as needed in order to properly and lawfully conduct the election, posting, noticing and filing required publication postings. The ballots to be used in the election shall be in form and content as required by law. The Deputy City Clerk is hereby directed to forward a copy of this resolution to the City Attorney for preparation of the impartial analysis of the ballot measure submitted. Pursuant to Election Code section 9285, when the Deputy City Clerk has selected the arguments for and against the ballot measure, which will be printed and distributed to voters, the Deputy City Clerk shall send copies of the arguments in favor of the ballot measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut. The County Elections Department is authorized to canvass the returns of the general municipal election and certify the results to the City Council. Thereafter, in accordance with the time prescribed by the Elections Code, the City Council shall declare and cause to be entered in its minutes a statement of the results of the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

13. The Deputy City Clerk is directed to file forthwith a certified copies of this Resolution with the Board of Supervisors, the County Clerk, and the Registrar of Voters of the County of Monterey, together with the attached ballot measure; and certify as to the passage and adoption of this resolution and enter it into the book of original resolutions.

14. Based on all the information presented at the July 21, 2020 City Council meeting, both written and oral, including without limitation the staff reports, minutes and other relevant materials the City Council finds that the submission to the voters of the attached ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq. and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines") as the Ordinance is not a commitment to any particular action nor does it authorize any private activity and does not involve the commitment to any specific project that may result in a potentially significant physical impact on the environment. For any project undertaken pursuant to the Commercial Cannabis Business Ordinance of 2020 that would have either such effect the City will undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required at this time.

Business and Professions Code Section 26055(h), also provides an exemption until July 1, 2021, for the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity provided that the project-level discretionary review includes applicable environmental review pursuant to CEQA.

15. The City Council further finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) and 15378(a), that this Resolution is exempt from the requirements of CEQA in that it is not a project which has the potential for causing a significant effect on the environment. This Resolution is further exempt under the definition of “Project” in Section 15378(b)(2) in that it concerns general policy and procedure making.

16. The City Council directs that Notices of CEQA exemptions be filed.

17. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on this 21st day of July 2020, by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Shepherd-Sharp, Deputy City Clerk

EXHIBIT A
The 2020 Ordinance

ORDINANCE NO. 2018-09

Initiative Measure to be Submitted Directly to the Voters

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF MARINA
ALLOW CANNABIS BUSINESS ACTIVITY AND ESTABLISH TAXES AND FEES
FOR SUCH BUSINESSES WITHIN THE CITY OF MARINA, AMENDING TITLE AND
CHAPTER ESTABLISHING CANNABIS BUSINESS ACTIVITIES AS A USE
ALLOWED SUBJECT TO A USE PERMIT IN SPECIFIED ZONES AND
ESTABLISHING USES TO PROTECT PUBLIC HEALTH, SAFETY & WELFARE.**

THE PEOPLE OF THE CITY OF MARINA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Establish. Chapter 19 of the City of Marina’s Municipal Code is hereby established to read as follows:

19.01.010 Title.

This chapter shall be known as the city of Marina Commercial Cannabis Activities ordinance. The city of Marina hereinafter shall be called “city”. This chapter shall be applicable in the incorporated territory of the City. (Ord.2010-03 &1 (part), 2010)

19.01.020 Operative Date

“Operative date” means the first day of the first calendar quarter commencing more than one hundred days after the adoption of the ordinance codified in this chapter by a majority of the voters of the city voting thereon at the election to be held on November 6, 2018.

19.01.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. Regulate Commercial Cannabis Activity (as defined below) if a majority of the qualified electors voting on the measure voted to approve the imposition of the tax at an election called for that purpose.
- B. To promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the MAUCRSA. The goals of this regulation for Commercial Cannabis Activity include:
 - A. To minimize the size of the illegal market for Cannabis in the City and the surrounding regions.
 - B. To create jobs, tax revenue and economic growth for the City and its residents.
 - C. To enable law enforcement and regulators to have sufficient rights to inspect and audit Commercial Cannabis Activity and take expeditious action against Persons who violate the requirements of this Chapter.
 - D. To minimize social harms which may arise from Cannabis including youth consumption or intoxicated driving.

C. To regulate the operation and location of Commercial Cannabis Activity such that public nuisance is minimized.

19.01.040 Definitions

The following words or phrases, whenever used in this Chapter, shall be given the following definitions:

A. "Adult cannabis" or "Adult cannabis product" " means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by adults in California pursuant to the Adult Use of Marijuana Act of 2016 (Proposition 64), found at Section 11362.1 of the Health and Safety Code. For the purposes of this Title, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

B. "Adult Use Cannabis" means the non-medical use of cannabis by adults of age 21 and over as permitted by MAUCRSA and other applicable State and City laws.

C. "A-License" means a State License issued under Division 10, commencing with Section 26000 of the Business and Professions Code, for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.

D. "A-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for cannabis or cannabis products that are of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.[sic] (duplicate definition)

D. "A-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations or an interim license issued by the State for the same.

E. "A-Permit" means a City Permit issued under this chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

F. "A-Permittee" means any Person holding a City Permit issued under this chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.

G. "Bureau" means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

H. "Business and Professions Code" means the California Business and Professions code, as amended from time to time.

I. "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

J. "Medical cannabis" or "Medical cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical Cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362. 5 of the Health and Safety Code. For the purposes of this Title, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 1 1018.5 of the Health and Safety Code.

K. "Commercial medical cannabis activity" means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, on-site consumption or sale of medical cannabis or a medical cannabis product.

L. "Cannabis" shall have the same meaning as in Section 26000 of the Business and Professions Code.

M. "Cannabis Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or City Permittee where the Commercial Cannabis Activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one City Permittee.

N. "Cannabis Permit" means a permit issued by a city in the State (as defined below), including the City, and a license issued by the State, in each case, in accordance with, and to the extent required by, applicable State Law, in order to participate in a Commercial Cannabis Activity, such as Cultivation, Manufacturing, Distribution, Transportation, Testing, retail sale, or Delivery.

O. "Cannabis Permittee" means a Person who holds a Cannabis Permit.

P. "Cannabis Product" shall have the same meaning as in Section 11018.1 of the Health and Safety Code.

Q. "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency.

R. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.

S. "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

T. "City" shall have the meaning assigned to such term in the Preamble of this Ordinance.

U. "City Code" means the City of Marina Municipal Code.

V. "City Council" means the current members of the City Council of the City.

X. "City Manager" means the individual duly appointed by a majority of the City Council to serve in the capacity as executive officer of the City on a permanent or interim basis or such other official as designated by the City to fulfill such duties.

Y. "City Permit" means a permit issued by the City, in accordance with this Chapter and State Law, authorizing participation in a Commercial Cannabis Activity, such as Cultivation, Manufacturing, Distribution, Testing, retail sale, or Delivery.

Z. "City Permittee" means a Person that has been issued a City Permit.

AA. "Commercial Cannabis Activity" includes the Cultivation, possession, Manufacture, Distribution, processing, storing, testing, packaging, labeling, Transportation, Delivery or sale of Cannabis and Cannabis Products as provided for in this chapter and Division 10, commencing with Section 26000, of the Business and Professions Code.

BB. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical or Adult cannabis. Within the definition of cultivation, the following specific License Types, corresponding to state cultivator license types set forth in California Business and Professions Code section 19332(g).

BB1. "CUP" means a Conditional Use Permit issued by the City in accordance with City Code.

CC. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.

DD. "Cultivation Permit" means a City Permit for the Cultivation of Cannabis in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Cultivation Permittee. Such Permits shall be associated with State License types 1A, 1B, 1C, 2A, 2B, 3A, 3B, 4, 5A or 5B or such other Cultivation license types created by the State.

EE. "Cultivation Permittee" means an applicant who has applied for and has been issued a Cultivation Permit by the City pursuant to the terms and conditions of this Chapter.

FF. "Deliver" or "Delivery" means the commercial transfer of medical or Adult cannabis, or medical or Adult cannabis products from a Permittee, up to an amount allowed by the Bureau, to a primary caregiver, customer, qualified patient or adult as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory.

GG. "Dispensary" means a facility where medical Cannabis, medical cannabis products. Adult cannabis. Adult cannabis products or devices for the use of medical or Adult cannabis or medical or Adult cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical Cannabis and medical Cannabis products as part of a retail sale.

HH. "Distribution" means the procurement, sale, and transport of Cannabis and Cannabis Products between State Licensees, including any City Permittees who are State Licensees.

II. "Distribution Permit" means a City Permit for Distribution in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to such Distribution Permittee. Such Permits shall be associated with State License Type 11 or such other Distribution license types created by the State.

JJ. "Distribution Permittee" means a Person that has been issued a Distribution Permit by the City pursuant to the terms and conditions of this Chapter.

KK. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible Cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

LL. "Fully Enclosed and Secure Structure" means (i) [sic] a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is reasonably secure against unauthorized entry and provides complete visual screening or is behind fencing or other features providing complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors

MM. "Greenhouse" means a fully enclosed permanent structure with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting for cultivation.

NN. "Gross Receipts" means the total amount of the sales of a City Permittee, valued in money, whether paid in money or otherwise, without any deduction for the cost of materials used, any costs of transportation of the City Permittee, or any other expenses.

OO. "Health and Safety Code" means the California Health and Safety Code, as amended from time to time.

PP. "Identification card" has the same definition as in Section 11362.7 of the California Health and Safety Code, as it may be amended.

QQ. "Indoor Cultivation" means a Cultivation using exclusively artificial lighting.

RR. "Licensee" means a person issued a state license under Chapter 3.5 (commencing with Section 19300) of the California Business and Professions Code, to engage m [sic] a commercial medical or Adult cannabis activity. (in)

SS. "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of a license for commercial medical or Adult cannabis activities, or the state agency authorized to take disciplinary action against the license.

TT. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical or Adult cannabis.

UU. "One ownership" and "owner" have the same definition as set forth in Chapter 21.06 [sic] of this Title. (Section 17.04.510)

WW. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a Cannabis Product from such blends, extractions or infusions.

XX. "Manufactured cannabis" or "cannabis product" means raw Cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

YY. "Manufacturing Permit" means a City Permit to Manufacture in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the applicable Manufacturing Permittee. Such Permits shall be associated with State License types 6 or 7 or such other Manufacturing license types created by the State.

ZZ. "Manufacturing Permittee" means a Person that has been issued a Manufacturing Permit by the City.

AAA. "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical or Adult cannabis or medical or Adult cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

BBB. "Medicinal Cannabis" or "Medicinal Cannabis Product" means Cannabis or a Cannabis Product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a Medicinal Cannabis patient in California who possesses a physician's recommendation.

CCC. "M-License" means a State License issued for Commercial Cannabis Activity involving Medicinal Cannabis.

DDD. "M-Licensee" means any Person holding a State License under Division 10, commencing with Section 26000, of the Business and Professions Code for Commercial Cannabis Activity involving Medicinal Cannabis or an interim license issued by the State for the same.

EEE. "M-Permit" means a City Permit issued under this chapter for Commercial Cannabis Activity involving Medicinal Cannabis.

FFF. "M-Permittee" means any Person holding a City Permit issued under this chapter for Commercial Cannabis Activity involving Medicinal Cannabis.

GGG. "Mixed Light Cultivation" means a Cultivation facility using a combination of natural and supplemental artificial lighting.

HHH. “Modular Building” means a structure that is transportable in one or more sections and is designed or equipped for the Manufacturing of Cannabis Products, including the compliance with all safety requirements set forth by the City.

III. “Ordinance” shall have the meaning assigned to such term in the Preamble of this Ordinance.

JJJ. “Outdoor Cultivation” means any Cultivation conducted without the use of artificial lighting.

KKK. “Permit Zone” means, with respect to a Person holding a City Permit, the zones or portions of the City where such City Permit type is permitted to operate. Such Permit Zones may be amended from time-to-time by a majority vote of the City Council. To the extent not otherwise specified in this definition, a City Permittee shall be able to operate in any portion of the City which complies with the zoning, radius and other requirements of Section 17.06.

The initial Permit Zones shall be as follows:

- (1) With respect to Retail Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).
- (2) With respect to Cultivation Permits for Indoor Cultivation, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P) and Transitional Zoning District (T-B-5).
- (3) With respect to Cultivation Permits for Outdoor Cultivation, no zones will permit outdoor cultivation.
- (4) With respect to Cultivation Permits for Mixed Light Cultivation, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P) and Transitional Zoning District (T-B-5).
- (5) With respect to Distribution Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5) or, if such Distribution Permit is held by a Permittee who also holds another City Permit type, the location where the operations of such City Permit type are conducted (e.g. the site of a Cultivation Permit).
- (6) With respect to Manufacturing Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).
- (7) With respect to Testing Permits, Airport District (AP-2/3), Business Park (BP), Business Park Small Lot Combining District (BP/P), Retail Business District (C-1), General Commercial District (C-2), Planned Commercial District (PC) and Transitional Zoning District (T-B-5).

LLL. "Permittee" means a person issued a commercial cannabis permit under Chapter 7.90 [sic] (5.76).

MMM. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

NNN. “Physician Services” means the consultation by a State-licensed physician of a patient with the possible recommendation by such physician of Medicinal Cannabis for such patient.

OOO. "Primary caregiver" has the same definition as in Section 11362. 7 of the California Health and Safety Code, as it may be amended.

PPP. "Public park" means an area created, established, designated, or maintained by the special district, a County, the State, or the Federal government for public play, recreation, or enjoyment or for the protection of natural resources and features at the site.

QQQ. "Qualified patient" has the same definition as in Section 11362. 7 of the California Health and Safety Code, as it may be amended.

RRR. "Retail Establishment" means a premises where Cannabis or Cannabis Products are offered, either individually or in any combination, for retail sale or Delivery to customers, patients or primary caregivers pursuant to State Law.

SSS. "Retail Permit" means a City Permit to sell and Deliver Cannabis and Cannabis Products to customers, patients and primary caregivers in accordance with the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Retail Permittee. Such Permits shall be associated with State License type 10 or such other Retail license types created by the State.

TTT. "Retail Permittee" means a Person that has been issued a Retail Permit by the City pursuant to the terms and conditions of this Chapter.

UUU. "State" means the State of California.

VVV. "State license", "license, " or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, et seq.

WWW. "State Law" means all laws of the State, including all rules and regulations adopted by State agencies and State regulatory entities.

XXX. "State License" means a State License issued under Division 10, commencing with Section 26000, of the Business and Professions Code, and includes both an A-License and M-Licenses as well as a testing License.

YYY. "State License Deadline" means [the later of (i) the first anniversary of the date on which the Bureau of Cannabis Control posts a notice on its website or otherwise publicly announces that state licensing authorities have commenced issuing State Licenses, or (ii) the applicable date upon which a Person with a City License must obtain a State License to comply with State Law.

ZZZ. "State Licensee" means a Person that has been issued a State License.

AAAA. "Testing" means the testing of the quality, makeup or purity of Cannabis and Cannabis Products as required by applicable State Law.

BBBB. "Testing Permit" means a City Permit for Testing pursuant to the terms and conditions of this Chapter and the conditions of approval for the applicable City Permit issued to the particular Testing Permittee. Such Permits shall be associated with State License 8 or such other Testing license types created by the State

CCCC. "Testing Permittee" means a Person who has been issued a Testing Permit by the City pursuant to the terms and conditions of this Chapter.

DDDD. "Testing laboratory" means a facility, entity, or site in the state that offers or performs test of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and
2. Registered with the California State Department of Public Health.

EEEE. "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial medical Cannabis activity authorized pursuant to the California Business & Professions Code Sections 19300, et seq.

19-02 Cannabis Dispensaries and Operating Standard

19.02.010 Cannabis Dispensaries

Pursuant to Chapter and Section 5.08 [\[sic\]](#), it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to allow to be conducted, operated, or maintained, any dispensary, delivery or delivery only dispensary in or into the City unless there exists a valid business permit in compliance with the provisions of Chapter 15.08 [\[sic\]](#) and a permit issued under this Chapter. [\(Section 5.76.010\)](#) However, entities authorized under Marina Municipal Section 19.02.010 must abide by the same requirements imposed herein on dispensaries.

This Chapter, and the requirement to obtain a business and/or use permit, does not apply to the individual possession or cultivation of medical or Adult Cannabis for personal use, nor does this Chapter apply to the usage, distribution, cultivation or processing of medical or Adult cannabis by qualified patients or primary caregivers or qualified adults when such group is of three or less individuals, and distributing, cultivating or processing the cannabis from a residential unit or a single non-residential parcel of land. Associations of three or less qualified patients or primary caregivers shall not be required to obtain a permit under Chapter 17.48, but must comply with applicable State law.

The City Manager shall issue no more than three (3) valid permits for the operation of Medical Cannabis dispensaries in the City of Marina at any one time.

The City Manager shall issue no more than three (3) valid permits for the operation of Adult Cannabis dispensaries in the City of Marina at any one time.

No new Cannabis Premise shall be located within 600 feet of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Cannabis Premise is, or will be, located to the nearest property line of those uses describe in this Subsection.

Dispensaries shall not be located within one thousand hundred (1,000) feet of another dispensary, unless the adjacent dispensary is a medical dispensary locating next to an adult dispensary or the opposite.

19.02.020 ELIGIBILITY REQUIREMENT

A. No person may be allowed to have any position with a Dispensary other than that of Member if she or he has been convicted of:

1. Homicide;
2. Within the preceding 10 years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667^{^(c)};

3. Within the preceding 10 years, any violation of Penal Code Sections 243 through 247, except for subdivision (a) of Section 243;
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4. Within the preceding 10 years, any offense under subdivisions (d) or (e) of Section 11357 or Section 11361, or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code; or

5. Within the preceding 3 years any felony violation of Health and Safety Code Section 11358. Section 11359 or Section 11360.

B. Such other information deemed necessary to conduct any investigation or LiveScan Background check of the applicant, and for the City Manager to determine compliance with this Chapter, the City's Municipal Code and Zoning Code.

C. All applicants shall pay an application fee, a permit fee, and all inspection fees that may be required as part of the application process, as specified in the City's Master Fee Schedule.

D. At the time of submission of dispensary permit application, the applicant shall pay a dispensary permit application fee not to exceed \$8,000. The fee amount shall be set by City Council resolution per the City's Master Fee Schedule.

E. Notarized, written authorization from the property owners) that a Commercial Cannabis Business may be operated at the site.

F. The name and address of Managers or responsible agents of the Commercial Cannabis Business, which shall be updated not less frequently than annually.

19.02.030 OPERATION PLAN

All applicants must provide a plan of operations that will describe how the dispensary will operate consistent with State Law and the provisions of this Chapter including but not limited controls to ensure medical or Adult cannabis will be dispensed only to qualified adults, qualified patients and primary caregivers. Dispensaries shall comply with Health and Safety Code Sections 11362. 7 et seq. and any other state laws that may be adopted concerning Medical or Adult Cannabis, California's Medical Marijuana Regulation and Safety Act, the Adult Use of Marijuana Act, the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, and any other applicable City laws or regulations, and shall pay all applicable state or local taxes. Dispensaries shall also comply with the operating standards set forth in this Section.

19.02.030 [sic] MEMBERSHIP. (19.02.035)

A. Medical Dispensaries may consist only of Members.

B. Medical Dispensaries may only obtain Medical Cannabis from, and supply Medical Cannabis to, their Members.

C. Dispensaries may not admit any person as a Member without first verifying her or his status as a qualified patient or primary caregiver as defined by state law, and shall immediately cancel the membership of any person who diverts Medical Cannabis for non-medical use or in any minor not permitted by this Chapter or State law.

D. Physicians' recommendations shall be verified prior to granting membership and at least every twelve (12) months thereafter, and a physical or digital record shall be kept of such verification. No Medical Cannabis may be dispensed except to a Member and pursuant to a recommendation

that is no more than twelve (12) months old, unless the recommendation expressly states that it has a longer term or does not expire.

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E. Adult Dispensaries must comply with all aspects of the Adult Use of Marijuana Act and must receive a license from the State prior to start of operations, and shall maintain license throughout operations.

F. Non-Diversion. Medical dispensaries shall take all practicable steps necessary to prevent and deter diversion of Medical Cannabis to non-Members. Dispensaries must limit access to Medical Cannabis, Medical Cannabis Products and Edibles to authorized personnel only, and must maintain an inventory management system that accounts for all Medical Cannabis, Medical Cannabis Products and Edibles.

19.02.040 DISPENSING.

A. Medical Dispensary may not dispense to any person who is not a Member and may not dispense without first verifying membership.

B. Medical Dispensary may not provide more Medical Cannabis to an Individual than is necessary for that person's personal medical use.

C. Dispensary may not distribute free samples for promotional purposes outside of the Dispensary premises.

D. No dispensary shall dispense Medical Marijuana from more than one (1) location in the City of Marina.

E. No owner of dispensary in the City shall open a second dispensary in the City; except that medical dispensaries and co-located or adjacent Adult dispensaries may have the same ownership.

19.02.050 MEMBERS AND EMPLOYEES.

A. All employees and volunteers must be Members who are at least 21 years of age.

B. Medical Dispensaries may not admit any person under 18 years of age to membership without written authorization of a parent or legal guardian. Any Member under 18 years of age shall be accompanied by a parent or legal guardian at all times that such person is at the Dispensary.

19.02.060 ADULT DISPENSARIES

All Adult Dispensaries must comply with all state law and shall comply with the following conditions:

A. Dispensary may not dispense to any person who is not 21 years of age or older.

B. Dispensary may not distribute free samples for promotional purposes outside of the Dispensary premises.

C. No dispensary shall dispense Adult Marijuana from more than one (1) location in the City of Marina, however, subject to State requirements, may have a co-located or adjacent Medical and Adult location.

D. No owner of dispensary in the City shall open a second dispensary in the City; except that medical dispensaries and co-located or adjacent Adult dispensaries may have the same ownership.

E. All adult dispensaries must hold a valid and current Use Permit from the City of Marina pursuant section 19.08.010 (d) of this chapter.

19.02.070 SECURITY.

A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into areas containing medical or Adult Cannabis or medical or Adult cannabis products and theft of medical or Adult cannabis or medical or Adult cannabis products at the dispensary, in accordance with minimum security measures required by State law and the requirements herein. The security plan shall be reviewed and approved by the Police Department and the Office of the City Manager and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

A. Dispensaries shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times. Lighting shall be of sufficient intensity to illuminate all areas of the parking lot, if any. Lighting shall comply with Marina Municipal Code 15.34.080.

B. Dispensaries must maintain security guards and camera coverage of their entire grounds to an extent sufficient to ensure the safety of persons and deter crime. Cameras must be maintained in good condition, and use a format approved by the City Manager or his/her designee, which is of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime. The cameras shall be in use 24 hours per day, seven (7) days per week. The areas to be covered by the security cameras include, but are not limited to, dispensing areas, storage areas, cultivation areas, all doors, parking lots, anyplace where new product is delivered and any other area determined by the City Manager or her/his designee. Surveillance footage must be retained for a period of 90 days and made available to the Marina Police Department for purposes of investigation of alleged crimes, promptly upon request without the necessity of a warrant or subpoena.

C. Dispensaries must be equipped with an alarm system that is operated and monitored by a security company licensed by and in good standing with the California Department of Consumer Affairs. Alarms shall be maintained and in good working condition at all times.

D. In order to prevent unauthorized entry during non-business hours, a Dispensary shall either secure all points of entry with bars, retractable, folding or sliding metal gates, or metal rollup or accordion doors, none of which may be visible from the exterior, or provide at least one security guard during those hours.

E. Any security guards employed by Dispensaries shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security personnel may not be armed.

F. All Medical or Adult Cannabis, Medical or Adult Cannabis Products and Edibles, except for limited amounts used for display purposes, samples or immediate sale, shall be securely stored at all times, and the entrance to all storage areas shall be locked and under the control of staff.

G. Dispensaries shall make transactions with payment methods other than cash when feasible. All cash received, except that needed for retail customer transactions shall be kept in a secure receptacle such as a drop safe or other type of safe.

H. Dispensaries shall notify the Marina Police Department and the licensing authority within 24 hours after discovering any of the following:

1. Significant discrepancies identified during inventory;
2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
3. The loss or unauthorized alteration of records related to medical or Adult Cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents; or
4. Any other breach of security.

19.02.080 SIGNAGE

A. Sign shall be posted at the entrance to any Dispensary that includes the following language. The required text shall be of sufficient size to be easily read from a distance of five feet.

FOR MEDICAL: This Dispensary only provides medical cannabis to Us [sic] members, who must have legally recognized California Medical Cannabis Identification Cards or a verifiable, -written recommendation from a physician for medical cannabis. (its)

FOR ADULT:

This Dispensary only provides cannabis to adults who qualify under the Adult Use of Marijuana Act and applicable state law. No person under the age of 21 may enter this facility. Providing cannabis products to those under 21 is illegal and shall be prosecuted to the fullest extent of the law.

B. A sign shall be posted in a conspicuous location inside the structure at the location advising:

FOR MEDICAL: This Dispensary is registered in accordance with the laws of the City of Marina. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

FOR ADULT: This Dispensary is registered in accordance with the laws of the City of Marina. The sale of marijuana and the diversion of marijuana to persons under the age of 21 are violations of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

C. No Cannabis products or graphics describing Cannabis shall be visible from the exterior of the property.

D. Signage for a dispensary shall comply with Marina Municipal Code 17.40 [sic]. (Section 17.59)

19.02.090 DELIVERY

If the dispensary operations are proposed to include delivery, all employees of a dispensary delivering medical or Adult Cannabis or medical or Adult cannabis products shall carry a copy of the documentation listed below when making deliveries. This information shall be provided upon request to law enforcement officers and to employees of state and local agencies enforcing this Chapter.

A. A copy of the dispensary's current permits, licenses, and entitlements authorizing them to provide delivery services;

B. The employee's government-issued identification;

[sic] (C.) A copy of the delivery request; and

C [sic]. (D.) Chain of custody records for all goods being delivered.

D [sic]. (E.) All onsite consumption permits shall be special business permits and shall be issued for a term of one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager subject to Section 19.09.

19.02.100 NEIGHBORHOOD COMPATIBILITY.

A. Dispensaries shall be operated to ensure neighborhood compatibility, and shall take all steps necessary to ensure that customers do not create neighborhood disturbances.

B. Dispensaries shall provide the Police Department and all residents and property owners within 100 feet with the current name, phone number, secondary phone number, and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the establishment may be reported. This information shall be updated as necessary to keep it current. Dispensaries shall encourage neighbors to call this person to try to solve any operating problems.

C. All Dispensaries shall have an on-site manager responsible for overall operation at all times they are open, and shall provide the Police Department with contact information for all such persons, including telephone number, street address and e-mail address. Dispensaries shall also provide the Police Department with the current name and phone numbers of at least one 24-hour on-call manager. This information shall be updated as necessary to keep it current.

D. Dispensaries shall take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; drinking; loitering; littering; and graffiti.

E. Dispensary will be of an architectural and visual quality and character which harmonizes with, and enhances, the surrounding area and that the design will avoid unduly large or obtrusive signs, un-landscaped parking areas, unduly bright or garish lighting, or design features which encourage loitering as determined by the Zoning Administrator.

F. That adequate litter receptacles will be provided where appropriate:

G. Where the dispensary or delivery only dispensary is in proximity to residential uses, it will be limited in hours of operation, and designed and operated, so as to avoid disruption of residents' sleep.

H. No cannabis or cannabis odors shall be detectable by sight or smell outside of a permitted facility.

I. Dispensaries shall ensure all graffiti is removed from property and parking lots under their control within 24 hours of its appearance.

J. Dispensaries shall operate only between the hours of 9:00 a.m. and 11:59 p.m.

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19.02.110 CONSUMPTION OF MEDICAL CANNABIS, TOBACCO AND ALCOHOL.

- A. Smoking of Medical Cannabis is prohibited at Dispensaries.
- B. Sale or consumption of tobacco is prohibited at Dispensaries.
- C. Sale, service and consumption of alcoholic beverages at Dispensaries is prohibited, and Dispensaries shall prohibit any person in possession of an alcoholic beverage from entering or remaining on the premises.
- D. This subdivision does not prohibit the testing of Medical or Adult Cannabis Products by staff of a Dispensary or the use of tinctures or topical Medical Cannabis Products that do not have intoxicating effects.

19.02.120 REGULATORY FEES; SELLER'S PERMIT

In addition to any other required conditions and mitigation measures approved by the Appropriate Authority, all of the following conditions shall apply to all permits for a medical or Adult cannabis dispensary:

- A. The Cannabis dispensary shall allow access to dispensary facilities and records if requested by the City, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the City or its officers to verify compliance with all relevant rules, regulations, and conditions.
- B. The applicant, owner, and all permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City or their designee.
- C. Any person operating a medical or Adult Cannabis dispensary shall obtain a valid and fully executed commercial medical or Adult cannabis permit pursuant to 19.02 of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations.
- D. Upon implementation of state regulations pursuant to California Business and Professions Code Section 19320, a valid license from the State shall be required to operate any commercial medical cannabis activity.
- E. The owner shall post or cause to be posted on site the Use Permit and all required City, County and state permits and licenses required to operate. Such posting shall be in a central location, visible to the patrons, at the operating site, and in all vehicles that deliver or transport marijuana.
- F. The owner shall be responsible for ensuring that all commercial medical cannabis activities at the site operate in good standing with all permits and licenses required by the Marina Municipal Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical Cannabis activities at the site who do not maintain permits or licenses in good standing with the City or State shall be grounds for the suspension or

revocation of a Use Permit pursuant to Section 17.80 [sic] of the Marina Municipal Code.
(Section 17.48.060)

G. Dispensaries shall comply with all physical accessibility requirements pursuant to American Disability Act.

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19.03 COMMERCIAL CANNABIS CULTIVATION AND OPERATING STANDARD

It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge of possession of any legal parcel or premises within any zoning district m [sic] the City of Marina to cultivate marijuana except as provided for in this chapter. (in)

No cultivation of Medical or Adult Marijuana at the premises or location shall be visible with the naked eye from any public or other private property, nor shall medical marijuana or any product containing medical marijuana be visible from the exterior of any premises.

No Medical or Adult Marijuana shall be dispensed from a cultivation site and shall not be open to the public.

In no case shall a building intended for residential use be used for the cultivation of cannabis.

The maximum size of any areas of cultivation shall not exceed any restrictions outlined in State law.

Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical or Adult cannabis or medical or Adult Cannabis products shall be provided and maintained. If on-site security is utilized, Security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

Water conservation measures, water capture systems, or grey water systems shall be incorporated in medical Cannabis cultivation operations in order to minimize use of water where feasible.

A. An Administrative Use Permit [sic] for medical Cannabis cultivation shall not be granted by the Appropriate Authority unless all of the following findings are made based on substantial evidence: (Use Permit)

1. The cultivation, as proposed, will comply with all of the requirements of the State and City, and any additional conditions of license for the cultivation of medical or Adult cannabis.
2. The cultivation, as approved and conditioned, will not result in significant unavoidable impacts on the environment.
3. The cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site.
4. The cultivation includes adequate measures to address the projected energy demand for Cannabis cultivation at the site.
5. The cultivation includes adequate quality control measures to ensure Cannabis cultivated at the site meets industry standards.

6. The cultivation includes adequate measures that address the federal enforcement priorities for Cannabis activities including restricting access to minors, and ensuring that cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the State and not distributed out of state.

7. The applicant, property owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City of Marina or their designee.

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8. Any person cultivating cannabis shall obtain a valid and fully executed commercial Cannabis Permit pursuant to Chapter 5.04 [sic] of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations. (Section 5.76)

9. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial Cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 19.09 [sic] of the City Code. (17.48.060)

19.04 COMMERCIAL CANNABIS TESTING, and MANUFACTURING, OPERATING STANDARD

It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge of possession of any legal parcel or premises within any zoning district in the City of Marina to test, manufacture Cannabis products, or to engage in research and development of cannabis except as provided for in this chapter.

No cannabis or Cannabis products at the premises or location shall be visible with the naked eye from any public or other private property, nor shall medical marijuana or any product containing medical marijuana be visible from the exterior of any premises.

No Medical or Adult Marijuana shall be dispensed from a testing, or manufacturing site and shall not be open to the public.

Security measures sufficient to restrict access to only those intended and to deter trespass and theft of medical or Adult Cannabis or medical or Adult Cannabis products shall be provided and maintained. If on-site security is utilized, Security shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times.

Hazardous materials shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.

[sic] (A.) A Use Permit for testing, and manufacturing of Cannabis and cannabis products shall not be granted by the Appropriate Authority or City unless all of the following findings are made based on substantial evidence:

1. The activity, as proposed, will comply with all of the requirements of the State and City, and any additional conditions of license for the testing, manufacturing, or research and development of Cannabis or cannabis products.

2. The use, as approved and conditioned, will not result in significant unavoidable impacts on the environment.

3. The use includes adequate measures that minimize use of water at the site.
4. The cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets industry standards.

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5. The use shall include adequate measures that address the federal enforcement priorities for cannabis activities including restricting access to minors, and ensuring that Cannabis and cannabis products are not supplied to unlicensed and unpermitted persons within the State and not distributed out of state.

6. The applicant, owner, and permittees agree to submit to, and pay for, inspections of the operations and relevant records or documents necessary to determine compliance with this Chapter from any enforcement officer of the City of Marina or their designee.

7. Any person testing, manufacturing or performing research and development operations using cannabis shall obtain a valid and fully executed commercial cannabis business license pursuant to Chapter 5.04 [\[sic\]](#) of the Marina Municipal Code prior to commencing operations and must maintain such permit in good standing in order to continue operations. [\(5.76\)](#)

8. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with all permits and licenses required by State law.

Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to Section 19.09 [\[sic\]](#) of the City Code. [\(17.48.060\)](#)

19.05 CANNABIS DISTRIBUTION

Cannabis distribution facilities shall comply with all of the following requirements.

- A. Cannabis distribution facilities shall be located only in zoning districts that specifically provide for this use.
- B. Cannabis and cannabis products shall only be transported between permitted and licensed commercial cannabis operations.
- C. Prior to transporting cannabis or cannabis products, the transporter shall complete an electronic shipping manifest. The shipping manifest shall include the unique identifier information from the cultivation source.

D. A physical copy of the shipping manifest shall be maintained during transportation and shall be made available upon request to law enforcement or any agents of the State or County charged with enforcement of this Chapter.

E. All cannabis uses that require transport licenses under SB94 but that are not Transport and Distribution Only Businesses shall receive a license for transport.

F. Distribution facilities shall maintain appropriate records of transactions and shipping manifests. An organized and clean method of storing and transporting cannabis and cannabis products shall be provided to maintain a clear chain of custody.

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G. Security measures sufficient to restrict access to only those intended and to deter trespass and theft of cannabis or Cannabis products shall be provided and maintained. Security measures at distribution facilities shall include, but are not limited to, the following:

1. Prevent individuals from loitering on the premises of the distribution facility if they are not engaging in activity expressly related to the operations of the distribution facility;

2. Store all cannabis and Cannabis products in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss;

3. Install security cameras on site; and

4. Provide for on-site security personnel meeting the requirements and standards contained

within Chapter 19.02.070 of the Marina Municipal Code and approval by the Chief of Police.

H. The owner shall be responsible for ensuring that all commercial cannabis activities at the site operate in good standing with permits and licenses required by the Marina Municipal Code and State law. Failure to take appropriate action to evict or otherwise remove permittees and persons conducting commercial medical cannabis activities at the site who do not maintain permits or licenses in good standing with the City, County or State shall be grounds for the modification or revocation of a Use Permit pursuant to Section 19.09 [sic] of The City of Marina Code.

(17.48.060)

I. The transportation and distribution facilities and activities shall be maintained in accordance with the operating plans approved by the City.

19.06 PUBLIC HEARING

Applications for dispensaries shall be subject to a hearing and must provide Public notice of the hearing in accordance with on [sic] the application shall be given as provided in Section 17.

78.020 [sic]. (17.48.030) The City Manager or designee [sic] shall be the investigating official [sic] referred to in Section 17.78.020 to whom the application shall be referred. (Planning Commission) (authority) In recommending the granting or denying of such permit and in granting or denying the same, the City Manager shall give particular consideration to the

capacity, capitalization, and complaint history of the applicant and any other factors that m [sic] the City Manager's discretion he/she deems necessary to the peace, order and welfare of the public. (in)

19.07 RANKING AND ALLOCATION PROCEDURE AND CRITERIA In the event that multiple applications are submitted for any Cannabis use that is restricted in number, the City Manager or designee shall use the following criteria for recommending to the City Council what applicant shall receive approval to operate.

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[sic] (A.) Businesses seeking a license to operate a dispensary or cultivation operation must submit the following for evaluation:

1. Business Plan: Applicants shall submit a Business Plan to the City that outlines an operational and financial plan. The Business Plan should include the names and resumes of key staff, operations plan, financial plan, sales projections and market study. Applicants are encouraged to provide a specific, written plan for how their operation will benefit the community.

2. Security Plan: All applicants shall submit a Security Plan outlining how the business expects to address security issues at their location.

3. Property Owner Approval: Applicants shall submit proof of approval of the owner of the real property where the proposed dispensary will be located if approved. Applicants are not required to have a signed lease, but a letter from the property owner indicating that:

a. The property owner is aware of and approves the use being proposed.

b. The property owner will lease the property to the cannabis related use upon approval of application.

c. The property owner understands that licenses for cannabis related uses are for one year and can be revoked at the City's sole discretion with or without reason.

4. Live Scan: All principle employees of any cannabis related use must obtain a Live Scan and submit the results with their application.

19.08.010 SELECTION CRITERIA:

A. General Eligibility Review: In the event that an applicant is unable to meet the minimum eligibility criteria, their application shall be denied. Applicants will be evaluated on the following:

1. Live Scan Results: Applicant must not have any criminal convictions that would result in ineligibility as defined in section 19.02.020.

2. Application must be complete to be evaluated. Incomplete applications will be denied and must be resubmitted. Application fees must be paid for resubmittal.

3. Proposed location of business and proof of property owner's approval of use.

4. Indemnification agreement with the City.

B. Initial Ranking - The City shall open an application period of not less than 30 days to allow prospective Permittees to submit applications.

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1. Applicants will be evaluated on the following criteria:

a. Business Plan

i. A business plan that demonstrates prior successful business operations (which need not be Cannabis business related) at a similar scale of annual revenue for at least two years and / or capitalization sufficient to insure at least one year of operation will receive five points. A business plan without such demonstration will receive 0 points.

b. Local Enterprise & Community Benefits

i. Community benefits may include commitment to employ persons who are City of Marina residents. Other community benefits could include a commitment to working with Marina-located businesses (including capital), a commitment to sponsoring nonprofits and / or other similar specific commitments within the Marina community. A maximum of eight points will be awarded, with one point for every City of Marina resident that a business commits to employ, and one point for every specified annual substantial commitment to of the applicant's choice to any non-profit or business within the community.

c. Neighborhood Compatibility

i. Applicants which demonstrate neighborhood support with a majority of property owners within 250 feet will receive five points. Applicants who do not demonstrate neighborhood support with a majority of property owners within 250 feet will receive zero points.

d. Safety and Security Plan

i. The Marina Police Department will review the Safety and Security Plan and classify the Plan as inadequate, adequate or exemplary. Plans classified as inadequate will not be permitted to proceed. Plans classified as adequate will receive ten points. Plans classified as exemplary will receive twenty points.

e. From the initial ranking, up to twice as many qualified applicants as there are available licenses will be eligible for final ranking, as determined by the aggregate scores of the initial ranking.

C. Final Ranking

1. The top applicants equal to the number of licenses available will be eligible to apply for a Conditional Use Permit and license to engage in a commercial cannabis business. Qualified applicants from the initial ranking may amend and combine their applications

to optimize their scores. If following the opportunity to optimize scores, two or more applicants are tied, both applicants will proceed to the next step.

D. Use Permit:

1. Applicants shall complete phases 1-3 prior to applying for a Conditional Use Permit and license.
2. At the next available Planning Commission meeting, allowing time for Staff review, a public hearing for each top application shall be held.
3. Members of the public, adjacent property owners and other interested parties will be given the opportunity to present concerns or support, and provide additional consideration for potential permit conditions.

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4. Planning Commission will make a recommendation to City Council, including any conditions requested for final decision on awarding Use Permits and License.

5. At the next available City Council meeting, Planning Commission and Staff recommendations will be presented to City Council for final decision.

6. If an available license is not filled for any reason and a business that qualified under phases 1- -3 but was not selected to move forward in the process requests consideration for phase 4, consideration shall be granted in order of ranking.

E. Use Permits for Cannabis Uses are for one year and do not run with land. No vesting of any land use rights are conveyed with any use permit for a Cannabis related use. Holders of use permits shall have the opportunity administratively renew as long as the business has complied with all state and local ordinances and with Conditions of Approval, including the timely payment of all fees and taxes.

F. Cannabis Licenses are for one year and may be revoked at any time for failure to comply with all state and local ordinances, or for failure to comply with Conditions of Approval. Licenses shall have the opportunity to automatically renew as long as the business has complied with all state and local ordinances and with Conditions of Approval, including the timely payment of all fees and taxes.

19.09 ENFORCEMENT

Violations of this Chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of Chapter 17.80 [sic] of the Municipal Code any other law or ordinances it deems appropriate. (17.60)

A. It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Chapter. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter shall be guilty of a misdemeanor. No proof of knowledge, intent, or other mental state is required to establish a violation.

B. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of City, create a cause of action for penalty pursuant to Chapters 17.80 [sic] of this Code, and any other action authorized by law. (17.60)

C. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Marina or otherwise authorized by law. Additionally, as a public nuisance, any violation of this Chapter shall be subject to injunctive relief, disgorgement of any payment to the City of Marina of any and all monies unlawfully obtained, costs of abatement, costs of restoration, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Marina may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medical or Adult cannabis activity or persons related thereto, or associated with, the commercial medical or Adult cannabis activity.

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19.10 APPEALS PROCESS

A. If the City Manager or his / her designee determines that grounds for suspension or revocation of the Use Permit exist pursuant to section 19.09, the City Manager or his / her designee shall issue a written Notice of Intention to revoke or suspend the Use Permit, as the case may be. The Notice of Intention shall be served on the property owner, as reported on the latest equalized assessment roll, and shall also be served on permittees on the property, as reported on the commercial medical cannabis permits issued pursuant to Chapter 19.02. The Notice of Intention shall be served by either personal delivery or by certified U.S. Mail, postage prepaid, return receipt requested. The Notice of Intention shall describe the property, the intention to revoke or suspend the Use Permit, the grounds for revocation or suspension, the action necessary to abate the violation, the time limit for compliance, and the right to a hearing. The Notice of Intention shall notify the owner and permittees of the opportunity to request a hearing before a Hearing Officer [sic] to present evidence as to why the Use Permit should not be suspended or revoked and shall notify them of the 10-day deadline to submit a written request for a hearing. (City Council)

B. The owner and permittees shall have ten (10) calendar days from the service of the Notice of Intention to submit a written request for a hearing before the Hearing Officer [sic]. (City Council) Failure to submit the written request for a hearing shall be deemed a waiver of the right to challenge the suspension or revocation of the Use Permit and a failure to exhaust administrative remedies. If the hearing is not timely requested, the City Manager or his / her designee may suspend or revoke the Use Permit in accordance with the Notice of Intention.

C. Upon receipt of a timely written request for a hearing, the City Manager or his / her designee shall appoint a hearing officer [sic] and set a date for a hearing to be held within 60 days of receipt of the request, unless an immediate threat to the public health, safety and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served on the owner and permittees, such service to be accomplished by either personal delivery or by certified U. S. Mail, postage prepaid, return receipt requested.

D. Hearing by the Hearing Officer [sic]: (City Council

1. The Hearing Officer is authorized to conduct hearings, issue subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility of evidence, prepare a record of the proceedings, and render decisions on the suspension or revocation of the Use Permit.

2. In any proceeding before a Hearing Officer, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Hearing Officer, his/her clerk, or other designee shall have the power to administer oaths and affirmations and to certify to official acts.

3. All parties to the hearing shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues.

4. Within thirty (30) calendar days after the close of the hearing, the Hearing Officer shall issue a written decision, including a statement of the basis for the decision. The Hearing Officer's written decision shall constitute the final administrative decision of the City of Marina.
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5. In the event a civil action is initiated to obtain enforcement of the decision of the Hearing Officer, and judgment is entered to enforce the decision, the person against whom the order of enforcement has been entered shall be liable to pay the City's total costs of enforcement, including reasonable attorney fees.

6. If neither owner nor any permittee nor their authorized representatives appear at the noticed hearing, such failure to appear shall constitute an abandonment of the hearing request and a failure to exhaust administrative remedies.

19.11 SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Section 2. Zoning. The following changes shall be made to Chapter 17 of the Marina Municipal Code including sections 17.22.030 [sic], 17.24.030, 17.28.020, 17.29.030, 17.31, 17.42.030, 17.06.020, 17.20.30 and 17.06.010.O, 17.06.010.P, and 17.06.010.Q.

1. The following sections of Chapter 17. shall have Cannabis Retailer added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.22 Retail Business District (C-1)
- e. 17.24 General Commercial District (C-2)
- f. 17.31 [sic] Planned Commercial District (PC) (17.26)
- g. 17.42 Transitional Zoning District (T-B-5)

2. The following sections of Chapter 17 shall have Cannabis Cultivation added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.42 Transitional Zoning District (T-B-5)

3. The following sections of Chapter 17 shall have shall have cannabis manufacturing, cannabis distribution and cannabis testing labs added as land uses with a requirement of a Conditional Use Permit:

- a. 17.28 Airport District (AP-2/3)
- b. 17.29 Business Park (BP)
- c. 17.31 Business Park Small Lot Combining District (BP/P)
- d. 17.22 Retail Business District (C-1)
- e. 17.24 General Commercial District (C-2)
- f. 17.31 [sic] Planned Commercial District (PC) (17.26)
- g. 17.42 Transitional Zoning District (T-B-5)

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4. Sections 17.06..010.O and 17.06.010.P[sic] - These sections of Marina Municipal Code Chapter 17 the code shall be deleted. (17.06.020.O and 1706.020.P)

5. Section 17.06.010.Q [sic] of will be deleted except for the following: (17.06.020 O)

“A qualified patient, with an identification card, as defined in California Health and Safety Code Section 11362.7, may cultivate cannabis for noncommercial, personal purposes as set forth in Health and Safety Code Section 11362.77 per each qualified patient with an identification card, upon property she or he rents or owns and inhabits, either inside the dwelling or on land included in such rented or owned property or as permitted by the Adult Use of Marijuana Act, which provides that not more than six living marijuana plants may be planted, cultivated, harvested, dried, or processed by a person over the age of twenty-one inside a private residence, or inside an accessory building to a private residence that is fully enclosed and secure and located upon the grounds of the private residence, as an incidental use to the primary private residential use. Nothing in this chapter is intended to, nor shall it be construed to, preclude any landlord from limiting or prohibiting marijuana cultivation by its tenants. The cultivation shall be at a location on the property that is secluded so that it cannot be observed by a member of the public who passes by the property. This chapter shall be administratively enforced. (Ord. 2017-07 (Exh. A (part)), 2017; Ord. 2016-01 §§ 3, 4, 2016; Ord. 2007-03 § 2 (Exh. B), 2007; Ord. 2007-02 § 1, 2007; Ord. 2003-01 § 1 (part), 2003; Ord. 2002-03 § 1 (part), 2002; zoning ordinance dated 7/94 (part), 1994)”

6. Section 17.06.020(A and B) Use regulations shall be as follows:

A. No dancehall,, nightclub, commercial club, establishment or business where cannabis products or alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions

or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where cannabis products or alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on and/or off-sale consumption at the subject establishment of business:

1. Will not constitute a public nuisance;
2. Will not occur within six hundred feet of a park, youth center, or school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued.
3. Will not contribute to law enforcement problems associated with an undue concentration of on and/or off-sale licenses in the vicinity of the subject business or establishment.

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Section 4 [sic]: (3) Use Permit. Use permits for cannabis and cannabis related uses are for one year. No property interest, vested right, or entitlement to receive a future license to operate a medical marijuana business shall ever inure to the benefit of such permit holder as such permits are revocable at any time with or without cause by the City Manager or designee subject to Section 19.09 of Marina Municipal Code shall include the following: All Use Permit holders shall also execute a Development/Operating Agreement annually agreeing to abide to all conditions of approval at all times. The City Manager or designee can terminate a Development/Operating Agreement at any time with or without reason.

Section 5 [sic]: (4) Business License.

1. Section 5.20.020 shall be added to the Marina Municipal Code and state the following: 5.04.401 [sic] Cannabis Retailer [sic]: All establishments selling Cannabis or Cannabis Related Products for medicinal and adult use shall pay a business operations tax equal to a minimum of 2.5% of annual gross receipts prior to January 1, 2022, and no more than 5% (at the discretion of City Council) beginning January 1, 2022. (5.76) (Dispensary) Payments are due quarterly on July 1, October 1, January 1, and April 1 each year.

2. Section 5.20.030 shall be added to the Marina Municipal Code and state the following: Non-Retail Cannabis Uses: All establishments manufacturing Cannabis related products or processing Cannabis related products, shall pay a business operations tax equal to a minimum of 2% of annual gross receipts prior to January 1, 2022, and no more than 5% (at the discretion of City Council) beginning January 1, 2022. Payments are due quarterly on July 1, October 1, January 1, and April 1 each year.

Section 6 [sic]: (5) Development/Operating Agreement. Section 5.04.403 [sic] shall be added to the Marina Municipal Code and state the following: Prior to operating in the City and as a condition of issuance of a Use Permit each Cannabis facility shall enter into an annual development/operating agreement with the City setting forth the terms and conditions under which the Cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to payment of fees and other charges as mutually agreed, and such

other terms and conditions that will protect and promote the public health, safety and welfare.
(5.76.020)

Section 7 [sic]: (6) Fees. Section 5.04.403 [sic] shall be added to the Marina Municipal Code and state the following: (÷

5.76.030 1. Amend the City Fee Schedule to include "Cannabis Dispensary Application Use Permit Fee" of \$7,000.

2. Amend the City Fee Schedule to include "Non-Dispensary Cannabis Application Use Permit Fee" of \$3,000.

Section 8 [sic]. (7) Approval by the Voters. This Ordinance shall be submitted to the voters at an election to be held November 6, 2018 and shall not be effective until so approved.

Section 9 [sic]. (8) Severability.

A. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable.

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B. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

Section 10 [sic]. (9) Certification. Upon the approval by the voters, the Deputy City Clerk shall certify the passage of this Ordinance; and within fifteen days the Deputy City Clerk shall cause it to be posted in the three (3) public places designated by the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on the 3rd day of July 2018 and was passed and adopted by the vote of the people of the City of Marina on November 6, 2018.

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

APPROVED BY THE FOLLOWING VOTE of the people of the City of Marina on
November 6, 2018.

YES: 4,351

No: 2,130

ORDINANCE NO. 2020-

**AN ORDINANCE OF THE CITY OF MARINA AMENDING PROVISIONS OF THE
MUNICIPAL CODE RELATING TO THE REGULATION, PERMITTING AND
TAXATION OF COMMERCIAL CANNABIS BUSINESSES, ACTIVITIES AND
LAND USES**

THE PEOPLE OF THE CITY OF MARINA DO ORDAIN AS FOLLOWS:

SECTION 1. Title 19 (Commercial Cannabis Activities) of the Marina Municipal Code is hereby repealed.

SECTION 2. Chapter 5.76 (Cannabis Retailer) of Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code is hereby repealed.

SECTION 3. Chapter 5.80 (Commercial Cannabis Business Regulation) is hereby added to Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code, to read as follows:

Chapter 5.80: Commercial Cannabis Business Regulation.

5.80.010 Short Title

This Chapter may be referenced as the “City of Marina Commercial Cannabis Business Ordinance of 2020.”

5.80.020 Authority

This Chapter is adopted pursuant to the authority granted to the City of Marina by its Charter and by Sections 5 and 7 of Article XI of the California Constitution.

5.80.030 Interaction with State Law

Nothing in this Chapter is intended to permit any activity that would otherwise be prohibited by state law, to excuse any Person from obtaining any license or permit that would otherwise be required by state law, or to override any requirement of state law that is stricter than a requirement contained herein. Any business that is regulated under this Chapter must fully comply with all requirements of both state law and this Chapter.

5.80.040 Defined Terms

All terms used in this Chapter shall have the same meanings as set forth in Medicinal and Adult Use Cannabis Regulation and Safety Act (Section 26000 *et seq.* of the California Business & Professions Code) except where explicitly defined in this Chapter to have some other meaning, or where some other meaning is manifestly clear from the context of the use of the term.

5.80.050 Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

- (a) "Adult Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of cannabis or cannabis products to customers who are 21 years of age and older.
- (b) "Background Clearance" means a certificate issued by the Public Safety administrator, or his or her designee, indicating that a Person has satisfied a background investigation conducted pursuant to Section 5.80.210 of this Chapter.
- (c) "Commercial Cannabis Business" means any Person who engages in a Commercial Cannabis Activity, but does not include any natural person who both: (i) engages in such activity solely as the employee or agent of a Commercial Cannabis Business that is has been issued a permit pursuant to this Chapter and (ii) only engages in Commercial Cannabis Activities that are allowed under such permit and at locations that are allowed under such permit.
- (d) "Director of Community Development" means the Director of Community Development or his or her designee.
- (e) "Medical Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of Medicinal Cannabis and Medicinal Cannabis Products solely for use pursuant to the Compassionate Use Act of 1996 (Section 11362.5 of the California Health and Safety Code) by a medicinal cannabis patient in California who possesses a physician's recommendation.
- (f) "Owner," with respect to a Commercial Cannabis Business means any Person who is the Commercial Cannabis Business or is a shareholder, partner, member, officer, or Person with an investment interest in the Commercial Cannabis Business. Where an Owner of a Commercial Cannabis Business is not a natural person, a licensed financial institution, or a publicly traded company, each shareholder, partner, member, officer, or Person with an investment interest in that Owner shall also be considered an Owner. Any Person who does not meet the above criteria may also be classified as an Owner of a Commercial Cannabis Business upon the request of the Commercial Cannabis Business and that Person.
- (g) "Permit" means the permit required by Section 5.80.080 of this Chapter, which is in addition to and separate from any conditional use permit or other permit that is also required by this Code.
- (h) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (i) "Principal Owner" means a natural person who is an Owner of a Cannabis Business and who agrees to serve as the Principal Owner of the Cannabis Business for purposes of this Chapter.
- (j) "Public Safety Administrator" means the Chief of Police or his or her designee.
- (k) "Regulatory Administrator" means the City Manager or his or her designee.

5.80.060 Commercial Cannabis Activities Prohibited

Except as specifically authorized by this Chapter, all Commercial Cannabis Activities are prohibited in the City of Marina.

5.80.070 Personal Cannabis Activities Unaffected

This Chapter does not regulate activities that are permitted pursuant to Section 11362.1 of the California Health & Safety Code.

5.80.080 Commercial Cannabis Business Permit Required

No Person may engage in any Commercial Cannabis Activity within the City of Marina except as part of a Commercial Cannabis Business for which a Permit has been obtained from the Regulatory Administrator pursuant to this Chapter.

5.80.090 Number and Types of Permits

- (a) A Permit shall specify the Commercial Cannabis Activities that may be conducted by the Commercial Cannabis Business. Only the following types of Commercial Cannabis Businesses may be authorized: Medical Cannabis Dispensary, Adult Cannabis Dispensary, Delivery, Cultivation, Manufacturing, Testing Laboratory, Nursery, and Distribution.
- (b) There may be no more than three valid Permits for the operation of Medical Cannabis Dispensaries in the City of Marina at any one time.
- (c) There may be no more than three valid permits for the operation of Adult Cannabis Dispensaries in the City of Marina at any one time.
- (d) There shall be no limit on the number of permits that may be issued for Cultivation, Manufacturing, Testing Laboratories, Nurseries or Distribution.
- (e) A Permit for Delivery may be issued only to the holder of a Permit for a Medical Cannabis Dispensary or an Adult Cannabis Dispensary and only for deliveries initiated from the Medical Cannabis Dispensary or Adult Cannabis Dispensary
- (f) A Permit shall only authorize the operation of a Commercial Cannabis Business at the specific location stated on the Permit.
- (g) A single Permit may authorize a single Commercial Cannabis Business to conduct multiple types of Commercial Cannabis Activities at a single location.
- (h) No application for a Permit for Cultivation, Manufacturing, Testing Laboratory, Nursery or Distribution shall be accepted prior to July 1, 2021. The purpose of this paragraph is to permit the City Council to adopt additional regulations, beyond those existing under state law, on such businesses.

5.80.100 Permit

The Permit shall list the following information:

- (a) The name of the Commercial Cannabis Business.

- (b) The location (including unit number for a business located in a multi-unit complex) at which the Commercial Cannabis Business may be conducted.
- (c) The type(s) of Commercial Cannabis Activity that may be conducted.
- (d) The name of each Owner of the Commercial Cannabis Business.
- (e) The name of the Principal Owner of the Commercial Cannabis Business.
- (f) The name of the Operating Manager of the Commercial Cannabis Business.
- (g) The name of each Assistant Operating Manager (if any) of the Commercial Cannabis Business.
- (h) The expiration date for the Permit.
- (i) Such other information as the Regulatory Administrator considers necessary or useful.

5.80.110 Separate from Business License

Nothing in this Chapter shall excuse any Person from obtaining a business license pursuant to Section 5.08.010 of this Code or complying with any otherwise applicable provision of this Code.

5.80.120 Conditions for Issuance

No Permit shall be issued until each of the following conditions have been met:

- (a) The Public Safety Administrator has (i) approved a Safety and Security Plan for the Commercial Cannabis Business, (ii) conducted such inspections as he or she deems necessary prior to the commencement of business by the Commercial Cannabis Business, and (iii) certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan.
- (b) The Director of Community Development has certified to the Regulatory Administrator that the Commercial Cannabis Business has passed all inspections and obtained all necessary permits and certificates from the planning and building departments (including any use permit necessary pursuant to Title 17 of this Code) for the immediate commencement of the Commercial Cannabis Business at its location.
- (c) The Public Safety Administrator has issued a Background Clearance within the prior ninety days for each Owner of the Commercial Cannabis Business.
- (d) The Public Safety Administrator has issued a Background Clearance within the prior ninety days for each Operating Manager and Assistant Operating Manager of the Commercial Cannabis Business.
- (e) The Fire Chief has certified to the Regulatory Administrator that (i) the Commercial Cannabis Business has passed an inspection for compliance with the requirements of the City of Marina Fire Code or (ii) no such inspection is necessary.
- (f) The Commercial Cannabis Business has obtained a business license as required by this Code and paid any applicable business license tax.
- (g) The Commercial Cannabis Business has obtained a seller's permit issued by the California Department of Tax & Fee Administration.
- (h) The Commercial Cannabis Business has obtained permits from the Bureau of Cannabis Control for each Commercial Cannabis Activity listed on the Permit.

- (i) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.

5.80.130 Term and Renewal

The term of the Permit shall be one year. The Regulatory Administrator shall not renew a Permit until each of the following conditions have been met:

- (a) The Public Safety Administrator has issued a Background Clearance for each Owner of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (b) The Public Safety Administrator has issued a Background Clearance for each Operating Manager and Assistant Operating Manager of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (c) The Public Safety Administrator has approved a Safety and Security Plan for the Commercial Cannabis Business and has, no earlier than ninety days prior to the renewal, certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan
- (d) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.
- (e) If the Commercial Cannabis Business is a Medical Cannabis Dispensary or an Adult Cannabis Dispensary, the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the business has been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers as would otherwise be required by this paragraph.
- (f) The Commercial Cannabis Business has a valid business license as required by this Code and has paid any applicable business license tax.
- (g) The Commercial Cannabis Business has a valid seller's permit issued by the California Department of Tax & Fee Administration.
- (j) The Commercial Cannabis Business has a valid permit from the Bureau of Cannabis Control for each Commercial Cannabis Activity for each Commercial Cannabis Activity listed on the Permit.

5.80.140 Change of Owner or Operating Manager

The Regulatory Administrator may add or remove an Owner, Operating Manager, or Assistant Operating Manager to or from a Permit upon application of the Commercial Cannabis Business, but shall not add a Person to the Permit unless the Public Safety Administrator has issued a Background Clearance for that Person within the prior ninety days.

5.80.150 Resignation of Operating Manager

Upon being notified by an Operating Manager or Assistant Operating Manager that he or she no longer serves in that capacity with respect to a Commercial Cannabis Business, the Regulatory Administrator shall remove that Person's name from the Permit for the Commercial Cannabis Business.

5.80.160 Addition of Commercial Cannabis Activity

Upon application of a Commercial Cannabis Business, the Regulatory Administrator may add a Commercial Cannabis Activity to the Permit for the Commercial Cannabis Business. However, he or she shall not do so unless all of the criteria set forth in Section 5.80.120 of this Code have been met. If a Commercial Cannabis Activity is added to a Permit, the expiration date for that Permit (and all Commercial Cannabis Activities listed on the Permit) shall be one year from the date the activity is added. This Section should not be interpreted to excusing a Commercial Cannabis Business seeking to add a Commercial Cannabis Activity to its Permit from obtaining any use permit that would otherwise be required pursuant to Title 17 of this Code for any new or expanded use.

5.80.170 Change of Location

- (a) A Permit issued to a Commercial Cannabis Business for operation at a location cannot be transferred to a new location. Operation at a new location requires an entirely new Permit.
- (b) As part of an application to operate at a new location, a Medical Cannabis Dispensary or an Adult Cannabis Dispensary may commit to ceasing operations at the original location upon the issuance of a Permit for the new location.

5.80.180 Availability of Permits

Solely for the purpose of any limits set forth in Section 5.80.090 of this Code upon the number of Permits that may be valid at any one time:

- (a) A Permit that has been voluntarily relinquished by a Commercial Cannabis Business shall be considered no longer valid as of the date of relinquishment.
- (b) A Permit that has been revoked by the City or for which renewal has been denied by the City shall be considered no longer valid as of the date upon which the revocation or non-renewal became final and all avenues of appeal pursuant to this Code were exhausted.
- (c) A Permit that has expired shall be considered no longer valid as of sixty days after its expiration unless an application for renewal has been submitted
- (d) Where a Commercial Cannabis Business has applied for a Permit for a new location and made a commitment to cease operations at its existing location pursuant to Section 5.80.170(b) of this Chapter, the Permit for operations at a new location shall be considered a continuation of the Permit for operations at the existing location so long as:
 - (1) the Commercial Cannabis Business ceases all operations at its existing location within thirty days of the commencement of operations at the new location; and

- (2) the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the existing location had been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers at the existing location for the requisite number of days.

5.80.190 Pre-Applications

With respect to any class of Commercial Cannabis Business for which Section 5.80.090 sets forth a limit on the number of valid permits that may be issued pursuant to this Section:

- (a) Any time the number of valid permits (counted as set forth in Section 5.80.180 of this Chapter) is less than the maximum number allowed, the Regulatory Administrator may designate a “lottery window” which shall be no less than one month in duration.
- (b) Prior to the commencement of the “lottery window” the Regulatory Administrator shall cause an announcement of the “lottery window” to be published in a newspaper of general circulation that is circulated in Marina and to be mailed to any Person who has, during the two years prior to the date on which such notification is published, filed with the Regulatory Administrator a request for mailed notification pursuant to this paragraph.
- (c) The Regulatory Administrator shall accept pre-applications only during the “lottery window”. Each pre-application must be submitted on behalf of a specific Person who wishes to receive a Permit to conduct a Commercial Cannabis Business in the City, and must designate a natural person who will serve as the Principal Owner of the Commercial Cannabis Business.
- (d) No Person may submit more than one pre-application during a lottery window for each type of Permit, nor can an individual be listed as Principal Owner on more than one pre-application submitted during a lottery window for each type of Permit.
- (e) Pre-applications shall be submitted on a form designed by the Regulatory Administrator. The Regulatory Administrator shall reject any pre-application that is not complete or does not comply with regulations issued by the Regulatory Administrator prior to the commencement of the “Lottery Window.”
- (f) Following the close of the “lottery window”, the Regulatory Administrator shall select at random one pre-application for each Permit announced pursuant to paragraph (b) of this Section.
- (g) Before conducting the selection pursuant to paragraph (e) of this Section, the Regulatory Administrator may require that each Person applying for a Permit and each Person listed as a Principal Owner obtain a Background Clearance or some other, less comprehensive, background investigation as the Regulatory Administrator may instead require.

- (h) The Regulatory Administrator may invalidate a selection conducted pursuant to paragraph (e) of this section and call for a new lottery window requiring new applications, if he or she reasonably determines that the selected pre-application was submitted fraudulently or that the selected pre-applicant or Principal Owner appears is a “straw man” for a Person submitting a non-selected Pre-Application.
- (i) The Regulatory Administrator shall accept an application for a new Permit pursuant to Section 5.80.200 (other than an application that includes a commitment to cease existing operations pursuant to 5.80.170) only from a Person who submitted a selected pre-application. Once a pre-application has been selected, that pre-application shall count as a “valid permit” for purposes of any limitation on the number of permits that may be issued pursuant to Section 5.80.090. The pre-application shall expire six months from its selection. The expiration date may be extended by the Regulatory Administrator for two months, if (at the time of expiration or the expiration of an extension) the Regulatory Administrator determines that an application has been submitted and is being processed by the City.
- (j) The City Council may, by resolution, establish an pre-application fee which must be paid at the time a pre-application is submitted to the Regulatory Administrator and may require that each pre-application be accompanied by a deposit against fees that can be expected to be incurred by the pre-applicant in connection with the application process if the pre-applicant is selected.

5.80.200 Application

An application for a new Permit, for the renewal of a Permit, for a change of Owner, Principal Owner, Operating Manager or Assistant Operating Manager, for the addition of a Commercial Cannabis Activity to a Permit, or for the relinquishment of a Permit shall be submitted on the form provided for such purpose by the Regulatory Administrator and shall include such information as may be reasonably requested by the Regulatory Administrator. The City Council may, by resolution, establish an application fee which must be paid at the time such application is submitted to the Regulatory Administrator.

5.80.210 Background Clearance

The Public Safety Administrator shall cause a background investigation of any Person upon the request of such Person. Such investigation shall include, a LiveScan background check and such other investigations as the Public Safety Administrator deems necessary. The Public Safety Administrator may establish a procedure for conducting such investigation and may establish criteria for issuing a Background Clearance for purposes of this Chapter. A request for a background investigation shall be made on the form designed by the Public Safety Administrator. The Person making such request shall provide the Public Safety Administrator with any information or documents that he or she may reasonably request. The City Council may, by Resolution, establish a fee for a background investigation or clearance.

In addition to any criteria he or she may establish, the Public Safety Administrator shall not issue a background clearance to any Person who the Public Safety Administrator determines:

- (a) Has ever been convicted of (i) a violent felony as defined by California Penal Code 667.5, (ii) any violation of California Penal Code Sections 243 through 247, except for subdivision (a) of Section 243, or (iii) an equivalent offense in another state;
- (b) Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, and embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or
- (c) Has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, other than cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996; or
- (d) Has, unless for a reason deemed by the Public Safety Administrator to be immaterial, ever had any permit to operate a cannabis business revoked by any jurisdiction or had any professional or business license revoked by any jurisdiction; or
- (e) Has failed, if not a natural person, to fully disclose the identities of all of its owners in any application to the City or upon request of the Public Safety Administrator or the Regulatory Administrator.
- (f) Has made a material misstatement of fact, other than a misstatement that the Public Safety Administrator determines was a reasonable and inadvertent error, on any application to the City, in any proceeding before the City Council or Planning Commission, or to the Public Safety Administrator or the Regulatory Administrator or their staffs.

5.80.220 Safety and Security Plan

No Commercial Cannabis Business may be issued a Permit, or have a Permit renewed, without a Safety and Security Plan that has been approved by the Public Safety Administrator. The Public Safety Administrator may establish elements that must be included in the Safety and Security Plan, and may require that such Plan include business procedures, employee screening procedures, inventory and recordkeeping procedures, cameras and physical security improvements, floorplans, security system schematics, and limitations on operations, that, in his or her reasonable opinion, are necessary to (i) deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, (ii) deter and prevent the theft of cannabis or cannabis products and (iii) ensure compliance with applicable law and legal conditions imposed by the City. The City Council may establish fees for the submission or approval of a public safety plan, for the certification by the Public Safety Administrator of compliance with a Safety and Security Plan, or for compliance inspections conducted in connection with applications or renewals for permits issued pursuant to this Section. It shall be a violation of this Code for any Commercial Cannabis Business or person employed by a Commercial Cannabis Business to fail to comply with a provision of the approved Safety and Security Plan.

Except as may be reasonably waived by the Public Safety Administrator, the Safety and Security Plan shall require, at a minimum, all of the following:

- (1) Alarm systems (perimeter, fire, and panic buttons) that are professionally installed, maintained, and remotely monitored at all times by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (2) Perimeter lighting systems (including motion sensors) for after-hours security.
- (3) A requirement that individuals leave the premises if they are not engaging in an activity directly related to the permitted operations of the business.
- (6) The creation of one or more limited access areas accessible only to individuals specifically authorized by the business to handle cannabis and cannabis products.
- (7) The storage of all cannabis and cannabis products, except for live plants at a cultivation or nursery operation, in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
- (8) 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. Remote live access to the video footage from the cameras shall be available to the Public Safety Administrator. Video recordings shall be maintained for a minimum of 90 days and shall be made available to the Public Safety Administrator upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business and shall be capable of enlargement via projection or other means.
- (9) Sensors that detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.

- (10) Panic buttons with direct notification to the Marina Police Department dispatch and shall be configured to immediately alert dispatch for the Marina Police Department.
- (13) A requirement that licensed security personnel shall be on-site during any hours when any person is allowed on-premises.
- (14) Security equipment that remains operative during a power outage and ensures that access doors are not released during a power outage.
- (15) A requirement that entrance areas be locked at all times and under the control of a designated responsible party that is either; (a) an owner, agent or employee of the business or (b) a licensed security professional.
- (16) An accounting software system to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (19) A plan for compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
- (20) Network security protocols that are certified by Underwriters Laboratories.
- (21) A requirement that exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (22) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

5.80.230 Finances

- (a) A Commercial Cannabis Business may only operate at a location, occupy a structure, or use personal or real property of any kind, if that location, structure, or property is owned by the Commercial Cannabis Business or an Owner of the Commercial Cannabis Business.
- (b) Notwithstanding paragraph (a) of this Section, a Commercial Cannabis Business (or Owner thereof) may lease property of any kind in from a third party in connection with the Commercial Cannabis Business, so long as (i) the lease does not exceed fair market value for a lease to a Commercial Cannabis Business and (ii) the payments due to under the lease are stated as a fixed monthly or annual amount or are based on a formula that does not take into account the sales or profits of the Commercial Cannabis Business.

- (c) No Commercial Cannabis Business, or Owner thereof, shall enter into any contract with any party other than an Owner, employee or agent of the Commercial Cannabis Business that in any way varies the obligations under the contract based on the gross receipts or profits of the Commercial Cannabis Business.
- (d) A Commercial Cannabis Business (or Owner thereof) may enter into a lease or agreement that would otherwise be prohibited by paragraphs (b) or (c) of this Section if both (i) all counterparties to the lease or agreement are treated as Owners of the Commercial Cannabis Business on the Permit for the Commercial Cannabis Business and (ii) a copy of the lease or agreement is provided to the Public Safety Administrator.

5.80.240 Compensation

No employee or agent of a Commercial Cannabis Business may be compensated based on the gross receipts or profits of the Commercial Cannabis Business, and no employee or agent may be compensated on any basis other than an hourly wage or fixed monthly salary, unless that employee or agent has obtained Background Clearance pursuant to this Chapter. For purposes of this Section, a Background Clearance shall be good for two years from the date of its issuance.

5.80.250 Employee LiveScan Checks

- (a) No Commercial Cannabis Business shall use the services of an employee or agent unless that employee or agent has, within the prior 365 days, either (i) obtained a Background Clearance or (ii) obtained LiveScan clearance from the Public Safety Administrator.
- (b) The Public Safety Administrator shall not grant LiveScan clearance to any individual if a LiveScan background check indicates that the individual has been convicted of a crime that would preclude the issuance of a Background Clearance pursuant to this Chapter.
- (c) No Person who has applied for and been denied Background Clearance may serve as an employee or agent of a Commercial Cannabis Business unless Background Clearance is subsequently issued.
- (d) The Public Safety Administrator may revoke a LiveScan clearance if he or she at any time determines that the subject of the clearance has been convicted of a crime that would preclude the issuance of Background Clearance pursuant to this Chapter.
- (e) The City Council may, by Resolution, establish a fee for LiveScan clearance.

5.80.260 Restriction On-Premises Consumption and Sale of Alcohol and Tobacco.

No Person shall sell or dispense or consume alcoholic beverages or tobacco products on the premises of a Commercial Cannabis Business. No Person shall consume cannabis or cannabis products on the premises of any Commercial Cannabis Business.

5.80.270 Minors

- (a) Persons under the age of 21 years shall not be allowed on the premises of a Commercial Cannabis Business
- (b) Notwithstanding Paragraph (a) of this Section, a person aged 18 to 20 years may enter the premises of a Medical Cannabis Dispensary solely for the purpose of obtaining cannabis or cannabis products pursuant to a physician's recommendation.
- (c) A sign at the entrance to the Commercial Cannabis Business shall clearly state, in a form and font acceptable to the Public Safety Administrator, the rule set forth in this Section as applicable to the Commercial Cannabis Business.

5.80.280 Operating Manager

- (a) The Operating Manager of a Commercial Cannabis Business must be an owner or full-time employee of the Commercial Cannabis Business.
- (b) No Commercial Cannabis Business may operate at any time unless an Operating Manager or Assistant Operating Manager or Owner who has been listed on the Permit is on the premises.
- (c) The Commercial Cannabis Business must provide the Public Safety Administrator and the Fire Department with a 24-hour contact number for the Operating Manager and at least one Assistant Operating Manager.
- (d) If the Operating Manager of a Commercial Cannabis Business ceases employment or takes a vacation or leave of absence of more than 10 consecutive days, the Commercial Cannabis Business must designate an Assistant Operating Manager or Owner to serve as Operating Manager during this period and must notify the Public Safety Administrator and the Fire Department of such designation and of the 24-hour contact number for the designated individual.
- (e) All Operating Managers and Assistant Operating Managers must be authorized by the Commercial Cannabis Business to report any violation of law to the Marina Police Department, to call the Marina Police Department for assistance, and to close the business to customers during any period when the Commercial Cannabis Business cannot operate in compliance with law or with the Safety and Security Plan.

5.80.290 Reporting

A Commercial Cannabis Business shall notify the Marina Police Department within twenty-four hours after discovering any of the following:

- (a) Significant discrepancies in inventory;
- (b) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
- (c) The loss or unauthorized alteration of records; or

(d) Any breach in security.

5.80.300 Violation

Violations of (i) the requirements of the Chapter or of any Permit, or (ii) any requirement of the Medicinal and Adult Use Cannabis Regulation and Safety Act or any regulation issued thereunder, constitute violation of this Code that are subject to the provisions of Chapter 1.08 of this Code. Additionally, any such violations may constitute a public nuisance that may be remedied pursuant to Chapter 17.60 of this Code.

5.80.310 State License

Any Commercial Cannabis Business that forfeits a permit issued to it pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act or has such permit revoked must immediately cease all activities in the City of Marina for which that permit is required and must report such forfeiture or revocation to the Regulatory Administrator and the Public Safety Administrator. The Regulatory Administrator may revoke any Permit issued pursuant to this Chapter for a Commercial Cannabis Activity that the Commercial Cannabis Business is no longer entitled to engage in pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act.

5.80.320 Appeal

Any applicant or Commercial Cannabis Business may, within 10 days of the date of a decision, appeal to the City Manager any final decision of the Public Safety Administrator or the Regulatory Administrator pursuant to this Chapter with regard to the final denial or revocation of any permit, renewal, certification, clearance or approval applied for or held by the applicant or business. The City Manager may promulgate procedures for the consideration of any such appeal. Any decision of the City Manager shall be final.

5.80.330 Administrative Interpretations

The Public Safety Administrator and the Regulatory Administrator may issue such administrative interpretations of this Chapter as they find appropriate.

5.80.340 Fees

The City Council may, by resolution, adopt a fee for any application, permit, certificate, clearance, investigation, inspection, audit, appeal or other staff action or service provided pursuant to this Chapter.

5.80.350 Tax

- (a) Each Commercial Cannabis Business shall pay a tax of 5% of gross receipts in addition to the tax that would normally be required by Section 5.08.010 of this Code. For purposes of this Section, taxable gross receipts shall include gross receipts attributable to any business conducted by the Commercial Cannabis Business or on its premises.
- (b) Except where clearly inapplicable, such tax shall be administered in the same manner (and subject to the same provisions of this Code) as the business license

tax required by Section 5.08.010, except that the tax shall be collected and administered by the Regulatory Administrator.

- (c) The tax shall be collected quarterly and due and payable on the first day of each calendar quarter.
- (d) The Regulatory Administrator may issue administrative interpretations of this requirement, may require that tax payments be made on a more frequent schedule than quarterly or on a different schedule than set forth in this Section, may set the may require that a deposit be made against any taxes that will be due in arrears, and may delegate his or duties under this Section to an employee of another City department with the consent of the City Manager.
- (e) All taxes collected pursuant to this Section shall be deposited in the general fund of the City and available for any lawful municipal purpose
- (f) The City Council may, by resolution, establish fees for audits of tax returns submitted pursuant to this Section.

5.80.360 Inspection of Records and Premises

Any Commercial Cannabis Business must allow the inspection of its records and premises at any time as requested by the Public Safety Administrator or the Regulatory Administrator.

SECTION 4. Chapter 17.47 (Commercial Cannabis Uses) is added to Title 17 (Zoning) of the Marina Municipal Code, to read as follows:

Chapter 17.47: Commercial Cannabis Uses.

17.47.010 Criteria Applicable to All Commercial Cannabis Uses.

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development in the zone in which the use will be located, no use permit for a commercial cannabis land use shall be issued unless:

- (a) The site is no closer than 600 feet to any child day care center (as defined by Section 17.04.211 of this Code), school serving students in grades K-12, public recreation center or public park. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by the Commercial Cannabis Business to the nearest property line of those uses described in this Subsection.
- (b) The use, as conditioned, will not generate offensive noise or odors.

17.47.020 Criteria Applicable to Retail Commercial Cannabis Uses

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development in the zone in which the use will be located, no use permit for a retail commercial cannabis land use shall be issued unless:

- (a) The site is no closer than 1,000 feet to any other retail commercial cannabis land use. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by each Commercial Cannabis Business.
- (b) If the use, as conditioned, allows a delivery component, adequate off-street loading areas are provided for all loading and standing of delivery vehicles.

17.47.030 Signage and Display of Cannabis Products

With respect to all cannabis land uses:

- (a) No graphics depicting cannabis or cannabis products shall be painted, attached, or otherwise affixed to the exterior of any building and no such graphic shall be included on any exterior sign.
- (b) No graphics depicting cannabis or cannabis products shall be displayed in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.
- (c) No cannabis or cannabis products shall be displayed or handled in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.

17.47.040 Interaction with Chapter 5.80

No application shall be accepted:

- (a) For a use permit that includes one or more types of commercial cannabis activities to which Section 5.80.190 of this Code applies, unless the use that is proposed to be operated by a person who is either (i) the holder of an unexpired cannabis business permit preapplication that has been selected pursuant to Section 5.80.190(i) for each such activity or (ii) the holder of an existing cannabis business permit for each such activity who has made a commitment to cease operations at their existing site pursuant to Section 5.80.170. Each such person may have only one active use permit application for each qualifying cannabis business permit preapplication or qualifying cannabis business permit.
- (b) While such prohibition is in effect, for a use permit that includes any commercial cannabis activity for which the City is prohibited from issuing a commercial cannabis permit by Section 5.80.090(h) of this Code.

SECTION 5. Section 17.06.020 of the Marina Municipal Code is hereby amended so that Subdivisions A and B of that Section read as follows, and all other subdivisions remain unchanged:

A. No dancehall, roadhouse, nightclub, commercial club, establishment or business where alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions or otherwise,

shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on- and/or off-sale consumption at the subject establishment of business:

1. Will not constitute a public nuisance;
2. Will not occur within five hundred feet of a park or school or place of public assembly;
3. Will not contribute to law enforcement problems associated with an undue concentration of on- and/or off-sale licenses in the vicinity of the subject business or establishment.

SECTION 6. Any provision of this Ordinance or of the ordinance adopted by the voters of the City of Marina at the November 6, 2018 election as Measure V may be amended by Ordinance of the City Council, except that the rate of the tax imposed by Section 5.80.350 may not be increased without voter approval.

SECTION 7. It is the intent of the People of the City of Marina that the City Council shall set fees pursuant to the authority of the Ordinance in an amount that will fully fund all costs associated with the regulation of Commercial Cannabis Businesses. The City Council is authorized to set, by resolution, any such fee. Any fee set by initiative or by Council action prior to the effective date of this Ordinance shall continue in effect until specifically repealed, increased, or decreased by resolution of the City Council.

SECTION 8. It is the intent of the People of the City of Marina that the provisions of Section 17.47.010(a) of the Municipal Code shall apply within the City in lieu of the requirements of Section 26054 of the California Business & Professions Code.

SECTION 9.

- (a) Any commercial cannabis permit issued pursuant to Title 19 of the Municipal Code prior to the repeal of that Title by this Ordinance shall be treated as a valid permit issued pursuant to this Ordinance and may be renewed pursuant to this Ordinance. Any conditions, requirements and limitations set forth on such permit shall remain in effect during the term of the permit and during any renewal term.
- (b) Any application for a permit that was submitted prior to the effective date of this Ordinance will be processed under the laws existing laws at the time of application.
- (c) Notwithstanding subdivision (b), an applicant for a non-retail commercial cannabis permit may request that such permit be processed pursuant to this Ordinance instead of pursuant to the prior law.

SECTION 10. It is the intent of the People of the City of Marina that the tax imposed by this ordinance shall be considered a continuation of the existing tax on cannabis businesses, and that the prior tax shall cease application only upon the effectiveness of the tax imposed by this Section. The People would not have repealed the existing tax with respect to any person if the tax adopted pursuant to this Ordinance were invalid with respect to that person.

It is not the intent of this Ordinance to cause the tax against any person to increase above the rates that were authorized for City Council adoption in the the ordinance adopted by the voters of the City of Marina at the November 6, 2018 election as Measure V. In the event that any person would be charged under this Ordinance a tax in excess of such authorized rate, the tax applied to that person will be reduced to the maximum amount that could be levied without additional voter approval.

SECTION 11. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this title, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People hereby declares that they would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Certified as adopted by the People of the City of Marina at the Municipal General Election held on November 3, 2020.

Bruce C. Delgado, Mayor

ATTEST:

Anita Shepherd-Sharp, Deputy City Clerk

Date:

**AN ORDINANCE OF THE CITY OF MARINA ~~REPEALING TITLE 19~~
~~(COMMERCIAL CANNABIS ACTIVITIES) AND CHAPTER 5.76 (CANNABIS~~
~~RETAILER) OF TITLE 5~~ AMENDING PROVISIONS OF THE MARINA
MUNICIPAL CODE AND ADDING A NEW CHAPTER 5.80 RELATING TO TITLE
~~5 OF THE MUNICIPAL CODE REGARDING REGULATION, PERMITTING AND~~
TAXATION OF COMMERCIAL CANNABIS BUSINESS
REGULATIONS BUSINESSES, ACTIVITIES AND LAND USES**

THE PEOPLE OF THE CITY OF MARINA DO ORDAIN AS FOLLOWS:

SECTION 1. Title 19 (Commercial Cannabis Activities) of the Marina Municipal Code is hereby repealed.

SECTION 2. Chapter 5.76 (Cannabis Retailer) of Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code is hereby repealed.

SECTION 3. Chapter 5.80 (Commercial Cannabis Business Regulation) is hereby added to Title 5 (Business Taxes, Licenses and Regulation) of the Marina Municipal Code, to read as follows:

Chapter 5.80: Commercial Cannabis Business Regulation.

5.80.010 Short Title

This Chapter may be referenced as the “City of Marina Commercial Cannabis Business Ordinance of 2020.”

5.80.020 Authority

This Chapter is adopted pursuant to the authority granted to the City of Marina by its Charter and by Sections 5 and 7 of Article XI of the California Constitution.

5.80.030 Interaction with State Law

Nothing in this Chapter is intended to permit any activity that would otherwise be prohibited by state law, to excuse any ~~person~~Person from obtaining any license or permit that would otherwise be required by state law, or to override any requirement of state law that is stricter than a requirement contained herein. Any business that is regulated under this Chapter must fully comply with all requirements of both state law and this Chapter.

5.80.040 Defined Terms

All terms used in this Chapter shall have the same meanings as set forth in Medicinal and Adult Use Cannabis Regulation and Safety Act (Section 26000 *et seq.* of the California Business & Professions Code) except where explicitly defined in this Chapter to have

some other meaning, or where some other meaning is manifestly clear from the context of the use of the term.

5.80.050 Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

- (a) "Adult Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of cannabis or cannabis products to customers who are 21 years of age and older.
- (b) "Background Clearance" means a certificate issued by the Public Safety administrator, or his or her designee, indicating that a Person has satisfied a background investigation conducted pursuant to Section 5.80.210 of this Chapter.
- ~~(b)~~(c) "Commercial Cannabis Business" means any ~~person~~Person who engages in a Commercial Cannabis Activity, but does not include any natural person who both: (i) engages in such activity solely as the employee or agent of a Commercial Cannabis Business that is has been issued a permit pursuant to this Chapter and (ii) only engages in Commercial Cannabis Activities that are allowed under such permit and at locations that are allowed under such permit.
- (d) "Director of Community Development" means the Director of Community Development or his or her designee.
- ~~(e)~~(e) "Medical Cannabis Dispensary" means a Commercial Cannabis Business engaged in the retail sale of Medicinal Cannabis and Medicinal Cannabis Products solely for use pursuant to the Compassionate Use Act of 1996 (Section 11362.5 of the California Health and Safety Code) by a medicinal cannabis patient in California who possesses a physician's recommendation.
- ~~(d)~~(f) "Owner," with respect to a Commercial Cannabis Business means any Person who is the Commercial Cannabis Business or is a shareholder, partner, member, officer, or ~~person~~Person with an investment interest in the Commercial Cannabis Business. Where an Owner of a Commercial Cannabis Business is not a natural person, a licensed financial institution, or a publicly traded company, each shareholder, partner, member, officer, or ~~person~~Person with an investment interest in that Owner shall also be considered an Owner. Any Person who does not meet the above criteria may also be classified as an Owner of a Commercial Cannabis Business upon the request of the Commercial Cannabis Business and that Person.
- (g) "Permit" means the permit required by Section 5.80.080 of this Chapter, which is in addition to and separate from any conditional use permit or other permit that is also required by this Code.
- ~~(e)~~(h) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

~~(f)~~(i) “Principal Owner” means a natural person who is an Owner of a Cannabis Business and who agrees to serve as the Principal Owner of the Cannabis Business for purposes of this Chapter.

~~(g)~~(j) “Public Safety Administrator” means the Chief of Police or his or her designee.

~~(h)~~(k) “Regulatory Administrator” means the City Manager or his or her designee.

5.80.060 Commercial Cannabis Activities Prohibited

Except as specifically authorized by this Chapter, all Commercial Cannabis Activities are prohibited in the City of Marina.

5.80.070 Personal Cannabis Activities Unaffected

This Chapter does not regulate activities that are permitted pursuant to Section 11362.1 of the California Health & Safety Code.

5.80.080 Commercial Cannabis Business Permit Required

No ~~person~~Person may engage in any Commercial Cannabis Activity within the City of Marina except as part of a Commercial Cannabis Business for which a ~~permit~~Permit has been obtained from the Regulatory Administrator pursuant to this Chapter.

5.80.090 Number and Types of Permits

- (a) ~~A permit issued under this chapter~~A Permit shall specify the Commercial Cannabis Activities that may be conducted by the Commercial Cannabis Business. Only the following types of Commercial Cannabis Businesses may be authorized: Medical Cannabis Dispensary, Adult Cannabis Dispensary, Delivery, Cultivation, Manufacturing, Testing Laboratory, Nursery, and Distribution.
- (b) There may be no more than three valid ~~permits~~Permits for the operation of Medical Cannabis Dispensaries in the City of Marina at any one time.
- (c) There may be no more than three valid permits for the operation of Adult Cannabis Dispensaries in the City of Marina at any one time.
- (d) There shall be no limit on the number of permits that may be issued for Cultivation, Manufacturing, Testing Laboratories, Nurseries or Distribution.
- (e) A ~~permit~~Permit for Delivery may be issued only to the holder of a ~~permit~~Permit for a Medical Cannabis Dispensary or an Adult Cannabis Dispensary and only for deliveries initiated from the Medical Cannabis Dispensary or Adult Cannabis Dispensary.
- (f) A ~~permit~~Permit shall only authorize the operation of a Commercial Cannabis Business at the specific location stated on the ~~permit~~Permit.
- (g) A single ~~permit~~Permit may authorize a single Commercial Cannabis Business to conduct multiple types of Commercial Cannabis Activities at a single location.
- (h) No application for a ~~permit~~Permit for Cultivation, Manufacturing, Testing Laboratory, Nursery or Distribution shall be accepted prior to July 1, 2021. The

purpose of this paragraph is to permit the City Council to adopt additional regulations, beyond those existing under state law, on such businesses.

5.80.100 Permit

The ~~permit issued pursuant to this Chapter~~Permit shall list the following information:

- (a) The name of the Commercial Cannabis Business.
- (b) The location (including unit number for a business located in a multi-unit complex) at which the Commercial Cannabis Business may be conducted.
- (c) The type(s) of ~~business~~Commercial Cannabis Activity that may be conducted.
- (d) The name of each Owner of the Commercial Cannabis Business.
- (e) The name of the Principal Owner of the Commercial Cannabis Business.
- (f) The name of the Operating Manager of the Commercial Cannabis Business.
- (g) The name of each Assistant Operating Manager (if any) of the Commercial Cannabis Business.
- (h) The expiration date for the ~~permit~~Permit.
- (i) Such other information as the Regulatory Administrator considers necessary or useful.

5.80.110 Separate from Business License

Nothing in this Chapter shall excuse any ~~person~~Person from obtaining a business license pursuant to Section 5.08.010 of this Code or complying with any otherwise applicable provision of this Code.

5.80.120 Conditions for Issuance

No ~~permit~~Permit shall be issued ~~pursuant to this Chapter~~ until each of the following conditions have been met:

- ~~(a) The Fire Chief and Director of Community Development (or their designees) have each~~The Public Safety Administrator has (i) approved a Safety and Security Plan for the Commercial Cannabis Business, (ii) conducted such inspections as he or she deems necessary prior to the commencement of business by the Commercial Cannabis Business, and (iii) certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan.
- ~~(a)(b)~~(b) The Director of Community Development has certified to the Regulatory Administrator that the Commercial Cannabis Business has passed all inspections and obtained all necessary permits and certificates from ~~their respective departments~~the planning and building departments (including any use permit necessary pursuant to Title 17 of this Code) for the immediate commencement of the Commercial Cannabis Business at its location.

- ~~(b)~~(c) The Public Safety Administrator has issued a ~~background clearance~~Background Clearance within the prior ninety days for each Owner of the Commercial Cannabis Business.
- ~~(e)~~ The Public Safety Administrator has issued a ~~background clearance~~Background Clearance within the prior ninety days for each Operating Manager and Assistant Operating Manager.
- ~~(d)~~ The Public Safety Administrator has approved a Safety and Security Plan for the of the Commercial Cannabis Business ~~and~~.
- ~~(d)~~(e) The Fire Chief has certified to the Regulatory Administrator that (i) the Commercial Cannabis Business has ~~implemented all elements of the Safety and Security Plan~~passed an inspection for compliance with the requirements of the City of Marina Fire Code or (ii) no such inspection is necessary.
- ~~(e)~~(f) The Commercial Cannabis Business has obtained a business license as required by this Code and paid any applicable business license tax.
- ~~(f)~~(g) The Commercial Cannabis Business has obtained a seller's permit issued by the California Department of Tax & Fee Administration.
- ~~(g)~~(h) The Commercial Cannabis Business has obtained permits from the Bureau of Cannabis Control for each Commercial Cannabis Activity ~~to be included~~listed on the license issued by the City Permit.
- ~~(h)~~(i) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.

5.80.130 Term and Renewal

The term of the ~~permit issued pursuant to this Chapter~~Permit shall be one year. The Regulatory Administrator shall not renew a ~~permit~~Permit until each of the following conditions have been met:

- (a) The Public Safety Administrator has issued a ~~background clearance~~Background Clearance for each Owner of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (b) The Public Safety Administrator has issued a ~~background clearance~~Background Clearance for each Operating Manager and Assistant Operating Manager of the Commercial Cannabis Business no earlier than ninety days prior to the renewal date.
- (c) The Public Safety Administrator has approved a Safety and Security Plan for the Commercial Cannabis Business and has, no earlier than ninety days prior to the renewal, certified to the Regulatory Administrator that the Commercial Cannabis Business has implemented all elements of the Safety and Security Plan
- (d) The Commercial Cannabis Business has paid all fees and taxes due to the City in connection with the Commercial Cannabis Business.
- (e) If the Commercial Cannabis Business is a Medical Cannabis Dispensary or an Adult Cannabis Dispensary, the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the business has been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this

requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers as would otherwise be required by this Section paragraph.

(f) The Commercial Cannabis Business has a valid business license as required by this Code and has paid any applicable business license tax.

(g) The Commercial Cannabis Business has a valid seller's permit issued by the California Department of Tax & Fee Administration.

~~(h)~~(i) The Commercial Cannabis Business has a valid permit from the Bureau of Cannabis Control for each Commercial Cannabis Activity included for each Commercial Cannabis Activity listed on the license issued by the City Permit.

5.80.140 Change of Owner or Operating Manager

The Regulatory Administrator may add or remove an Owner, Operating Manager, or Assistant Operating Manager to or from a ~~permit (or change the order of Assistant Operating Managers) issued pursuant to this Chapter~~Permit upon application of the Commercial Cannabis Business, but shall not add a ~~person~~Person to the ~~permit~~Permit unless the Public Safety Administrator has issued a ~~background clearance~~Background Clearance for that ~~person~~Person within the prior ninety days.

5.80.150 Resignation of Operating Manager

Upon being notified by an Operating Manager or Assistant Operating Manager that he or she no longer serves in that capacity with respect to a Commercial Cannabis Business, the Regulatory Administrator shall remove that ~~person's~~Person's name from the ~~permit issued pursuant to this Chapter to that~~Permit for the Commercial Cannabis Business.

5.80.160 Addition of Commercial Cannabis Activity

Upon application of a Commercial Cannabis Business, the Regulatory Administrator may add a Commercial Cannabis Activity to the ~~permit issued pursuant to this Chapter~~Permit for the Commercial Cannabis Business. However, he or she shall not do so unless all of the criteria set forth in Section 5.80.~~110~~120 of this Code have been met. If a Commercial Cannabis Activity is added to a ~~permit~~Permit, the expiration date for that ~~permit~~Permit (and all Commercial Cannabis Activities listed on the Permit) shall be one year from the date the activity is added. This Section should not be interpreted to excusing a Commercial Cannabis Business seeking to add a Commercial Cannabis Activity to its Permit from obtaining any use permit that would otherwise be required pursuant to Title 17 of this Code for any new or expanded use.

5.80.170 Change of Location

- (a) A ~~permit~~Permit issued to a Commercial Cannabis Business for operation at a location cannot be transferred to a new location. Operation at a new location requires an entirely new ~~permit~~Permit.
- (b) As part of an application to operate at a new location, a Medical Cannabis Dispensary or an Adult Cannabis Dispensary may commit to ceasing operations at ~~their~~the original location upon the issuance of a ~~permit~~Permit for the new location.

5.80.180 Availability of Permits

Solely for the purpose of any limits set forth in Section 5.80.090 of this Code upon the number of ~~permits~~Permits that may be valid at any one time:

- (a) A ~~permit~~Permit that has been voluntarily relinquished by a Commercial Cannabis Business shall be considered no longer valid as of the date of relinquishment.
- (b) A ~~permit~~Permit that has been revoked by the City or for which renewal has been denied by the City shall be considered no longer valid as of the date upon which the revocation or non-renewal became final and all avenues of appeal pursuant to this Code were exhausted.
- (c) A ~~permit~~Permit that has expired ~~and not been renewed~~ shall be considered no longer valid as of sixty days after its expiration- unless an application for renewal has been submitted
- (d) Where a Commercial Cannabis Business has applied for a ~~permit~~Permit for a new location and made a commitment to cease operations at its existing location pursuant to Section 5.80.170(b) of this ~~Code~~Chapter, the ~~permit~~Permit for operations at a new location shall be considered a continuation of the ~~permit~~Permit for operations at the existing location so long as:
 - (1) the Commercial Cannabis Business ceases all operations at its existing location within thirty days of the commencement of operations at the new location; and
 - (2) the Commercial Cannabis Business has established, to the satisfaction of the Regulatory Administrator, that the existing location had been open to customers for at least six hours per day on no less than 80 of the 180 days prior to the renewal date. The Regulatory Administrator may waive this requirement in the event that extenuating circumstances, such as a public health emergency, the destruction of the business premises, or enforcement or administrative proceedings by the City under this Code, made it impracticable for the Commercial Cannabis Business to be open to customers at the existing location for the requisite number of days.

5.80.190 Pre-Applications

With respect to any class of Commercial Cannabis Business for which Section 5.80.090 sets forth a limit on the number of valid permits that may be issued pursuant to this Section:

- (a) Any time the number of valid permits (counted as set forth in Section 5.80.180 of this Chapter) is less than the maximum number allowed, the Regulatory Administrator may designate a "lottery window" which shall be no less than one month in duration.
- (b) Prior to the commencement of the "lottery window" the Regulatory Administrator shall cause an announcement of the "lottery window" to be published in a newspaper of general circulation that is circulated in Marina and to be mailed to any ~~person~~Person who has, during the two years prior to the date on which such notification is published, filed with the Regulatory Administrator a request for mailed notification pursuant to this paragraph.
- (c) The Regulatory Administrator shall accept pre-applications only during the "lottery window". Each pre-application must be submitted on behalf of a specific Person who wishes to receive a Permit to conduct a Commercial Cannabis Business in the City, and must designate a natural person who will serve as the Principal Owner of the Commercial Cannabis Business.
- (d) No Person may submit more than one pre-application during a lottery window for each type of Permit, nor can an individual be listed as Principal Owner on more than one pre-application submitted during a lottery window for each type of Permit.
- ~~(d)~~(e) Pre-applications shall be submitted on a form designed by the Regulatory Administrator. The Regulatory Administrator shall reject any pre-application that is not complete or does not comply with regulations issued by the Regulatory Administrator prior to the commencement of the "Lottery Window."
- ~~(e)~~(f) Following the close of the "lottery window", the Regulatory Administrator shall select at random one pre-application for each ~~permit~~Permit announced pursuant to paragraph (b) of this Section.
- (g) Before conducting the selection pursuant to paragraph (e) of this Section, the Regulatory Administrator may require that each Person applying for a Permit and each Person listed as a Principal Owner obtain a Background Clearance or some other, less comprehensive, background investigation as the Regulatory Administrator may instead require.
- (h) The Regulatory Administrator may invalidate a selection conducted pursuant to paragraph (e) of this section and call for a new lottery window requiring new applications, if he or she reasonably determines that the selected pre-application was submitted fraudulently or that the selected pre-applicant or Principal Owner appears is a "straw man" for a Person submitting a non-selected Pre-Application.
- ~~(f)~~(i) The Regulatory Administrator shall accept an application for a new ~~permit~~Permit pursuant to Section 5.80.200 (other than an application that includes a commitment to cease existing operations pursuant to 5.80.170) only from a ~~person~~Person who submitted a selected pre-application. Once a pre-application has been selected, that pre-application shall count as a "valid permit" for purposes of any limitation on the number of permits that may be issued pursuant to Section 5.80.090. The pre-application shall expire six months from its ~~extension~~selection. The expiration date may be extended by

the Regulatory Administrator for two- months, if (at the time of expiration or the expiration of an extension) the Regulatory Administrator determines that an application has been submitted and is being processed by the City.

- (j) The City Council may, by resolution, establish an pre-application fee which must be paid at the time a pre-application is submitted to the Regulatory Administrator and may require that each pre-application be accompanied by a deposit against fees that can be expected to be incurred by the pre-applicant in connection with the application process if the pre-applicant is selected.

5.80.200 Application

An application for a new ~~permit pursuant to this Chapter~~Permit, for the renewal of a ~~permit~~Permit, for a change of Owner, Principal Owner, Operating Manager or Assistant Operating Manager, for the addition of a Commercial Cannabis Activity to a ~~permit~~Permit, or for the relinquishment of a ~~permit~~Permit shall be submitted on the form provided for such purpose by the Regulatory Administrator and shall include such information as may be reasonably requested by the Regulatory Administrator. The City Council may, by resolution, establish an application fee which must be paid at the time such application is submitted to the Regulatory Administrator.

5.80.210 Background Clearance

The Public Safety Administrator shall cause a background investigation of any Person upon the request of such Person. Such investigation shall include, a LiveScan background check and such other investigations as the Public Safety Administrator deems necessary. The Public Safety Administrator may establish a procedure for conducting such investigation and may establish criteria for issuing a ~~background clearance~~Background Clearance for purposes of this Chapter. A request for a background investigation shall be made on the form designed by the Public Safety Administrator. The ~~person~~Person making such request shall provide the Public Safety Administrator with any information or documents that he or she may reasonably request. The City Council may, by Resolution, establish a fee for a background investigation or clearance.

In addition to any criteria he or she may establish, the Public Safety Administrator shall not issue a background clearance to any Person who the Public Safety Administrator determines:

- (a) Has ever been convicted of (i) a violent felony as defined by California Penal Code 667.5, (ii) any violation of California Penal Code Sections 243 through 247, except for subdivision (a) of Section 243, or (iii) an equivalent offense in another state;
- (b) Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, and embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or

- (c) Has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, other than cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996; or
- (d) Has, unless for a reason deemed by the Public Safety Administrator to be immaterial, ever had any permit to operate a cannabis business revoked by any jurisdiction or had any professional or business license revoked by any jurisdiction; or
- (e) Has failed, if not a natural person, to fully disclose the identities of all of its owners in any application to the City or upon request of the Public Safety Administrator or the Regulatory Administrator.
- (f) Has made a material misstatement of fact, other than a misstatement that the Public Safety Administrator determines was a reasonable and inadvertent error, on any application to the City, in any proceeding before the City Council or Planning Commission, or to the Public Safety Administrator or the Regulatory Administrator or their staffs.

5.80.220 Safety and Security Plan

No Commercial Cannabis Business may be issued a ~~permit pursuant to this Chapter~~Permit, or have a ~~permit~~Permit renewed, without a Safety and Security Plan that has been approved by the Public Safety Administrator. The Public Safety Administrator may establish elements that must be included in the Safety and Security Plan, and may require that such Plan include business procedures, employee screening procedures, inventory and recordkeeping procedures, cameras and physical security improvements, floorplans, security system schematics, and limitations on operations, that, in his or her reasonable opinion, are necessary to (i) deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, (ii) deter and prevent the theft of cannabis or cannabis products and (iii) ensure compliance with applicable law and legal conditions imposed by the City. The City Council may establish fees for the submission or approval of a public safety plan, for the certification by the Public Safety Administrator of compliance with a Safety and Security Plan, or for compliance inspections conducted in connection with applications or renewals for permits issued pursuant to this Section. It shall be a violation of this Code for any Commercial Cannabis Business or person employed by a Commercial Cannabis Business to fail to comply with a provision of the approved Safety and Security Plan.

Except as may be reasonably waived by the Public Safety Administrator, the Safety and Security Plan shall require, at a minimum, all of the following:

- (1) Alarm systems (perimeter, fire, and panic buttons) that are professionally installed, maintained, and remotely monitored at all times by a security company licensed by the State of California Bureau of Security and Investigative Services.

- (2) Perimeter lighting systems (including motion sensors) for after-hours security.
- (3) A requirement that individuals leave the premises if they are not engaging in an activity directly related to the permitted operations of the business.
- (6) The creation of one or more limited access areas accessible only to individuals specifically authorized by the business to handle cannabis and cannabis products.
- (7) The storage of all cannabis and cannabis products, except for live plants at a cultivation or nursery operation, in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
- (8) 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. Remote live access to the video footage from the cameras shall be available to the Public Safety Administrator. Video recordings shall be maintained for a minimum of 90 days and shall be made available to the Public Safety Administrator upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business and shall be capable of enlargement via projection or other means.
- (9) Sensors that detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (10) Panic buttons with direct notification to the Marina Police Department dispatch and shall be configured to immediately alert dispatch for the Marina Police Department.

- (13) A requirement that licensed security personnel shall be on-site during any hours when any person is allowed on-premises.
- (14) Security equipment that remains operative during a power outage and ensures that access doors are not released during a power outage.
- (15) A requirement that entrance areas be locked at all times and under the control of a designated responsible party that is either; (a) an owner, agent or employee of the business or (b) a licensed security professional.
- (16) An accounting software system to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (19) A plan for compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
- (20) Network security protocols that are certified by Underwriters Laboratories.
- (21) A requirement that exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (22) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

5.80.230 Finances

- (a) A Commercial Cannabis Business may only operate at a location, occupy a structure, or use personal or real property of any kind, if that location, structure, or property is owned by the Commercial Cannabis Business or an Owner of the Commercial Cannabis Business.
- (b) Notwithstanding ~~the foregoing paragraph (a) of this Section~~, a Commercial Cannabis Business (or Owner thereof) may lease property of any kind in from a third party in connection with the Commercial Cannabis Business, so long as (i) the lease does not exceed fair market value and for a lease to a Commercial Cannabis Business and (ii) the payments due to under the lease are stated as a fixed monthly or annual amount or are based on a formula that does not take into account the sales or profits of the Commercial Cannabis Business.
- (c) No Commercial Cannabis Business, or Owner thereof, shall enter into any contract with any ~~unrelated party~~ party other than an Owner, employee or agent of the Commercial Cannabis Business that in any way varies the obligations under the

contract based on the gross receipts or profits of the Commercial Cannabis Business.

- (d) A Commercial Cannabis Business (or Owner thereof) may enter into a lease or agreement that would otherwise be prohibited by paragraphs (b) or (c) of this Section if both (i) all counterparties to the lease or agreement are treated as Owners of the Commercial Cannabis Business ~~and (ii) on the Permit for the Commercial Cannabis Business and (ii) a copy of~~ the lease or agreement is provided to the Public Safety Administrator.

5.80.240 Compensation

No employee or agent of a Commercial Cannabis Business may be compensated based on the gross receipts or profits of the Commercial Cannabis Business, and no employee or agent may be compensated on any basis other than an hourly wage or fixed monthly salary, unless that employee or agent has obtained ~~background clearance~~ Background Clearance pursuant to this Chapter. For purposes of this Section, a ~~background clearance~~ Background Clearance shall be good for two years from the date of its issuance.

5.80.250 Employee BackgroundLiveScan Checks

- (a) No Commercial Cannabis Business shall use the services of an employee or agent ~~without conducting a criminal background check on the unless that~~ employee or agent has, within the prior to the use of their services and at least annually thereafter. No Commercial Cannabis Business 365 days, either (i) obtained a Background Clearance or (ii) obtained LiveScan clearance from the Public Safety Administrator.
- (b) The Public Safety Administrator shall ~~use the service of not grant LiveScan clearance to any employee or agent individual if thea LiveScan background check disclosesindicates~~ that the individual has been convicted of a crime that would preclude the issuance of a ~~background clearance~~ Background Clearance pursuant to this Chapter. ~~The Commercial Cannabis Business shall retain copies of each criminal background check for at least five years. A Commercial Cannabis Business must immediately provide the Public Safety Administrator with a list of all employees and agents (including employees and agents who have ceased their relationship with the Commercial Cannabis Business within the prior two years) within 48 hours of a request from the Public Safety Administrator. Such list must include the name, home address, contact information, and driver's license or state issued id number for the employee or agent. The Public Safety Administrator may establish reasonable standards for criminal background checks conducted pursuant to this Section. The Public Safety Administrator may require that a employee or agent of a Commercial Cannabis Business apply for a background clearance pursuant to this Chapter. No person~~
- (c) No Person who has applied for and been denied ~~background clearance may continue to~~ Background Clearance may serve as an employee or agent of a Commercial Cannabis Business unless ~~background clearance~~ Background Clearance is subsequently issued.

(d) The Public Safety Administrator may revoke a LiveScan clearance if he or she at any time determines that the subject of the clearance has been convicted of a crime that would preclude the issuance of Background Clearance pursuant to this Chapter.

(e) The City Council may, by Resolution, establish a fee for LiveScan clearance.

5.80.260 Restriction On-Premises Consumption and Sale of Alcohol and Tobacco.

No ~~person~~Person shall sell or dispense or consume alcoholic beverages or tobacco products on the premises of a Commercial Cannabis Business. No ~~person~~Person shall consume cannabis or cannabis products on the premises of any ~~commercial cannabis business~~Commercial Cannabis Business.

5.80.270 Minors

- (a) Persons under the age of 21 years shall not be allowed on the premises of a Commercial Cannabis Business
- (b) Notwithstanding Paragraph (a) of this Section, a person aged 18 to 20 years may enter the premises of a Medical Cannabis Dispensary solely for the purpose of obtaining cannabis or cannabis products pursuant to a physician's recommendation.
- (c) A sign at the entrance to the Commercial Cannabis Business shall clearly state, in a form and font acceptable to the Public Safety Administrator, the rule set forth in this Section as applicable to the Commercial Cannabis Business.

5.80.280 Operating Manager

- (a) The Operating Manager of a Commercial Cannabis Business must be an owner or full-time employee of the Commercial Cannabis Business ~~and must be on-site at least 40 hours a week, excluding reasonable vacations and leaves not to exceed 7 consecutive days.~~
- (b) ~~An Assistant Operating Manager may serve as Operating Manager when the position of Operating Manager is vacant or when the Operating Manager is on leave. The Commercial Cannabis Business must notify the Public Safety Administrator when an Assistant Operating Manager is serving as Operating Manager, and during such period that Assistant Operating Manager must be on-site at least 32 hours each week.~~
- (c) ~~The Commercial Cannabis Business must provide the Public Safety Administrator with a 24-hour contact number for the Operating Manager or any Assistant Operating Manager who is serving as Operating Manager.~~

~~(d)~~(b) No Commercial Cannabis Business may operate at any time unless an Operating Manager or Assistant Operating Manager or Owner who has been listed on the ~~permit~~Permit is on the premises.

~~(c)~~ ~~No~~The Commercial Cannabis Business ~~may operate at any time unless it has~~must provide the Public Safety Administrator and the Fire Department with a designated 24-hour contact number for the Operating Manager and at least one Assistant Operating Manager.

~~(e)~~(d) If the Operating Manager of a Commercial Cannabis Business ceases employment or ~~has~~takes a vacation or leave of absence of more than 10 consecutive days, the Commercial Cannabis Business must designate an Assistant Operating Manager who is serving or Owner to serve as Operating Manager pursuant to Paragraph (b) of during this Section period and must notify the Public Safety Administrator and the Fire Department of such designation and of the 24-hour contact number for the designated individual.

~~(f)~~(e) All Operating Managers and Assistant Operating Managers must be authorized by the Commercial Cannabis Business to report any violation of law to the Marina Police Department, to call the Marina Police Department for assistance, and to close the business to customers during any period when the Commercial Cannabis Business cannot operate in compliance with law or with the Safety and Security Plan.

5.80.290 Reporting

A Commercial Cannabis Business shall notify the Marina Police Department within twenty-four hours after discovering any of the following:

- 1.—~~(a)~~ Significant discrepancies in inventory;
- 2.—~~(b)~~ Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary;
- 3.—~~(c)~~ The loss or unauthorized alteration of records; or
- 4.—~~(d)~~ Any breach in security.

5.80.300 Violation

Violations of ~~(i)~~ the requirements of the Chapter or of any ~~permit issued pursuant to this Chapter~~Permit, or ~~of (ii)~~ any requirement of the Medicinal and Adult Use Cannabis Regulation and Safety Act or any regulation issued thereunder, constitute violation of this Code that are subject to the provisions of Chapter 1.08 of this Code. Additionally, any such violations may constitute a public nuisance that may be remedied pursuant to Chapter 17.60 of this Code.

5.80.310 State License

Any Commercial Cannabis Business that forfeits a permit issued to it pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act or has such permit revoked must immediately cease all activities in the City of Marina for which that permit is required and must report such forfeiture or revocation to the Regulatory Administrator and the Public Safety Administrator. The Regulatory Administrator may revoke any licensePermit issued pursuant to this Chapter for a Commercial Cannabis Activity that the Commercial Cannabis Business is no longer entitled to engage in pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act.

5.80.320 Appeal

Any applicant or Commercial Cannabis Business may, within 10 days of the date of a decision, appeal to the City Manager any final decision of the Public Safety Administrator or the Regulatory Administrator pursuant to this Chapter with regard to the final denial or revocation of any permit, renewal, certification, clearance or approval applied for or held by the applicant or business. The City Manager may promulgate procedures for the consideration of any such appeal. Any decision of the City Manager shall be final.

5.80.330 Administrative Interpretations

The Public Safety Administrator and the Regulatory Administrator may issue such administrative interpretations of this Chapter as they find appropriate.

5.80.340 TaxFees

AnyThe City Council may, by resolution, adopt a fee for any application, permit, certificate, clearance, investigation, inspection, audit, appeal or other staff action or service provided pursuant to this Chapter.

5.80.350 Tax

- (a) Each Commercial Cannabis Business shall pay a tax of ~~5%~~ 5% of gross receipts in lieu of addition to the tax that would normally be required by Section 5.08.010 of this Code. For purposes of this Section, taxable gross receipts shall include gross receipts attributable to any business conducted by the Commercial Cannabis Business or on the its premises.
- (b) Except where clearly inapplicable, such tax shall be administered in the same manner (and subject to the same provisions of this Code) as the business license tax that would normally be required by Section 5.08.010, except that it the tax shall be collected and administered by the Regulatory Administrator.
- (c) The tax shall be collected quarterly and due and payable on the first day of each calendar quarter.
- (b)(d) The Regulatory Administrator may issue administrative interpretations of this requirement, may require that tax payments be made on a more frequent schedule than would be required of the business license tax, quarterly or on a different schedule than set forth in this Section, may set the may require that a deposit be made against any taxes that will be due in arrears, and may delegate

his or duties under this Section to an employee of another City department with the consent of the City Manager.

~~(e)~~(e) All taxes collected pursuant to this Section shall be deposited in the general fund of the City and available for any lawful municipal purpose

~~(f) The City Council may, by resolution, establish fees for audits of tax returns submitted pursuant to this Section.~~

5.80.350360 Inspection of Records and Premises

Any Commercial Cannabis Business must allow the inspection of its records and premises at any time as requested by the Public Safety Administrator and/or the Regulatory Administrator.

5.80.360 Zoning

Each of the

~~(a) SECTION 4. Chapter 17.47 (Commercial Cannabis Activities set forth in Section 5.80.090(a) of this Code shall be treated as a separate use for purposes of Title 17 of this Code.~~

~~(b) Medical Cannabis Dispensaries and Adult Cannabis Dispensaries shall be permitted uses in the following zones and shall otherwise be prohibited:~~

~~(c) shall be conditional uses in the following zones and shall otherwise be prohibited:~~

~~(d) All other Commercial Cannabis Activities that are permitted under this Chapter shall be conditional uses in the following zones and shall otherwise be prohibited:~~

~~(e) Except as otherwise set forth in this Chapter or where a requirement of Uses) is added to Title 17 of this Code would be clearly incompatible with specific state or local restrictions applicable to a Commercial Cannabis Activity, Medical Cannabis Dispensaries and Adult Cannabis Dispensaries shall be subject (Zoning) of the Marina Municipal Code, to the provisions of Title 17 applicable to retail uses of similar square footage and all other Commercial Cannabis Activities shall be subject to the provisions of Title 17 applicable to the most similar non-cannabis use described in Title 17."read as follows:~~

Chapter 17.47: Commercial Cannabis Uses.

17.47.010 Criteria Applicable to All Commercial Cannabis Uses.

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development in the zone in which the use will be located, no use permit for a commercial cannabis land use shall be issued unless:

(a) The site is no closer than 600 feet to any child day care center (as defined by Section 17.04.211 of this Code), school serving students in grades K-12, public recreation center or public park. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by the Commercial Cannabis Business to the nearest property line of those uses described in this Subsection.

(b) The use, as conditioned, will not generate offensive noise or odors.

17.47.020 Criteria Applicable to Retail Commercial Cannabis Uses

In addition to any other requirement of this Chapter, and to the generally applicable standards of this Title for the issuance of conditional use permits and for development in the zone in which the use will be located, no use permit for a retail commercial cannabis land use shall be issued unless:

(a) The site is no closer than 1,000 feet to any other retail commercial cannabis land use. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure (or portion of building or structure) occupied or to be occupied by each Commercial Cannabis Business.

(b) If the use, as conditioned, allows a delivery component, adequate off-street loading areas are provided for all loading and standing of delivery vehicles.

17.47.030 Signage and Display of Cannabis Products

With respect to all cannabis land uses:

(a) No graphics depicting cannabis or cannabis products shall be painted, attached, or otherwise affixed to the the exterior of any building and no such graphic shall be included on any exterior sign.

(b) No graphics depicting cannabis or cannabis products shall be displayed in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.

(c) No cannabis or cannabis products shall be displayed or handled in a manner than is visible from outside of the property, or is visible from any location, such as a common parking area or walkway, that is shared by multiple businesses.

17.47.040 Interaction with Chapter 5.80

No application shall be accepted:

(a) For a use permit that includes one or more types of commercial cannabis activities to which Section 5.80.190 of this Code applies, unless the use that is proposed to be operated by a person who is either (i) the holder of an unexpired cannabis business permit preapplication that has been selected pursuant to Section 5.80.190(i) for each such activity or (ii) the holder of an existing cannabis

business permit for each such activity who has made a commitment to cease operations at their existing site pursuant to Section 5.80.170. Each such person may have only one active use permit application for each qualifying cannabis business permit preapplication or qualifying cannabis business permit.

(b) While such prohibition is in effect, for a use permit that includes any commercial cannabis activity for which the City is prohibited from issuing a commercial cannabis permit by Section 5.80.090(h) of this Code.

SECTION 5. Section 17.06.020 of the Marina Municipal Code is hereby amended so that Subdivisions A and B of that Section read as follows, and all other subdivisions remain unchanged:

A. No dancehall, roadhouse, nightclub, commercial club, establishment or business where alcoholic beverages are served or sold for off-sale consumption, commercial place of amusement or recreation, including but not limited to an amusement center or arcade, or place where entertainers are provided whether as social companions or otherwise, shall be established in any zoning district in the city unless a use permit is first secured in each case.

B. A finding of public convenience or necessity is required for an establishment or business where alcoholic beverages are served or sold for on- and/or off-sale consumption within an area of undue concentration. Such finding shall require that selling of alcohol for on- and/or off-sale consumption at the subject establishment of business:
1. Will not constitute a public nuisance; 2. Will not occur within five hundred feet of a park or school or place of public assembly; 3. Will not contribute to law enforcement problems associated with an undue concentration of on- and/or off-sale licenses in the vicinity of the subject business or establishment.

SECTION 6.

~~SECTION 4.~~ Any provision of Chapter 5.80 Any provision of this Ordinance or of the ordinance adopted by the voters of the City of Marina at the November 6, 2018 election as Measure V may be amended by Ordinance of the City Council, except that the rate of the tax imposed by Section 5.80.340350 may not be increased above % of gross receipts without a vote of the electorate/voter approval.

SECTION 57. It is the intent of the People of the City of Marina that the City Council shall set fees pursuant to the authority of the Ordinance in an amount that will fully fund all costs associated with the regulation of Commercial Cannabis Businesses. The City Council is authorized to set, by resolution, any such fee. Any fee set by initiative or by Council action prior to the effective date of this Ordinance shall continue in effect until specifically repealed, increased, or decreased by resolution of the City Council.

SECTION 6-8. It is the intent of the People of the City of Marina that the provisions of Section 17.47.010(a) of the Municipal Code shall apply within the City in lieu of the requirements of Section 26054 of the California Business & Professions Code.

SECTION 9.

- (a) Any commercial cannabis permit issued pursuant to any code section repealed Title 19 of the Municipal Code prior to the repeal of that Title by this Ordinance shall be treated as a valid permit issued pursuant to this Ordinance and may be renewed pursuant to this Ordinance. Any conditions, requirements and limitations set forth on such permit shall remain in effect during the term of the permit and during any renewal term.
- (b) Any application for a permit that was submitted prior to the effective date of this Ordinance will be processed under the laws existing laws at the time of application.
- (c) Notwithstanding subdivision (b), an applicant for a non-retail commercial cannabis permit may request that such permit be processed pursuant to this Ordinance instead of pursuant to the prior law.

SECTION 10. It is the intent of the People of the City of Marina that the tax imposed by this ordinance shall be considered a continuation of the existing tax on cannabis businesses, and that the prior tax shall cease application only upon the effectiveness of the tax imposed by this Section. The People would not have repealed the existing tax with respect to any person if the tax adopted pursuant to this Ordinance were invalid with respect to that person.

It is not the intent of this Ordinance to cause the tax against any person to increase above the rates that were authorized for City Council adoption in the the ordinance adopted by the voters of the City of Marina at the November 6, 2018 election as Measure V. In the event that any person would be charged under this Ordinance a tax in excess of such authorized rate, the tax applied to that person will be reduced to the maximum amount that could be levied without additional voter approval.

SECTION 11

~~SECTION 7.~~ If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this title, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People hereby declares that they would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Certified as adopted by the People of the City of Marina at the Municipal General Election held on November 3, 2020.

Bruce C. Delgado, Mayor

ATTEST:

Anita Shepherd-Sharp, Deputy City Clerk

Date:

DRAFT

RESOLUTION NO. 2020-

**A RESOLUTION FROM THE MARINA PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL CONSIDER AN ORDINANCE
AMENDING PROVISIONS OF THE MUNICIPAL CODE RELATING TO
THE REGULATION, PERMITTING AND TAXATION OF COMMERCIAL
CANNABIS BUSINESSES, ACTIVITIES AND LAND USES FOR
SUBMISSION TO THE ELECTORATE AT THE NOVEMBER 3, 2020,
GENERAL MUNICIPAL ELECTION, WHICH WOULD REPEAL TITLE 19
COMMERCIAL CANNABIS ACTIVITIES, REPEAL CHAPTER 5.76
CANNABIS RETAILER, ADD CHAPTER 5.80 COMMERCIAL CANNABIS
BUSINESS REGULATIONS AND ADD CHAPTER 17.47 COMMERCIAL
CANNABIS USES**

WHEREAS, on November 6, 2018, with 4,351 votes in favor of the Ordinance and 2,130 votes against, the voters in the City of Marina's General Municipal Election approved an Ordinance of The People of the City of Marina allowing Cannabis Business Activity and Establish Taxes and Fees for such Businesses within the City Of Marina, Amending Title and Chapter establishing Cannabis Business Activities as a Use allowed subject to a Use Permit in Specified Zones and Establishing Uses to Protect Public Health, Safety & Welfare; and,

WHEREAS, the ordinance took effect on April 1, 2019, following which the City opened an application process and accepted twelve (12) Cannabis Dispensary applications; and,

WHEREAS, once implemented, it was discovered that the voter-approved commercial cannabis ordinance was cumbersome to administer. The ordinance limited the number of retail cannabis permits that could be issued by the City but allowed an unlimited number of applicants for such permits to work their way through the full process of applications and reviews, even though not all would receive permits even if they met all basic qualifications. The scoring criteria written into the ordinance resulted in many applicants having essentially identical scores, and the ordinance required that issues be decided multiple times for each applicant by staff, consultants, the Planning Commission, and the City Council. The ordinance was duplicative of state rules regarding issues like operating hours, and in some cases state regulations were subsequently amended to be more restrictive than the City ordinance. Because the ordinance was adopted by the voters and could not be amended by the City Council, these problems could not be fully addressed without a new ballot measure; and,

WHEREAS, the City Council has directed staff to prepare and submit a revised City of Marina Commercial Cannabis Activities Ordinance that can be considered and, if recommended by the Planning Commission and approved by the City Council, submitted to the County of Monterey Elections Department for inclusion on the November 3, 2020 general election ballot; and,

WHEREAS, at a regular meeting on July 9, 2020 the Planning Commission opened a public hearing, took testimony from the public and considered an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses; and,

WHEREAS, The City of Marina Planning Division determined that the submission to the voters of a Council-sponsored initiative at the November 3, 2020, General Municipal Election to an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses is exempt from the California Environmental

Quality Act (CEQA) Guidelines (Article 19, §15060 and §15378) as this action is not considered a “project” under CEQA Guidelines.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby recommends that the City Council adopt an ordinance amending provisions of the municipal code relating to the regulation, permitting and taxation of commercial cannabis businesses, activities and land uses, subject to amending Section 17.47.010 (a), to restore the 600-foot buffer to any child day care center, school serving students in grades K-12, public recreation center or public park. Said amendment of the Municipal Code is specifically conditioned upon the City Council, placing the matter on the ballot for the November 3, 2020 General Municipal Election as a Council-sponsored initiative and approval of the ballot measure by the voters; and,

BE IT FURTHER RESOLVED by the Planning Commission of the City of Marina that it hereby recommends that the City Council consider funding a youth education program to educate the youth of the community as to the dangers of using cannabis products.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 9th day of July 2020, by the following vote:

AYES, COMMISSIONERS:

NOES, COMMISSIONERS:

ABSENT, COMMISSIONERS:

ABSTAIN, COMMISSIONERS:

David Burnett, Chair

ATTEST:

Christy Hopper
Planning Services Manager
City of Marina

Date: July 17, 2020

Item No: **11a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 21, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-,
SUPPORT PROPOSITION 15, SCHOOLS AND LOCAL COMMUNITIES
FUNDING ACT OF 2020**

REQUEST: That the City Council consider:

1. Adopting Resolution No. 2020-, supporting Proposition 15, Schools and Local Communities Funding Act of 2020.

BACKGROUND:

At the July 7, 2020 City Council meeting, Councilmember Urrutia asked the City Council to support Proposition 15, Schools and Local Communities Funding Act of 2020. The act would remove the current assessment process for certain large commercial and industrial properties and begin assessing the properties for tax purposes at full cash value beginning in FY 22/23. If passed, Marina is expected to receive an additional \$2 million a year in tax revenues.

The other Councilmembers asked to receive more information about the measure. After reviewing the information, they would then like to consider supporting the measure.

ANALYSIS:

The proposition has now been numbered by the Secretary of State which provides the following information on their website:

Proposition 15

1870. (19-0008A1)

INCREASES FUNDING FOR PUBLIC SCHOOLS, COMMUNITY COLLEGES, AND LOCAL GOVERNMENT SERVICES BY CHANGING TAX ASSESSMENT OF COMMERCIAL AND INDUSTRIAL PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT.

Increases funding for K-12 public schools, community colleges, and local governments by requiring that commercial and industrial real property be taxed based on current market value. Exempts from this change: residential properties; agricultural properties; and owners of commercial and industrial properties with combined value of \$3 million or less. Increased education funding will supplement existing school funding guarantees. Exempts small businesses from personal property tax; for other businesses, exempts \$500,000 worth of personal property. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Net increase in annual property tax revenues of \$7.5 billion to \$12 billion in most years, depending on the strength of real estate markets. After backfilling state income tax losses related to the measure and paying for county administrative costs, the remaining \$6.5 billion to \$11.5 billion would be allocated to schools (40 percent) and other local governments (60 percent).** ([19-0008.](#))

Source: <https://www.sos.ca.gov/elections/ballot-measures/qualified-ballot-measures/>

Ballotpedia provides the following information about the measure:

What would this initiative change about how properties are taxed in California?

The ballot initiative would amend the [California State Constitution](#) to require commercial and industrial properties, except those zoned as commercial agriculture, to be taxed based on their market value. In California, the proposal to assess taxes on commercial and industrial properties at market value, while continuing to assess taxes on residential properties based on the purchase price, is known as *split roll*. The change from the purchase price to market value would be phased-in beginning in fiscal year 2022-2023. Properties, such as retail centers, whose occupants are 50 percent or more [small businesses](#) would be taxed based on market value beginning in fiscal year 2025-2026 (or at a later date that the legislature decides on).

The ballot initiative would make an exception for properties whose business owners have \$3.00 million or less in holdings in California; these properties would continue to be taxed based on their purchase price. The ballot initiative would exempt a small business's [tangible personal property](#) from taxes and \$500,000 in value for a non-small business's tangible personal property.^[1]

The state fiscal analyst estimated that, upon full implementation, the ballot initiative would generate between \$8 billion and \$12.5 billion in revenue per year.^[2]

Where did the current tax assessment formula, based on purchase price, come from?

In [1978](#), Californians approved [Proposition 13](#), which required that residential, commercial, and industrial properties are taxed based on their purchase price. The tax is limited to no more than 1 percent of the purchase price (at the time of purchase), with an annual adjustment equal to the rate of inflation or 2 percent, whichever is lower. According to the state Legislative Analyst's Office, market values in California tend to increase faster than 2 percent per year, meaning the taxable value of commercial and industrial properties is often lower than the market value.^[2]

How would revenue from the change in taxation be distributed?

The ballot initiative would create a process in the state constitution for distributing revenue from the revised tax on commercial and industrial properties. The ballot initiative would distribute the revenue to specific areas, rather than the General Fund. First, the revenue would be distributed to (a) the state to supplement decreases in revenue from the state's personal income tax and corporation tax due to increased tax deductions and (b) counties to cover the costs of implementing the measure. Second, 60 percent of the remaining funds would be distributed to local governments and special districts, and 40 percent would be distributed to school districts and community colleges (via a new Local School and Community College Property Tax Fund). Revenue appropriated for education would be divided as follows: 11% for community colleges and 89% for public schools, charter schools, and county education offices. There would also be a requirement that schools and colleges receive an annual minimum of \$100 (adjusted each year) per full-time student.

Ballot title

The official ballot title is as follows:^[3]

“ Increases Funding for Public Schools, Community Colleges, and Local Government Services by Changing Tax Assessment of Commercial and Industrial Property. Initiative Constitutional Amendment.^[4] ”

Petition summary

The summary provided for inclusion on signature petition sheets is as follows:^[3]

“ Increases funding for K-12 public schools, community colleges, and local governments by requiring that commercial and industrial real property be taxed based on current market value. Exempts from this change: residential properties; agricultural properties; ”

and owners of commercial and industrial properties with combined value of \$3 million or less. Increased education funding will supplement existing school funding guarantees. Exempts small businesses from personal property tax; for other businesses, exempts \$500,000 worth of personal property.^[4]

Fiscal impact statement

The fiscal impact statement is as follows:^[3]

“ Net increase in annual property tax revenues of \$7.5 billion to \$12 billion in most years, depending on the strength of real estate markets. After backfilling state income tax losses related to the measure and paying for county administrative costs, the remaining \$6.5 billion to \$11.5 billion would be allocated to schools (40 percent) and other local governments (60 percent).^[4] ”

Source:

[https://ballotpedia.org/California_Proposition_15,_Tax_on_Commercial_and_Industrial_Properties_for_Education_and_Local_Government_Funding_Initiative_\(2020\)](https://ballotpedia.org/California_Proposition_15,_Tax_on_Commercial_and_Industrial_Properties_for_Education_and_Local_Government_Funding_Initiative_(2020))

The measure specifically leaves residential dwellings, including large apartment complexes, outside the change to the property tax valuation change. The measure also allows commercial and industrial properties valued at less than \$3 million to not be reassessed. Finally, \$500,000 in personal business property, such as inventory, is exempted from taxation.

FISCAL IMPACT:

Marina’s estimated increase in property tax revenues is \$2.2 million.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Eric Frost
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

SOURCE OF FUNDING:

RESOLUTION NO. 2020-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
SUPPORTING PROPOSITION 15,
SCHOOLS AND LOCAL COMMUNITIES FUNDING ACT OF 2020

Whereas, for the last four decades, cities and counties in California have experienced underinvestment and devastating cuts to critical services and infrastructure that residents rely on;

Whereas, the lack of adequate local funding is the result of an inequitable tax system in which corporations and wealthy investors do not pay their fair share in property taxes;

Whereas, loopholes in California's property tax system allow a fraction of major commercial and industrial properties to avoid regular reassessment and use shady schemes to hide change in ownership;

Whereas, these loopholes and tax schemes result in millions of dollars going to corporations and wealthy investors rather than to local communities for essential services;

Whereas the property tax is one of the few discretionary sources of revenue for cities and counties;

Whereas, experts estimate that the *California Schools and Local Communities Funding Act* reclaims \$12 billion in property tax revenue every year by closing loopholes in California's property tax system;

Whereas the *California Schools and Local Communities Funding Act* does not affect property taxes for homeowners or renters because the initiative exempts all residential property;

Whereas, allocation of revenues to cities, counties and special districts will follow current property tax allocation;

Whereas, the measure will provide billions in locally-controlled property tax funding yearly for cities, counties, and special districts;

Whereas, academic researchers at the University of Southern California (USC) have identified that the vast majority of reclaimed revenue will come from a fraction of large commercial and industrial properties;

Whereas, USC research shows that a majority of commercial owners already pay close to market value, making the current system inequitable among businesses, benefitting large owners who have held land for a long period;

Whereas, the current failure to close the commercial property loophole has led to poor land use and inflated land values, particularly affecting the ability to provide adequate high-density housing;

Whereas, the measure incentivizes the development of residential units and provides more funding for communities to invest in affordable housing;

Whereas, the measure provides new tax incentives to spur new investment in small businesses by eliminating the business personal property tax on equipment for California's small businesses;

Whereas, the measure also exempts all small business owners whose property is worth \$3 million or less;

Whereas, the measure levels the playing field for businesses that already pay their fair share in our communities;

Whereas, the *California Schools and Local Communities Funding Act of 2020* is expected to be on the November 2020 ballot;

Therefore, be it Resolved, that the City of Marina endorses proposition 15, California Schools and Local Communities Funding Act of 2020, a proposition on the November 2020 ballot.

PASSED and ADOPTED by the City Council of the City of Marina at a special meeting duly held on this 21st day of July 2020 by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS

ABSTAIN, COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk

July 15, 2020

Item No. **11b(i)**

Honorable Mayor and Members
Of the Marina City Council

City Council Meeting of
July 21, 2020

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-, CONFIRMING THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES' ISSUANCE OF A THIRD SUPPLEMENT TO THE PROCLAMATION OF A LOCAL EMERGENCY TEMPORARILY SUSPENDING UNTIL SEPTEMBER 30, 2020, THE AUTHORITY OF ANY LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL (INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR COMMERCIAL PROPERTY WITHIN THE CITY DUE TO THE TENANT'S NONPAYMENT OF RENT, OR A FORECLOSURE, ARISING OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19 PANDEMIC OR THE GOVERNMENTAL RESPONSE THERETO AND ESTABLISHING CERTAIN EVICTION PROTECTION REQUIREMENTS.

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2020-, confirming the City Manager/Director of Emergency Services' issuance of a Third Supplement to the Proclamation of a Local Emergency (**Exhibit 1**) temporarily suspending until September 30, 2020, the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City due to the tenant's nonpayment of rent, or a foreclosure, arising out of a documented substantial decrease in household or business income caused by the COVID-19 pandemic or the governmental response thereto and establishing certain eviction protection requirements.

BACKGROUND:

Section 2.20.060.a. of the Marina Municipal Code empowers the Director of Emergency Services, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council. On March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a "Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)" (Proclamation of Local Emergency) and a copy is attached as **Exhibit A** to **Exhibit 1**.

On March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached as **Exhibit B** to **Exhibit 1**. The First Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina.

On May 29, 2020, the Director of Emergency Services issued a Second Supplement to the Proclamation of Local Emergency (Second Supplement), effective as of June 1, 2020, extending until July 31, 2020, the temporary suspension of the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto and establishing certain eviction protection requirements. A copy is attached hereto as **Exhibit C to Exhibit 1**. The Second Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina.

On July 16, 2020, the Director of Emergency Services issued a Third Supplement to the Proclamation of Local Emergency (Third Supplement) extending until September 30, 2020, the temporary suspension of the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto and establishing certain eviction protection requirements. A copy is attached hereto as **Exhibit 1**. The Third Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina.

Nothing in the First, Second or Third Supplements relieves a tenant of the obligation to pay rent or a landlord's ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord's property.

The Third Supplement was effective as of July 16, 2020.

The issuance of the Third Supplement is the only formal action taken under the authority vested in the Director of Emergency Services since the City Council's confirmation of the First Supplement at a regular meeting on July 7,, 2020.

Respectfully submitted,

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2020-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CONFIRMING ISSUANCE OF A THIRD SUPPLEMENT TO THE PROCLAMATION OF A LOCAL EMERGENCY TEMPORARILY SUSPENDING UNTIL SEPTEMBER 30, 2020, THE AUTHORITY OF ANY LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL (INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR COMMERCIAL PROPERTY WITHIN THE CITY DUE TO THE TENANT'S NONPAYMENT OF RENT, OR A FORECLOSURE, ARISING OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19 PANDEMIC OR THE GOVERNMENTAL RESPONSE THERETO AND EXSTABLISHING CERTAIN EVICTION PROTECTION REQUIREMENTS

WHEREAS, Section 2.20.060.a.of the Marina Municipal Code, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, on March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a "Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)" (Proclamation of Local Emergency). A copy is attached hereto as **Exhibit A to Exhibit 1**; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached hereto as **Exhibit B to Exhibit 1**. The First Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina; and

WHEREAS, on June 1, 2020, the Director of Emergency Services issued a Second Supplement to the Proclamation of Local Emergency (Second Supplement) extending until July 31, 2020, the temporary suspension of the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto and establishing certain eviction protection requirements. A copy is attached hereto as **Exhibit C to Exhibit 1**. The Second Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina; and

WHEREAS, on July 16, 2020, the Director of Emergency Services issued a Third Supplement to the Proclamation of Local Emergency (Third Supplement extending until September 30, 2020 the temporary suspension of the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto and establishing certain eviction protection requirements. The Third Supplement was issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina. A copy is attached hereto as **Exhibit 1**; and

WHEREAS, the First, Second and Third Supplements were issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina; and

WHEREAS, Nothing in the First, Second or Third Supplements relieves a tenant of the obligation to pay rent or a landlord's ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord's property; and

WHEREAS, the Third Supplement was effective as of July 16, 2020; and

WHEREAS, the City Council hereby finds that the conditions described in the Proclamation of Local Emergency related to the COVID-19 outbreak did warrant and necessitate the issuance of the Third Supplement by the Director of Emergency Services.

NOW, THEREFORE, be it resolved by the City Council of the City of Marina that:

- A. The Third Supplement to the Proclamation of Local Emergency, as issued by the Director of Emergency Services/City Manager and attached as **Exhibit 1** to this Resolution is hereby confirmed.
- B. The Third Supplement shall be deemed to continue in force until September 30, 2020.
- C. As required by law and as directed by the City Council on March 17, 2020, the City Council shall continue to review the need for continuing the state of emergency every sixty (60) days until the state of emergency is terminated by the City Council. Accordingly the City Manager has and will continue to report to the City Council on the COVID-19 pandemic as it affects the City of Marina and actions taken under his authority as Director of Emergency Services at every regular meeting of the City Council until the termination of the local emergency shall be proclaimed by the City Council.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 21st day of July 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**THIRD SUPPLEMENT TO THE PROCLAMATION OF A LOCAL
EMERGENCY BY THE CITY OF MARINA CITY MANAGER RELATED
TO COVID-19 (CORONAVIRUS)**

WHEREAS, since early 2020 health and governmental authorities worldwide have been and continue to be involved in a concerted response to an outbreak of respiratory disease caused by a novel coronavirus named COVID-19; and

WHEREAS, on March 13, 2020, following the proclamation of emergency by the Governor, and as authorized by and in accordance with subsection 6.a. of Section 2.20.020 of the City of Marina Municipal Code, as Director of Emergency Services and City Manager for the City of Marina I issued a Proclamation of a Local Emergency by City of Marina City Manager Related to COVID-19 (CORONAVIRUS), and

WHEREAS, on March 16, 2020, the Governor of the State of California issued an Executive Order N-28-20, recognizing the economic impacts of COVID-19 have been significant and could threaten to undermine the housing security for California residents and the continued viability of California commercial enterprises and suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions through May 31, 2020; and

WHEREAS, on March 20, 2020, during the continuance of the emergency proclaimed by the Governor, again as authorized by and in accordance with subsection 6.a. of Section 2.20.020 of the City of Marina Municipal Code, as Director of Emergency Services and City Manager for the City of Marina I issued a First Supplement to the Proclamation of a Local Emergency by the City Manager Related to COVID-19 (CORONAVIRUS) imposing substantive limitations on residential or commercial evictions in the City of Marina through May 31, 2020; and

WHEREAS, on March 27, 2020, the Governor of the State of California issued Executive Order N-37-20 recognizing many Californians will experience a substantial loss of income related to COVID-19 and therefore minimizing evictions is critical to reducing the spread of COVID-19 in vulnerable populations and establishing certain eviction protection requirements; and

WHEREAS, on May 29, 2020, the Governor of the State of California issued Executive Order N-66-20, recognizing many Californians are experiencing a substantial loss of income as a result of business closures, the loss of hours or wages or layoffs related to COVID-19 and therefore hindering their ability to keep up with their rent, leaving them vulnerable to eviction, and also impacting owners reliant on rent, and extending the timeframe for protections set forth in Paragraphs 1 and 2 of Executive Order N-28-20 by an additional 60 days; and

WHEREAS, on May 29, 2020, during the continuance of the emergency proclaimed by the Governor, again as authorized by and in accordance with subsection 6.a. of Section 2.20.020 of the City of Marina Municipal Code, as Director of Emergency Services and City Manager for the City of Marina I issued a Second Supplement to the Proclamation of a Local Emergency by the City Manager Related to COVID-19 (CORONAVIRUS), effective as of June 1, 2020, to continue the imposition of substantive limitations on residential or commercial evictions in the City of Marina through July 31, 2020; and

WHEREAS, on June 30, 2020, the Governor of the State of California issued an Executive Order N-71-20, recognizing that minimizing evictions during this period is critical to reducing the spread of COVID-19 in vulnerable populations by allowing those most vulnerable to COVID-19 to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19 and extending the timeframe for the protections set forth in Paragraph 2 of Executive Order N-28-20, via Executive Order N-66-20, and extending Paragraph 21 of Executive Order N-66-20, through September 30, 2020; and

WHEREAS, all three said proclamations have been confirmed and ratified, as required by said Section 2.20.020, by the City of Marina City Council, respectively by Resolution No. 2020-29, Resolution No. 2020-32, and Resolution 2020-59. The Proclamations and Resolutions are attached hereto as Exhibits A, B, and C and incorporated herein by this reference; and

WHEREAS, this Third Supplemental proclamation (that expires by its terms on September 30, 2020) following recitation and explanation herein of conditions and consequences of the COVID-19 crisis/pandemic and their effect on the public health and safety of residents and businesses in the City of Marina, includes and concludes with an order pursuant to City's general police power to protect health, safety, and welfare of its citizens, and as authorized by Section 2.20.020 of the Municipal Code, suspending the authority of landlords to commence evictions under specified circumstances, and more particularly set out in the Third Supplement proclamation; and

WHEREAS, the conditions and consequences of COVID-19 extant at the time of issuance and ratification/confirmation of the First Supplement and the Second Supplement proclamation and at the time of the issuance of Executive Orders N-28-20, N-37-20, N-66-20 and N-71-20 remain at or near those being endured by residents and businesses as of the date of this Third Supplement proclamation; and

WHEREAS, it is therefore my considered opinion that in the interest of health, safety, and welfare of the residents and businesses of the City of Marina, it is necessary to exercise my authority to issue this proclamation related to protection of life and property, to extend the order issued in the Second Supplement proclamation through September 30, 2020; and

WHEREAS, the City Council is not in session on the date written below, therefore as required by subsection 6.a. of Section 2.02.020, the City Council shall be convened at the earliest possible date to confirm this proclamation.

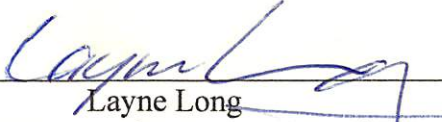
IT IS HEREBY ORDERED THAT:

All provisions of that certain order found at 1.a. through 1.d. in First Supplement to the Proclamation of a Local Emergency by the City of Marina City Manager Related to COVID-19 (CORONAVIRUS), are hereby extended through September 30, 2020, provided that the date of termination noted therein shall be amended to the extension date in this paragraph.

Pursuant to the general police power of the City to protect the health, safety and welfare of its citizens, all provisions found at paragraphs 1 and 2 of Executive Order N-37-20 establishing certain eviction protection requirements, are hereby incorporated as if set forth fully herein by this reference and are hereby to remain in force and effect through September 30, 2020, provided that the date of termination noted therein shall be amended to September 30, 2020.

This Order shall become effective July 16, 2020.

ADOPTED this 16 day of July 2020.


Layne Long
Director of Emergency Services

ATTEST:


Anita Shepherd-Sharp
Deputy City Clerk

APPROVED AS TO FORM:


Robert W. Rathie
for the City Attorney



**PROCLAMATION OF A LOCAL EMERGENCY BY
CITY OF MARINA CITY MANAGER RELATED TO COVID-19 (CORONAVIRUS)**

WHEREAS, Section 2.20.060 of Chapter 2.20 entitled "Disaster Council" of the Marina Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, section 2.20.050 of the Marina Municipal Code designates the City Manager to be the Director of Emergency Services; and

WHEREAS, the City Manager as the Director of Emergency Services of the City of Marina hereby finds that:

1. The novel coronavirus (COVID-19) is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and
2. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and
3. Conditions of extreme peril to the safety of persons have arisen within the City caused by the COVID-19 pandemic. On March 4, 2020, Governor Newsom proclaimed State of Emergency to exist in California as a result of the threat of COVID-19. There presently exists a public health emergency, as further addressed in Governor Newsom's Executive Order N-25-20 dated March 12, 2020, and by a National State of Emergency declared by President Trump on March 13, 2020; and
4. The efforts required to prepare for, respond to, mitigate and recover from the spread of COVID-19 have imposed, and will continue to impose, extraordinary requirements and expenses on the City, requiring diversion of resources from day-to-day operations; and
5. In addition to the above facts, conditions or threatened conditions caused by COVID-19 including but not limited to potential isolation and quarantine of residents, employees, businesses, and public safety workers, give rise to conditions of extreme peril to the safety of persons and property within the City; and
6. These conditions are, or are likely to be, beyond the control of the services, personnel, equipment and facilities of the City of Marina; and
7. The City Council of the City of Marina is not in session and cannot immediately be called into session.

BE IT FURTHER PROCLAIMED AND ORDERED that during the existence of said Local Emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, existing ordinances and resolutions, the City's Emergency Plan, as well as this resolution and any subsequent emergency orders of the City Council in order to mitigate the effects of the Local Emergency.

BE IT FURTHER PROCLAIMED AND ORDERED, pursuant to Government Code sections 8634 and 8568, during the period of this emergency, the following procedures and formalities otherwise required of the City by ordinance or other local regulation shall be waived, where strict compliance would hinder or delay the mitigation effects of the emergency:

1. Entering into contracts;
2. Incurring obligations;
3. Employment of permanent and temporary workers;
4. Utilization of volunteer workers;
5. Appropriation and expenditure of public funds; and
6. Waiver of public funds when in the public interest.

IT IS FURTHER PROCLAIMED AND ORDERED that said Local Emergency that said Local Emergency shall continue by ratification of the City Council, until its termination is proclaimed by the City Council of the City.

March 13, 2020
Date and Time 4:30 pm

Layne Long
Layne Long, City Manager and
Director of Emergency Services

RESOLUTION NO. 2020-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA RATIFYING THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES PROCLAMATION OF A LOCAL EMERGENCY RELATED TO COVID-19 (CORONAVIRUS)

WHEREAS, Section 2.20.060 of the Marina Municipal Code empowers the Director of Emergency Services to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, section 2.20.050 of the Marina Municipal Code designates the City Manager to be the Director of Emergency Services; and

WHEREAS, the City Manager as the Director of Emergency Services of the City of Marina on March 13, 2020 issued a Proclamation finding that:

1. The novel coronavirus (COVID-19) is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and
2. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and
3. Conditions of extreme peril to the safety of persons have arisen within the City caused by the COVID-19 pandemic. On March 4, 2020, Governor Newsom proclaimed State of Emergency to exist in California as a result of the threat of COVID-19. There presently exists a public health emergency, as further addressed in Governor Newsom's Executive Order N-25-20 dated March 12, 2020, and by a National State of Emergency declared by President Trump on March 13, 2020; and
4. The efforts required to prepare for, respond to, mitigate and recover from the spread of COVID-19 have imposed, and will continue to impose, extraordinary requirements and expenses on the City, requiring diversion of resources from day-to-day operations; and
5. In addition to the above facts, conditions or threatened conditions caused by COVID-19 including but not limited to potential isolation and quarantine of residents, employees, businesses, and public safety workers, give rise to conditions of extreme peril to the safety of persons and property within the City; and
6. These conditions are, or are likely to be, beyond the control of the services, personnel, equipment and facilities of the City of Marina; and
7. The City Council of the City of Marina is not in session and cannot immediately be called into session; and

WHEREAS, the City Council hereby finds that the above-described conditions related to the COVID-19 outbreak did warrant and necessitate the proclamation of the existence of a local emergency in the City of Marina.

NOW, THEREFORE, be it resolved by the City Council of the City of Marina that:

- A. The Proclamation of a Local Emergency, as issued by the Director of Emergency Services/City Manager and attached as **Exhibit A** to this Resolution is hereby ratified and confirmed.
- B. The local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Marina
- C. As required by law, the City Council shall review the need to continue the state of emergency every thirty (30) days until this resolution is terminated.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 17th day of March 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**FIRST SUPPLEMENT TO THE PROCLAMATION OF A LOCAL EMERGENCY BY
THE CITY OF MARINA CITY MANAGER RELATED TO COVID-19
(CORONAVIRUS)**

WHEREAS, international, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named COVID-19; and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for the broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on Friday, March 13, 2020, the City Manager, in his role as the Director of Emergency Services, proclaimed the existence of a local emergency pursuant to Chapter 2.20 of the Marina Municipal Code to ensure an effective response by the City to the COVID-19 pandemic; and

WHEREAS, in accordance with subsection 6.a. of section 2.20.020 of Chapter 2.20 of the Marina Municipal Code, in the event of the proclamation of a local emergency or the proclamation of a state of emergency by the Governor, the Director of Emergency Services is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

WHEREAS, on March 16, 2020, the Governor of the State of California issued an Executive Order, attached hereto as **Exhibit A** and by this reference incorporated herein, recognizing the economic impacts of COVID-19 have been significant and could threaten to undermine the housing security for California residents and the continued viability of California commercial enterprises and suspending any provision of state law prohibiting a local government from exercising its police power to impose substantive limitations on residential or commercial evictions through May 31, 2020; and

WHEREAS, at a regular meeting of the City Council of the City of Marina held on March 17, 2020, by Resolution 2020-29, the City Manager/Director of Emergency Services' Proclamation was ratified by the City Council of the City of Marina, the local emergency was deemed by the City Council to continue to exist until its termination is proclaimed by the City Council, and direction was given to take action as soon as practicable on measures to protect renters and prevent eviction or rent increase of persons adversely affected by loss of work or income due to COVID-19; and

WHEREAS, on March 17, 2020, the Health Officer of the County of Monterey issued an Order directing all individuals living in the County to shelter in their place of residence, except that they may leave to provide or receive certain essential services or engage in certain essential activities, and work for essential businesses and governmental services; exempting individuals experiencing homelessness from the shelter in place Order but urging them to find shelter and government agencies to provide it; directing all businesses and governmental agencies to cease nonessential operations at physical locations in the County; prohibiting all nonessential gatherings of any number of individuals; and ordering cessation of all nonessential travel; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many tenants and commercial enterprises in Marina have experienced or expect soon to experience sudden and unexpected income loss, layoffs, and business closure, thereby placing increased demands on already strained regional and local health and safety resources; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, to protect the City's affordable housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, school closures require parents to adjust work schedules leading to time off work, whether paid or unpaid, and an inability to work will economically strain families; and

WHEREAS, due to the Order for County residents to shelter in their places of residence and the Governor's call for certain businesses to close, businesses that rely on customer patronage will experience a significant loss of business opportunity, loss of indirect spending, an impact on their operations and a loss of revenue for those that cannot continue to operate; and

WHEREAS, in the interest of health and safety, as affected by the emergency caused by the COVID-19 pandemic, it is necessary to exercise my authority to issue this regulation related to the protection of life and property; and

WHEREAS, as required by subsection 6.a. of section 2.20.020 of the Marina Municipal Code this regulation must be confirmed by the City Council at the earliest practicable time.

IT IS HEREBY ORDERED THAT:

1. A temporary moratorium on eviction for nonpayment of rent by residential and commercial tenants impacted by the COVID-19 pandemic is imposed as follows:

a. Pursuant to the general police power of the City to protect the health, safety and welfare of its citizens the authority of any landlord to commence evictions on any residential (including mobile homes and mobile home lots) or commercial property within the City of Marina for the following reasons is hereby suspended through May 31, 2020, unless otherwise terminated or extended: (1) the basis for the eviction is nonpayment of rent or a foreclosure arising out of a substantial decrease in household or business income, including but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand, or substantial out-of-pocket medical expenses; and (2)

the decrease in household income or business income or the out-of-pocket medical expenses described in subparagraph (1) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented. Nothing in this Order shall relieve the tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due. Nothing herein shall be deemed to interfere with the right of a landlord to file an action against a tenant or non-tenant for damage done to a landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

b. This Order applies to nonpayment eviction notices, no-fault eviction notices, and unlawful detainer actions based on such notices, served or filed on or after the date written below. This Order shall be liberally construed so as to provide the broadest possible protection.

c. This Order shall be punishable as set forth in Section 2.20.100 of the Marina Municipal Code. In addition, this Order grants a defense in the event that an unlawful detainer action is commenced in violation of this Order.

d. This Order shall be superseded by a duly enacted Ordinance or Resolution of the City Council or a further Order by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Order.

2. This Order shall become effective immediately.

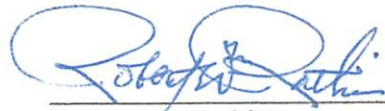
ADOPTED this 20th day of March 2020.


Layne Long
Director of Emergency Services

ATTEST:


Anita Shepherd-Sharp
Deputy City Clerk

APPROVED AS TO FORM:


Robert W. Rathie
for the City Attorney

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-28-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection and otherwise mitigate the effects of COVID-19 are needed; and

WHEREAS the economic impacts of COVID-19 have been significant, and could threaten to undermine Californians' housing security and the stability of California businesses; and

WHEREAS many Californians are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with their rents, mortgages, and utility bills; and

WHEREAS Californians who are most vulnerable to COVID-19, those 65 years and older, and those with underlying health issues, are advised to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19; and

WHEREAS because homelessness can exacerbate vulnerability to COVID-19, California must take measures to preserve and increase housing security for Californians to protect public health; and

WHEREAS local jurisdictions, based on their particular needs, may therefore determine that additional measures to promote housing security and stability are necessary to protect public health or to mitigate the economic impacts of COVID-19; and

WHEREAS local jurisdictions may also determine, based on their particular needs, that promoting stability amongst commercial tenancies is also conducive to public health, such as by allowing commercial establishments to decide whether and how to remain open based on public health concerns rather than economic pressures, or to mitigate the economic impacts of COVID-19; and

WHEREAS in addition to these public health benefits, state and local policies to promote social distancing, self-quarantine, and self-isolation require that people be able to access basic utilities—including water, gas, electricity, and telecommunications—at their homes, so that Californians can work from home, receive public health information, and otherwise adhere to policies of social distancing, self-quarantine, and self-isolation, if needed; and

WHEREAS many utility providers, public and private, covering electricity, gas, water, and sewer, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19; and

WHEREAS many telecommunication companies, including internet and cell phone providers, have voluntarily announced moratoriums on service disconnections and late fees for non-payment in response to COVID-19;

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The time limitation set forth in Penal Code section 396, subdivision (f), concerning protections against residential eviction, is hereby waived. Those protections shall be in effect through May 31, 2020.
- 2) Any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on residential or commercial evictions as described in subparagraphs (i) and (ii) below—including, but not limited to, any such provision of Civil Code sections 1940 et seq. or 1954.25 et seq.—is hereby suspended to the extent that it would preempt or otherwise restrict such exercise. This paragraph 2 shall only apply to the imposition of limitations on evictions when:
 - (i) The basis for the eviction is nonpayment of rent, or a foreclosure, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses; and
 - (ii) The decrease in household or business income or the out-of-pocket medical expenses described in subparagraph (i) was caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented.

The statutory cause of action for judicial foreclosure, Code of Civil Procedure section 725a et seq.; the statutory cause of action for unlawful detainer, Code of Civil Procedure section 1161 et seq., and any other statutory cause of action that could be used to evict or otherwise eject a residential or commercial tenant or occupant of residential real property after foreclosure is suspended only as applied to any tenancy, or residential real property and any



occupation thereof, to which a local government has imposed a limitation on eviction pursuant to this paragraph 2, and only to the extent of the limitation imposed by the local government.

Nothing in this Order shall relieve a tenant of the obligation to pay rent, nor restrict a landlord's ability to recover rent due.

The protections in this paragraph 2 shall be in effect through May 31, 2020, unless extended.

- 3) All public housing authorities are requested to extend deadlines for housing assistance recipients or applicants to deliver records or documents related to their eligibility for programs, to the extent that those deadlines are within the discretion of the housing authority.
- 4) The Department of Business Oversight, in consultation with the Business, Consumer Services, and Housing Agency, shall engage with financial institutions to identify tools to be used to afford Californians relief from the threat of residential foreclosure and displacement, and to otherwise promote housing security and stability during this state of emergency, in furtherance of the objectives of this Order.
- 5) Financial institutions holding home or commercial mortgages, including banks, credit unions, government-sponsored enterprises, and institutional investors, are requested to implement an immediate moratorium on foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in household or business income, or substantial out-of-pocket medical expenses, which were caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19.
- 6) The California Public Utilities Commission is requested to monitor measures undertaken by public and private utility providers to implement customer service protections for critical utilities, including but not limited to electric, gas, water, internet, landline telephone, and cell phone service, in response to COVID-19, and on a weekly basis publicly report these measures.

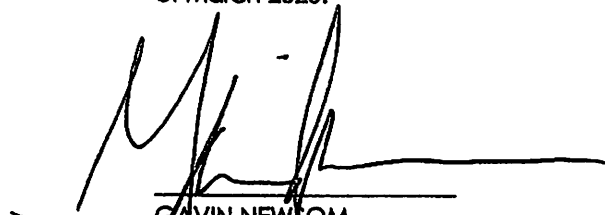
Nothing in this Order shall be construed to invalidate any limitation on eviction enacted by a local jurisdiction between March 4, 2020 and this date.

Nothing in this Order shall in any way restrict state or local authority to order any quarantine, isolation, or other public health measure that may compel an individual to remain physically present in a particular residential real property.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

RESOLUTION NO. 2020-32

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CONFIRMING
ISSUANCE OF A FIRST SUPPLEMENT TO THE PROCLAMATION OF A LOCAL
EMERGENCY TEMPORARILY SUSPENDING UNTIL MAY 31, 2020, THE AUTHORITY
OF ANY LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL
(INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR COMMERCIAL
PROPERTY WITHIN THE CITY DUE TO THE TENANT'S NONPAYMENT OF RENT OR
A FORECLOSURE ARISING OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN
HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19 PANDEMIC OR
THE GOVERNMENTAL RESPONSE THERETO.**

WHEREAS, Section 2.20.060.a. of the Marina Municipal Code, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, on March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a "Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)" (Proclamation of Local Emergency). A copy is attached hereto as Exhibit A; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached hereto as Exhibit B; and

WHEREAS, the First Supplement was issued pursuant to the general police powers of the City to protect the health, safety and welfare of the citizens of Marina; and

WHEREAS, Nothing in the First Supplement relieves a tenant of the obligation to pay rent or a landlord's ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord's property; and

WHEREAS, the First Supplement was effective as of March 20, 2020; and

WHEREAS, the City Council hereby finds that the conditions described in the Proclamation of Local Emergency related to the COVID-19 outbreak did warrant and necessitate the issuance of the First Supplement by the Director of Emergency Services.

NOW, THEREFORE, be it resolved by the City Council of the City of Marina that:

- A. The First Supplement to the Proclamation of Local Emergency, as issued by the Director of Emergency Services/City Manager and attached as **Exhibit B** to this Resolution is hereby confirmed.
- B. The First Supplement shall be deemed to continue in force until May 31, 2020.

- C. As required by law, the City Council shall continue to review the need for continuing the state of emergency every thirty (30) days until the state of emergency is terminated by the City Council and, as directed by the City Council on March 17, 2020, the City Manager shall continue to report to the City Council on actions taken under his authority as Director of Emergency Services at every regular meeting of the City Council until the termination of the local emergency shall be proclaimed by the City Council.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 7th day of April 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**SECOND SUPPLEMENT TO THE PROCLAMATION OF A LOCAL
EMERGENCY BY THE CITY OF MARINA CITY MANAGER RELATED
TO COVID-19 (CORONAVIRUS)**

WHEREAS, since early 2020 health and governmental authorities worldwide have been and continue to be involved in a concerted response to an outbreak of respiratory disease caused by a novel coronavirus named COVID-19; and

WHEREAS, I, as Director of Emergency Services and City Manager for the City of Marina, have on March 13, 2020 issued a Proclamation of a Local Emergency by City of Marina City Manager Related to COVID-19 (CORONAVIRUS), and have on March 20, 2020, issued a First Supplement to the Proclamation of a Local Emergency by the City Manager Related to COVID-19 (CORONAVIRUS), both following the proclamation of emergency by the Governor, and as authorized by and in accordance with subsection 6.a. of Section 2.20.020 of the City of Marina Municipal Code; and

WHEREAS, both said proclamations have been confirmed and ratified, as required by said Section 2.20.020, by the City of Marina City Council though, respectively by Resolution No. 2020-29 and Resolution No. 2020-32, and the Proclamations and Resolutions are attached hereto as Exhibits A and B, and incorporated herein by this reference; and

WHEREAS, the First Supplement proclamation (that expires by its terms on May 31, 2020) following recitation and explanation of conditions and consequences of the COVID-19 crisis/pandemic and their effect on the public health and safety of residents and businesses in the City of Marina, includes and concludes with an order pursuant to City's general police power to protect health, safety, and welfare of its citizens, and as authorized by Section 2.20.020 of the Municipal Code, suspending the authority of landlords to commence evictions under specified circumstances, and more particularly set out in the First Supplement proclamation; and

WHEREAS, on March 27, 2020, the Governor of the State of California issued Executive Order 37-20, attached hereto as Exhibit C and incorporated herein by this reference, recognizing many Californians will experience a substantial loss of income related to COVID-19 and therefore minimizing evictions is critical to reducing the spread of COVID-19 in vulnerable populations and establishing certain eviction protection requirements; and

WHEREAS, the conditions and consequences of COVID-19 extant at the time of issuance and ratification/confirmation of the First Supplement proclamation and at the time of the issuance of Executive Order N-37-20 remain at or near those being endured by residents and businesses as of the date of this Second Supplement proclamation; and

WHEREAS, it is therefore my considered opinion that in the interest of health, safety, and welfare of the residents and businesses of the City of Marina, it is necessary to exercise my authority to issue this proclamation related to protection of life and property, to extend the order issued in the First Supplement proclamation through July 31, 2020; and

WHEREAS, the City Council is not in session on the date written below, therefore as required by subsection 6.a. of Section 2.02.020, the City Council shall be convened at the earliest possible date to confirm this proclamation.

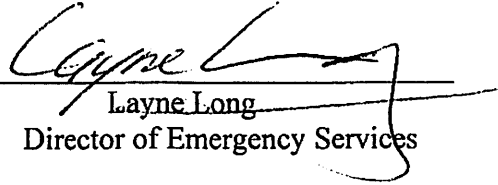
IT IS HEREBY ORDERED THAT:

All provisions of that certain order found at 1.a. through 1.d. in First Supplement to the Proclamation of a Local Emergency by the City of Marina City Manager Related to COVID-19 (CORONAVIRUS), are hereby extended through July 31, 2020, provided that the date of termination noted therein shall be amended to the extension date in this paragraph.

Pursuant to the general police power of the City to protect the health, safety and welfare of its citizens, all provisions found at paragraphs 1 and 2 of Executive Order N-37-20 establishing certain eviction protection requirements, are hereby incorporated as if set forth fully herein by this reference and are hereby to remain in force and effect through July 31, 2020, provided that the date of termination noted therein shall be amended to July 31, 2020.

This Order shall become effective on June 1, 2020.

ADOPTED this 29th day of May 2020.


Layne Long
Director of Emergency Services

ATTEST:


Anita Shepherd-Sharp
Deputy City Clerk

APPROVED AS TO FORM:


Robert W. Rathie
for the City Attorney

RESOLUTION NO. 2020-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA CONFIRMING
ISSUANCE OF A SECOND SUPPLEMENT TO THE PROCLAMATION OF A LOCAL
EMERGENCY TEMPORARILY SUSPENDING UNTIL JULY 31, 2020, THE AUTHORITY
OF ANY LANDLORD TO COMMENCE EVICTIONS ON ANY RESIDENTIAL
(INCLUDING MOBILE HOMES AND MOBILE HOME LOTS) OR COMMERCIAL
PROPERTY WITHIN THE CITY DUE TO THE TENANT'S NONPAYMENT OF RENT OR
A FORECLOSURE ARISING OUT OF A DOCUMENTED SUBSTANTIAL DECREASE IN
HOUSEHOLD OR BUSINESS INCOME CAUSED BY THE COVID-19 PANDEMIC OR
THE GOVERNMENTAL RESPONSE THERETO AND ESTABLISHING CERTAIN
EVICTION PROTECTION REQUIREMENTS

WHEREAS, Section 2.20.060.a. of the Marina Municipal Code, in the event of a proclamation of a local emergency by the City Manager in his role as Director of Emergency Services or by the Governor, empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, on March 13, 2020, the City Manager in his role as the Director of Emergency Services, issued a "Proclamation of a Local Emergency Related to Covid-19 (Coronavirus)" (Proclamation of Local Emergency). A copy is attached hereto as **Exhibit A to Exhibit 1**; and

WHEREAS, on March 20, 2020, the Director of Emergency Services issued a First Supplement to the Proclamation of Local Emergency (First Supplement) temporarily suspending until May 31, 2020, the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto. A copy is attached hereto as **Exhibit B to Exhibit 1**; and

WHEREAS, on May 29, 2020, the Director of Emergency Services issued a Second Supplement to the Proclamation of Local Emergency (Second Supplement) extending until July 31, 2020 the temporary suspension of the authority of any landlord to evict for nonpayment of rent or a foreclosure a residential or commercial tenant who documents that the inability to pay rent is caused by a substantial decrease in household or business income, or an increase in out-of-pocket medical expenses, as a consequence of the COVID-19 pandemic or by the governmental response thereto and establishing certain eviction protection requirements. A copy is attached hereto as **Exhibit 1**; and

WHEREAS, the First and Second Supplements were issued pursuant to the general police powers of the City to protect the health, safety, and welfare of the citizens of Marina; and

WHEREAS, nothing in the First or Second Supplements relieves a tenant of the obligation to pay rent or a landlord's ability to recover rent due or to file an action against a tenant or non-tenant for damage done to a landlord's property; and

WHEREAS, the Second Supplement was effective as of June 1, 2020; and

WHEREAS, the City Council hereby finds that the conditions described in the Proclamation of Local Emergency related to the COVID-19 outbreak did warrant and necessitate the issuance of the Second Supplement by the Director of Emergency Services.

NOW, THEREFORE, be it resolved by the City Council of the City of Marina that:

- A. The Second Supplement to the Proclamation of Local Emergency, as issued by the Director of Emergency Services/City Manager and attached as **Exhibit 1** to this Resolution is hereby confirmed.
- B. The Second Supplement shall be deemed to continue in force until July 31, 2020.
- C. As required by law, the City Council shall continue to review the need for continuing the state of emergency every sixty (60) days until the state of emergency is terminated by the City Council and, as directed by the City Council on March 17, 2020, and accordingly the City Manager has and will continue to report to the City Council on the COVID-19 pandemic as it affects the City of Marina and actions taken under his authority as Director of Emergency Services at every regular meeting of the City Council until the termination of the local emergency shall be proclaimed by the City Council.

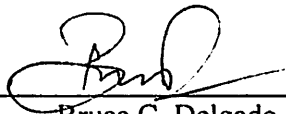
PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 2nd day of June 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

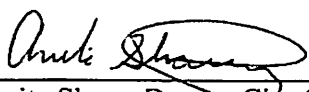
ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None



Bruce C. Delgado, Mayor

ATTEST:



Anita Sharp, Deputy City Clerk