



AGENDA

Tuesday, June 7, 2022

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 accordance with California Government Code §54953(e)(1)(A) and (C) and the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020, under the provisions of Government Code §8625 related to the COVID-19 (coronavirus) pandemic, consistent with recommendations by State and local health officials regarding social distancing and in order to prevent an imminent risk to the health and safety of attendees as determined in Resolution 2022-54, public participation in City of Marina City Council public meetings shall be electronic only and without a physical location for public participation until the earlier of May 31, 2022, or such time as the City Council may adopt a resolution in accordance with Government Code §54953(e)(3). 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)

Cristina Medina Dirksen, David Burnett, Lisa Berkley, Mayor Pro-Tem/Vice Chair Kathy Biala, 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. Public Employment Appointment (Govt. Code Section 54957(b)(1):
Position: City Attorney

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 Sarah Hudson
- b LGBTQ+ Pride Month Proclamation
- c Monterey Bay Economic Power Video

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 99973-100085, totaling \$886,066.51
Accounts Payable for Successor Agency Check Numbers 88, totaling \$1,675.00
 - b. MINUTES:
 - (1) May 3, 2022, 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. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Cypress Cove II Landscape Maintenance Assessment District for FY 2022-2023.
 - (2) City Council consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Seabreeze Landscape Maintenance Assessment District for FY 2022-2023.
 - (3) City Council consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for Monterey Bay Estates Landscape Maintenance Assessment District for FY 2022-2023.
 - (4) City Council consider adopting Resolution No. 2022-, confirming levy of a special tax for the City of Marina Community Facilities District No. 2007-2 (Locke Paddon) for Fiscal Year 2022-2023 as authorized by Ordinance No. 2007-09, and; consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to levying of special taxes for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2022-2023 as authorized by Ordinance No. 2007-09.

- (5) City Council consider adopting Resolution No. 2022-, adopting an updated list of projects for fiscal year 2022-23 funded by SB1: the Road Repair and Accountability Act of 2017.
- (6) City Council consider adopting Resolution No. 2022-, establishing appropriations limit for FY 2022-23.

g. APPROVAL OF AGREEMENTS:

- (1) City Council consider adopting Resolution No. 2022-, approving the Pavement Management Program Update 2022 Reimbursement Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program; and authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.
- (2) City Council consider adopting Resolution No. 2022-, approving the Wayfinding Regional Funding Agreement with the Transportation Agency for Monterey County (TAMC); and authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.
- (3) City Council consider adopting Resolution No. 2022-, approving a Lease Agreement between the City of Marina and Uninsured Skydive Monterey Bay, Inc. dba Skydive Monterey Bay. for a portion of 721 Neeson Road (Building 533) at the Marina Municipal Airport; and authorizing City Manager to execute the Lease Agreement, on behalf of the City, subject to final review and approval by City Attorney.
- (4) City Council consider adopting Resolution No. 2022-, authorizing staff to submit a grant application to the California Coastal Commission and authorize the City Manager to execute the applications, contacts, agreements, and amendments necessary to implement the grant application package.

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council consider adopting Resolution No. 2022-, receive and file the City's Annual Audit for the period ending June 30, 2021; and receive and file the City of Marina Auditor Governance Letter (SAS 114) and Management Letter (SAS 115) for the fiscal year ending June 30, 2021.

k. FUNDING & BUDGET MATTERS: None

l. APPROVE ORDINANCES (WAIVE SECOND READING): None

m. APPROVE APPOINTMENTS: None

9. PUBLIC HEARINGS: None

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. 2022-, amending the rate adjustment calculation of the franchise agreement with Green Waste Recovery utilizing a sector specific uniform percentage adjustment and approving maximum rates to be charged by Green Waste Recovery effective July 1, 2022, for collection of franchised solid waste, recycling, and organics. ***Continued from May 17, 2022***
 - b. City Council consider adopting Resolution No. 2022-, approving consulting services agreement between HF&H Consultants, LLC (HF&H) and the City of Marina to perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers for a fee not to exceed \$29,910, and; authorizing the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney, and; authorizing the Finance Director to make the necessary budgetary and accounting entries. ***Pulled by Mayor Pro Tem Biala, was agenda item 8g(2). Continued from May 17, 2022***
 - c. City Council consider adopting Resolution No. 2022-, authorizing pursuit of a lease agreement with the Transportation Agency of Monterey County (TAMC) to lease a portion of the Monterey Branch Line to be used for recreational purposes; and selecting an operator for the Monterey Branch Line and determining the term of lease for the operator.
 - d. City Council receive presentation on the long-term vision and fiscal sustainability, hangar and infrastructure needs and solutions, and potential financial support from the Military Assistance Program for the Marina Municipal Airport.
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.

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, June 3, 2022.

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 2022 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

Tuesday, June 21, 2022

***Wednesday, July 6, 2022**

Tuesday, August 2, 2022

Tuesday, August 16, 2022

****Thursday, October 6, 2022**

Tuesday, October 18, 2022

Tuesday, November 1, 2022

Tuesday, November 15, 2022

Tuesday, December 6, 2022

Tuesday, December 20, 2022

* Regular Meeting rescheduled due to Monday Holiday

** Regular Meeting rescheduled due to Religious Holiday

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

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

Independence Day (City Offices Closed) -----Monday, July 4, 2022

Labor Day -----Monday, September 5, 2022

Veterans Day -----Friday, November 11, 2022
 Thanksgiving Day ----- Thursday, November 24, 2022
 Thanksgiving Break -----Friday, November 25, 2022
 Winter Break -----Friday, December 23, 2022-Friday, December 30, 2022

2022 COMMISSION DATES

Upcoming 2022 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

June 15, 2022	July 20, 2022 August 17, 2022 September 21, 2022	October 19, 2022 November 16, 2022 December 21, 2022
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Upcoming 2022 Meetings of Economic Development Commission
3rd Thursday of every month. Meetings are held at the Council Chambers at 4:00 P.M.

June 16, 2022	July 21, 2022 August 18, 2022 September 15, 2022	October 20, 2022 November 17, 2022 December 15, 2022 (Cancelled)
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Upcoming 2022 Meetings of Planning Commission
2nd and 4th Thursday of every month. Meetings are held at the Council Chambers at 6:30 P.M.

June 9, 2022	August 8, 2022	October 13, 2022
June 23, 2022	August 22, 2022	October 27, 2022
July 14, 2022	September 8, 2022	November 10, 2022
July 28, 2022	September 22, 2022	December 18, 2022

Upcoming 2022 Meetings of Public Works Commission
3rd Thursday of every month. Meetings are held at the Council Chambers at 6:30 P.M.

June 16, 2022	August 18, 2022	October 20, 2022
July 21, 2022	September 15, 2022	November 17, 2022
		December 15, 2022

Upcoming 2022 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 1, 2022	December 1, 2022
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Upcoming 2022 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.

July 13, 2022	October 12, 2022
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Proclamation

Sarah Hudson

WHEREAS, Sarah Hudson has committed her career to service and children in the Monterey Peninsula Unified School District, first serving as an elementary school teacher from 2005 to 2008 before moving to Sacramento for a short period to serve as an academic coach for Twin Rivers Unified School District. She returned to Los Arboles Middle School as a special education teacher and after nearly three years she was quickly promoted to Assistant Principal of Los Arboles Middle School and served there for three years before becoming principal at JC Crumpton Elementary School and has served proudly for nearly 8 years; and

WHEREAS, Sarah's community support includes Marina Kiwanis; Friends of Marina Library; Marina Youth Arts; bringing Girls Inc to JC Crumpton; Lyceum of Monterey County where she volunteers and through which she brought History Day to our elementary school level; and

WHEREAS, Sarah has successfully led a demographically diverse Title 1 school to being one of the most innovative elementary schools in the MPUSD district; and

WHEREAS, Sarah has the courage to take risks in her leadership knowing that students life trajectories are impacted by the environment she creates at JC Crumpton Elementary School; and

WHEREAS, Sarah, as a mentor for new principals, she has served as an inspiration to leaders who are eager to dream big and dare greatly, striving ahead with innovative strategies to lead students to success; and

WHEREAS, Sarah's was President of ACSA Region 1 Monterey Charter 2015-16; Vice Legislative President of Committee ACSA Region 1, Chair/Representative Monterey Charter 2012-13, 2014-15; Legislative Committee Chair/Representative 2012-13, 2013-14; and

WHEREAS, Sarah won awards in Positive Behavior Interventions and Supports - selected PBIS Administrator of the Year - May 2017 by the county and

NOW THEREFORE, I Mayor Bruce Delgado and our entire Marina City Council do hereby acknowledge Sarah Hudson as a one-of-a-kind mom, friend, teacher, principal, and community leader who lifts everyone up around her, and we wish her continued fulfillment as she prepares to tackle her next life chapter with the same flying colors she has succeeded in all she has accomplished to date.

Dated this 27th day of May 2022



Bruce C. Delgado, Mayor



Proclamation

LGBTQ+ Pride Month

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WHEREAS, the City of Marina has a diverse Lesbian, Gay, Bisexual, Transgender, Queer and Plus (LGBTQ+) community and is committed to celebrating and supporting visibility, dignity and equity for all people in the community;

WHEREAS, many of the residents within the City of Marina that contribute to the enrichment of our City are a part of the lesbian, gay, bisexual, and transgender community; and

WHEREAS, The City of Marina has a long and proud history of inclusion and civil rights;

WHEREAS, the City of Marina commends the bravery and courage of all those in the LGBTQ+ community that face adversity and various forms of violence;

WHEREAS, The Supreme Court decision guaranteeing marriage equality in all 50 States was a historic victory for the LGBTQ+ community, our country still has far to go with respect to the equitable treatment of the LGBTQ+ community;

WHEREAS, continued opposition and oppression against LGBTQ+ peoples makes it important for cities to stand up and show solidarity and support for our LGBTQ residents and the community at large;

WHEREAS, cities across the United States recognize and celebrate June as LGBTQ+ Pride Month, June has become a symbolic month in which the LGBTQ+ community and allies come together in various celebrations of pride; and

NOW THEREFORE, the City Council of the City of Marina does hereby declare the month of June as Lesbian, Gay, Bisexual, Transgender and Queer Pride month, symbolizing the City's celebration of diversity and support for the Lesbian, Gay, Bisexual, Transgender, Queer and Plus community.

Dated this 7th day of June 2022



Bruce C. Delgado, Mayor

AP Check Register 05-20-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 905 - Chase - Checking						
Check	05/20/2022	99973	Accounts Payable	American Supply Co.		662.49
	Invoice		Date	Description		Amount
	2966984		05/12/2022	Towels for Airport		662.49
Check	05/20/2022	99974	Accounts Payable	Applied Best Practices		2,600.00
	Invoice		Date	Description		Amount
	26976		03/09/2022	AB18165b		600.00
	27094		04/07/2022	AB18165a		1,500.00
	27095		04/07/2022	FORA Dissemination Services		500.00
Check	05/20/2022	99975	Accounts Payable	Bear Electrical Solutions, Inc.		1,820.00
	Invoice		Date	Description		Amount
	15508		04/28/2022	Traffic Signal Maintenance-Response		1,820.00
Check	05/20/2022	99976	Accounts Payable	California Building Standards Commission		1,675.35
	Invoice		Date	Description		Amount
	Q1 Jan-Mar 2022		05/10/2022	Q1 Jan-Mar 2022 Green Building		1,675.35
Check	05/20/2022	99977	Accounts Payable	California Department of Conservation		8,175.95
	Invoice		Date	Description		Amount
	Q1 Jan-Mar 2022		05/10/2022	Q1 Jan-Mar 2022 Strong Motion		8,175.95
Check	05/20/2022	99978	Accounts Payable	Carmel Fire Protection Associates		5,500.00
	Invoice		Date	Description		Amount
	2022-I		05/07/2022	Apartment Inspections (12)		900.00
	122165		05/03/2022	Plan registration and inspection - 3017 Pinnacles Way		200.00
	122166		05/03/2022	Plan Registration and inspection at 3015 Pinnacles Way		200.00
	122167		05/03/2022	Plan Registration and inspection at 3013 Pinnacles Way		200.00
	122168		05/03/2022	Plan Registration and inspection at 3011 Pinnacles Way		200.00
	122169		05/03/2022	Plan Registration and inspection at 3009 Pinnacles Way		200.00
	122170		05/03/2022	Plan Registration and inspection at 3005 Pinnacles Way		200.00
	122171		05/04/2022	Plan Registration and inspection at 2995 Pinnacles Way		200.00
	122172		05/04/2022	Plan Registration and inspection at 479 Russell Way		200.00
	122173		05/04/2022	Plan Registration and inspection at 477 Russell Way		200.00
	122174		05/04/2022	Plan Registration and inspection at 475 Russell Way		200.00

AP Check Register 05-20-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	122175		05/04/2022	Plan Registration and inspection at 473 Russell Way		200.00
	122176		05/04/2022	Plan Registration and inspection at 471 Russell Way		200.00
	122177		05/06/2022	Plan Registration and inspection at 469 Russell Way		200.00
	122178		05/06/2022	Plan Registration and inspection at 465 Russell Way		200.00
	122181		05/06/2022	Plan review and inspection at Joby Int Testing Line, 761 Neeson		200.00
	122182		05/06/2022	Plan review and inspection at Desai Project, 445 Reservation Rd		200.00
	122183		05/06/2022	Plan review and inspection at Hampton Inn, 120 Reservation Road		200.00
	122184		05/06/2022	Plan review and inspection at 3100 Del Monte Blvd		200.00
	122185		05/06/2022	Plan Registration and inspection at 2999 Pinnacles Way		200.00
	122186		05/08/2022	Plan review and inspection at Quick Quack, 160 Beach Road		200.00
	122194		05/12/2022	Plan Review and inspection at Target 72 Ti, 133 General Stillwel		200.00
	122192		05/12/2022	Plan review and inspection at Lightfighter Village, 229 Hayes		200.00
	122193		05/12/2022	Plan review and inspection at Jag Bldg, 407 Reservation Road		200.00
Check	05/20/2022	99979	Accounts Payable	Carolina Romero Lopez		250.00
Check	Invoice			Description		Amount
	04-24-22 vd		04/24/2022	Vince DiMaggio Refund		250.00
Check	05/20/2022	99980	Accounts Payable	Cintas Corporation		69.30
	Invoice			Description		Amount
Check	4119398085		05/13/2022	Mat Service-Police/Fire 05/13/22		69.30
	05/20/2022	99981	Accounts Payable	Petty Cash		1,878.47
Check	Invoice			Description		Amount
	05-10-22		05/10/2022	Replenish Petty Cash		1,878.47
Check	05/20/2022	99982	Accounts Payable	Custom Marine Covers		1,691.74
	Invoice			Description		Amount
Check	6279		05/10/2022	Various straps for new engine, SCBA, Hydrant Bag, Hose Bundles		1,691.74
	05/20/2022	99983	Accounts Payable	Employment Development Department		97.00
Check	Invoice			Description		Amount
	L0647366416		05/02/2022	Employment Development Department		97.00
Check	05/20/2022	99984	Accounts Payable	Formation Environmental, LLC		2,475.00
	Invoice			Description		Amount

Marina, CA LIVE

AP Check Register 05-20-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	6982		04/24/2022	Groundwater Sustainability Plan		2,475.00
	05/20/2022	99985	Accounts Payable	Juan Arturo Hernandez		250.00
	Invoice		Date	Description		Amount
Check	04-30-22 vd		04/30/2022	Vince DiMaggio Refund		250.00
	05/20/2022	99986	Accounts Payable	Kimley-Horn & Associates		9,314.50
	Invoice		Date	Description		Amount
Check	21381634		04/30/2022	Marina LRSP		6,087.00
	21345915		04/30/2022	2021 Dev Impact Fee		1,145.50
	21345918		04/30/2022	Dunes 2nd Ave		2,082.00
Check	05/20/2022	99987	Accounts Payable	LaSheena Harris		250.00
	Invoice		Date	Description		Amount
Check	05-07-22 vd		05/07/2022	Vince DiMaggio Refund		250.00
	05/20/2022	99988	Accounts Payable	Liebert Cassidy Whitmore		6,488.00
	Invoice		Date	Description		Amount
Check	215953		03/31/2022	LCW - Professional Services		203.00
	215952		03/31/2022	LCW - Professional Services		870.00
	215955		03/31/2022	LCW - Professional Services		464.00
Check	215954		03/31/2022	LCW - Professional Services		62.00
	215957		03/31/2022	LCW - Professional Services		2,955.00
	215951		03/31/2022	LCW - Professional Services		1,934.00
Check	05/20/2022	99989	Accounts Payable	M3 Environmental Consulting, LLC		5,837.50
	Invoice		Date	Description		Amount
Check	2134104		04/29/2022	Blight Removal Project		5,837.50
	05/20/2022	99990	Accounts Payable	Marina Coast Water District		3,458.60
	Invoice		Date	Description		Amount
Check	000056041 033122		03/31/2022	Water usage at station 2 - 3260 Imjin Road		281.62
	000056049 042822		04/28/2022	Imjin Rd (Irrigation/Backflow Accts)		189.90
	000057000 042822		04/28/2022	3220 Imjin Road/Airport		155.54
Check	000056043 042822		04/28/2022	761 Neeson Road/Airport		400.20
	000056044 042822		04/28/2022	781 Neeson Road/Airport		155.54

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AP Check Register 05-20-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	000056051	042822		721 Neeson Road/Airport		243.97
	000056092	042822		741 Neeson Road/Airport		1,165.89
	000056096	042822		3271 Imjin Road/Airport		112.60
	000056097	042822		3200 Imjin Road/Airport		476.44
	000056041	042822		Water usage at station 2 - 3260 Imjin Road		276.90
Check	05/20/2022	99991	Accounts Payable	Monterey County Department of Health		2,074.00
Invoice						
Check	IN1025997			food service health permit		1,037.00
	IN1023642			food service health permit		1,037.00
	05/20/2022	99992	Accounts Payable	New Image Landscape Co.		1,420.00
Invoice						
Check	416683			Removal of Tree at Monterey Bay Estates		480.00
	416684			Installed New Tree Branch Library		940.00
Check	05/20/2022	99993	Accounts Payable	Office Depot		144.14
Invoice						
Check	240303989001			Office Supplies-Finance		61.16
	240305128001			Office Supplies-Finance		82.98
	05/20/2022	99994	Accounts Payable	Pacific Gas & Electric		2,656.34
Invoice						
Check	202-3.MAY22			PG&E - 6594070202-3		110.05
	720-0.MAY22			PG&E - 0167505720-0		827.11
	085-2.MAY22			PG&E - 5434906085-2		99.85
	353-7.MAY22			PG&E - 9930567353-7		45.91
	582-7.MAY22			PG&E - 8161432582-7		127.72
	943-2.MAY22			PG&E - 6150212943-2		71.50
	148-6.MAY22			PG&E - 5593414148-6		187.50
	562-0.MAY22			PG&E - 4758891562-0		1,029.49
	210-0.MAY22			PG&E - 3242976210-0		157.21
	05/20/2022	99995	Accounts Payable	Pinnacle Healthcare		504.00
Invoice						
Check	356620			Pinnacle Healthcare - Pre Emp Px		50.00
	05/09/2022					

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Marina, CA LIVE

AP Check Register 05-20-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	355900		05/05/2022	Pinnacle Healthcare - Pre Emp Px		50.00
	355080		05/03/2022	Pinnacle Healthcare - Pre Emp Px		404.00
	05/20/2022	99996	Accounts Payable	Regional Government Services		110.25
	Invoice		Date	Description		Amount
Check	13374		03/31/2022	RGS-March 2022		110.25
	05/20/2022	99997	Accounts Payable	Rincon Consultants, Inc.		16,828.25
	Invoice		Date	Description		Amount
Check	39141		05/11/2022	DVSP		16,828.25
	05/20/2022	99998	Accounts Payable	Sierra Springs & Alhambra		59.42
	Invoice		Date	Description		Amount
Check	9696351 050722		05/07/2022	2660 5th Ave Corp Yard		59.42
	05/20/2022	99999	Accounts Payable	USDA Rural Development		7,599.99
	Invoice		Date	Description		Amount
Check	04-20-22		05/13/2022	Case #04-027-0942321991		7,599.99
	05/20/2022	100000	Accounts Payable	Valley Saw & Garden Equipment		282.96
	Invoice		Date	Description		Amount
Check	302838		05/11/2022	Equipment for Airport		282.96
	05/20/2022	100001	Accounts Payable	Wallace Group, Inc.		15,278.79
	Invoice		Date	Description		Amount
	56061		05/10/2022	Glorya Jean Tate Park Pump, Track & Restroom Improvements		2,342.96
	56087		05/10/2022	MLK Sculpture		5,589.51
	56088		05/10/2022	MLK Sculpture CDs		1,283.75
	56086		05/10/2022	Sea Haven City Park		702.00
	56141		05/10/2022	Airport Project Management		2,289.50
	56062		05/10/2022	Airport B533 Exterior		3,071.07
905 Chase - Checking Totals:						\$99,452.04
			Checks:	29	\$99,452.04	
			Transactions: 29			



Marina, CA LIVE

AP Check Register 05-27-22

Bank Account: 905 - Chase - Checking
Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 905 - Chase - Checking						
Check	05/27/2022	100002	Accounts Payable	Ace Hardware		201.71
	Invoice		Date	Description		Amount
	081964		05/11/2022	Spray Paint Pro		8.73
	081986		05/13/2022	Gorilla Clr Repr		8.73
	082020		05/17/2022	Decora Wallplate		4.35
	082060		05/20/2022	Screwdriver, Drill Bit, Paint		179.90
Check	05/27/2022	100003	Accounts Payable	AT & T		225.08
	Invoice		Date	Description		Amount
	05-13-22		05/13/2022	AT & T 831-582-9957		225.08
Check	05/27/2022	100004	Accounts Payable	AT & T		635.92
	Invoice		Date	Description		Amount
	000018207943		05/15/2022	CALNET3-9391023490 (884-9568)		41.50
	000018207938		05/15/2022	CALNET3-9391023485 (884-2573)		23.60
	000018207967		05/15/2022	CALNET3-9391023435 (237-267-6922)		184.16
	000018207936		05/15/2022	CALNET3-9391023482 (884-0985)		22.43
	000018207944		05/15/2022	CALNET3-9391023491 (884-9654)		83.43
	000018198845		05/13/2022	CALNET3-9391023436 (239-461-6578)		70.54
	00018207932		05/15/2022	3478		43.18
	000018198882		05/13/2022	3434		167.08
Check	05/27/2022	100005	Accounts Payable	Branch's Janitorial		5,121.35
	Invoice		Date	Description		Amount
	228403		05/23/2022	Custodial Service for May 2022		2,886.35
	228401		05/23/2022	Janitorial Service - Police/Fire/Airport May 2022		2,235.00
Check	05/27/2022	100006	Accounts Payable	Bureau Veritas North America, Inc.		1,106.66
	Invoice		Date	Description		Amount
	RI 22020635		03/22/2022	741 Neeson Road Press Shed		717.50
	RI 22025716		04/12/2022	741 Neeson Road Relocate Feeder		389.16
Check	05/27/2022	100007	Accounts Payable	California Department of Justice		256.00
	Invoice		Date	Description		Amount
	577153		05/04/2022	Livescans 05/04/2022		256.00

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AP Check Register 05-27-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	05/27/2022	100008	Accounts Payable	Carmel Fire Protection Associates		200.00
	Invoice		Date	Description		Amount
	122206		05/20/2022	Plan review and inspection at Joby Paint Booth		200.00
Check	05/27/2022	100009	Accounts Payable	Certified Folder Display Service, Inc.		331.07
	Invoice		Date	Description		Amount
	593559		05/01/2022	Marina Restaurant Guide Distribution		331.07
Check	05/27/2022	100010	Accounts Payable	Cheryl Kent		960.00
	Invoice		Date	Description		Amount
	2022-55		05/12/2022	Code Enforcement Investigations		480.00
	2022-60		05/19/2022	Code Enforcement Investigations		480.00
Check	05/27/2022	100011	Accounts Payable	Coast Counties Peterbilt		1,326.61
	Invoice		Date	Description		Amount
	0251317S		05/18/2022	1998 Fire Truck Service Unit 98-01		1,326.61
Check	05/27/2022	100012	Accounts Payable	Community Hospital of the Monterey Peninsula		54.00
	Invoice		Date	Description		Amount
	401253119		05/08/2022	Blood Draw		54.00
Check	05/27/2022	100013	Accounts Payable	Jeff Crechriou		1,406.19
	Invoice		Date	Description		Amount
	05-09-22		05/09/2022	Mileage Reimbursement		1,406.19
Check	05/27/2022	100014	Accounts Payable	CSG Consultants		109,144.00
	Invoice		Date	Description		Amount
	43887		05/13/2022	Seabreeze Services		577.50
	43888		05/13/2022	Locke Paddon CFD		1,000.50
	43889		05/13/2022	Monterey Bay Estates		1,036.50
	43890		05/13/2022	Cypress Cove II		1,119.00
	43891		05/13/2022	Annual Street Resurfacing		15,117.00
	43898		05/13/2022	Permits/Development		15,514.50
	43911		05/13/2022	Sea Haven Phase 4 Map/Plan Review		11,725.00
	43892		05/13/2022	Imjin Widening (#401)		1,237.50

Marina, CA LIVE
AP Check Register 05-27-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	43893		05/13/2022	ADM-CIP Admin (#100)		412.50
	43894		05/13/2022	2nd Ave Extension (#713)		330.00
	43895		05/13/2022	Local Roadway Safety Plan		1,155.00
	43896		05/13/2022	Duplex Housing Renovation		825.00
	43897		05/13/2022	PFIF Update		165.00
	43899		05/13/2022	Staff Augmentation		3,300.00
	43900		05/13/2022	RWQCB		588.00
	43901		05/13/2022	MST		165.00
	43902		05/13/2022	TAMC		3,017.50
	43903		05/13/2022	Sea Haven Phase 3 Map/Plan Review		6,270.00
	43904		05/13/2022	Sea Haven Phase 3A Inspection		3,418.50
	43905		05/13/2022	Sea Haven Phase 5A Inspection		129.00
	43906		05/13/2022	Dunes Phase 2 East		7,009.50
	43907		05/13/2022	Dunes Phase 2 West		1,212.00
	43908		05/13/2022	Dunes Op Site 1A		660.00
	43909		05/13/2022	Dunes Phase 3 West		6,100.00
	43910		05/13/2022	Sea Haven Inspection Phase 3B		2,322.00
	43912		05/13/2022	Seacrest Apartments 3108 Seacrest Ave		681.00
	43913		05/13/2022	Dunes Phase 1B Promenade		1,485.00
	43914		05/13/2022	Via Del Mar Subdivision 3320 Abdy Way		2,580.00
	43915		05/13/2022	Sea Haven Phase 4 Rough Grading		7,159.50
	43916		05/13/2022	Home2 Suites By Hilton		7,002.00
	43917		05/13/2022	Via Del Mar		1,935.00
	43679		05/13/2022	Fire Inspection by CSG: Eric Rodewald & Jim Diaz		3,895.00
Check	05/27/2022	100015	Accounts Payable	Dave's Repair Service		175.00
	Invoice		Date	Description		Amount
	33794DG		05/02/2022	CM Data Download 4/6 and 5/2		85.00
	33837DG		05/02/2022	Monthly Site Inspections as Designated Operator		90.00
Check	05/27/2022	100016	Accounts Payable	Della Mora Heating, Inc.		189.00
	Invoice		Date	Description		Amount
	14908		05/13/2022	781 Neeson Rd		189.00
Check	05/27/2022	100017	Accounts Payable	Desert Tech, LLC		4,274.00
	Invoice		Date	Description		Amount

AP Check Register 05-27-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	1615			Shiper Rifle		4,274.00
	05/27/2022	100018	Accounts Payable	Emergency Vehicle Specialists		220.00
	Invoice		Date	Description		Amount
Check	13729			Removed Push Bumper from Durango for service		220.00
	05/27/2022	100019	Accounts Payable	First Alarm		440.37
	Invoice		Date	Description		Amount
Check	683434			Alarm Monitoring - 3200 Del Monte Blvd - VDP		156.09
	681022		05/15/2022	Alarm Monitoring - Council Chambers Audio Room		97.20
	683436		05/15/2022	211 Hillcrest		187.08
Check	05/27/2022	100020	Accounts Payable	Goldfarb & Lipman		4,320.00
	Invoice		Date	Description		Amount
Check	145097			General File - April 2022		1,216.00
	145098		05/11/2022	Marina Heights - April 2022		800.00
	145099		05/11/2022	The Dunes - April 2022		2,304.00
Check	05/27/2022	100021	Accounts Payable	Goodwin Consulting Group		868.75
	Invoice		Date	Description		Amount
Check	11838			Annual CFD Tax Administration		868.75
	05/27/2022	100022	Accounts Payable	J.P. Cooke Company		98.80
	Invoice		Date	Description		Amount
Check	726655			Dog Tags		98.80
	05/27/2022	100023	Accounts Payable	Keyser Marston Associates		1,400.00
	Invoice		Date	Description		Amount
Check	0035845			Marina Station Fiscal Impact Analysis		1,400.00
	05/27/2022	100024	Accounts Payable	L.N. Curtis & Sons		4,080.49
	Invoice		Date	Description		Amount
Check	PINV699421			Set of turnouts for Chief C. Vega		4,080.49
	05/27/2022	100025	Accounts Payable	La Sirenita Tree Service		1,300.00
	Invoice		Date	Description		Amount
Check	04-28-22			Reindollar Ave & Parson Cir		1,300.00
	05/27/2022	100026	Accounts Payable			
	Invoice		Date	Description		Amount

Marina, CA LIVE

AP Check Register 05-27-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	05/27/2022	100026	Accounts Payable	LC Action		2,699.87
	Invoice		Date	Description		Amount
	438855		05/17/2022	Safety Equipment		2,699.87
Check	05/27/2022	100027	Accounts Payable	Lexis Nexis Risk Solutions		150.00
	Invoice		Date	Description		Amount
	1308841-20220430		04/30/2022	April 202 Minimum Commitment		150.00
Check	05/27/2022	100028	Accounts Payable	M3 Environmental Consulting, LLC		33,971.98
	Invoice		Date	Description		Amount
	2134105		05/13/2022	Barracks Blight Project		33,971.98
Check	05/27/2022	100029	Accounts Payable	Magdalena Vazquez		250.00
	Invoice		Date	Description		Amount
	05-14-22 vd		05/14/2022	Rental Refund - Vince DiMaggio		250.00
Check	05/27/2022	100030	Accounts Payable	Mandell Municipal Counseling		174.00
	Invoice		Date	Description		Amount
	05-02-22		05/02/2022	Revenue Services - Cannabis Tax		174.00
Check	05/27/2022	100031	Accounts Payable	Marina Backflow Co.		1,105.00
	Invoice		Date	Description		Amount
	2130		05/15/2022	Test on Backflow Devices Imjin, Reservation, Neeson, Hillcrest		1,105.00
Check	05/27/2022	100032	Accounts Payable	Marina Coast Water District		4,004.71
	Invoice		Date	Description		Amount
	000056098 050622		05/06/2022	3254 Abdy Way (Tate Park Building)		50.60
	000056085 050622		05/06/2022	Crescent/Whitney Irrigation		27.26
	000056086 050622		05/06/2022	Crescent Ave/Sirena Del Mar Irrigation		27.26
	000056084 050622		05/06/2022	Crescent/Shuler/Irrigation		27.26
	000056087 050622		05/06/2022	Crescent Ave/Costa Del Mar Irrigation		27.26
	000056011 050622		05/06/2022	3254 Abdy Way (Tate Park Irrigation)		1,612.71
	000056034 050622		05/06/2022	3240 De Forest Road		353.24
	000056008 050622		05/06/2022	Reservation & Del Monte		27.26
	000056030 050622		05/06/2022	Crescent Ave/Reser Rd/Ramada Inn		36.77
	000056015 050622		05/06/2022	Corner of Cardoza & Dolphin Circle		60.52

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Marina, CA LIVE
AP Check Register 05-27-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	000056014	050622	05/06/2022	3200 Del Monte Blvd		1,329.22
	000056032	050622	05/06/2022	Crescent Ave/Costa Del Mar East Side		60.52
	000056025	051222	05/12/2022	327 Reindollar Ave		69.16
	000056007	051222	05/12/2022	Calif Ave/North of 3rd		89.02
	000056027	051222	05/12/2022	Calif Ave at Reindollar		36.77
	000056005	051222	05/12/2022	Calif & North Patton Parkway		89.02
	000056017	051222	05/12/2022	208 Palm Ave		80.86
	05/27/2022	100033	Accounts Payable	Microsoft		1,736.42
	Invoice		Date	Description		Amount
	E07001ST7Z		05/11/2022	Citywide MS Office 365 - May 2022		1.00
Check	E07001SWLY		05/11/2022	Citywide MS Office 365 - May 2022		48.00
	E07001SILO		05/11/2022	Citywide MS Office 365 - May 2022		312.00
	E07001SWNF		05/11/2022	Citywide MS Office 365 - May 2022		1,255.42
	E07001SILN		05/11/2022	Citywide MS Office 365 - May 2022		72.00
	E07001SGWF		05/11/2022	Citywide MS Office 365 - May 2022		48.00
	05/27/2022	100034	Accounts Payable	Monterey Bay Office Products		380.20
	Invoice		Date	Description		Amount
	471620377		05/03/2022	City Hall Copier Lease - May 2022		380.20
	05/27/2022	100035	Accounts Payable	Monterey County Petroleum-Sturdy Oil Co.		6,011.23
	Invoice		Date	Description		Amount
Check	27977A-IN		05/10/2022	Fuel Ethanol/Diesel		6,011.23
	05/27/2022	100036	Accounts Payable	Office Depot		296.84
	Invoice		Date	Description		Amount
	242592803001		05/05/2022	Office Depot-Planning supplies		115.94
	243185434001		05/09/2022	Office Depot Planning Supplies		41.89
	243193268001		05/13/2022	Office Depot Planning supplies		50.01
	244471462001		05/17/2022	Office Depot Planning Supplies		89.00
	05/27/2022	100037	Accounts Payable	Office Depot		101.53
	Invoice		Date	Description		Amount
	240169529001		05/03/2022	Office Supplies		101.53
Check	05/27/2022	100038	Accounts Payable	Pacific Gas & Electric		22,973.60

Marina, CA LIVE

Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice			Description		Amount
	347-0.MAY22		05/10/2022	3263 Imjin Rd Bldg 519		537.46
	694-1.MAY22		05/11/2022	721 Neeson Rd Bldg 533		1,512.15
	098-7.MAY22		05/11/2022	761 Neeson Rd Bldg 524		6,482.77
	103-6.MAY22		05/12/2022	3200 Imjin Road		10,795.13
	608-2.MAY22		05/11/2022	Gas & Electric at Station 2		862.18
	535-3.MAY22		05/13/2022	PG&E - 6161832535-3		221.86
	827-8.MAY22		05/13/2022	PG&E - 0423929827-8		121.23
	851-0.MAY22		05/16/2022	PG&E - 3440977851-0		177.99
	683-2.MAY22		05/18/2022	PG&E 6217294683-2		1,276.82
	272-1.MAY22		05/18/2022	PG&E - 2862559272-1		35.07
	362-9.MAY22		05/19/2022	PG&E - 5996678362-9		123.68
	172-2.MAY22		05/19/2022	PG&E - 5618207172-2		725.83
	533-8.MAY22		05/18/2022	PG&E - 2253666533-8		101.43
Check	05/27/2022	100039	Accounts Payable	Pinnacle Healthcare		202.00
	Invoice			Description		Amount
	357050		05/10/2022	Pinnacle Healthcare - Pre Emp Px		202.00
Check	05/27/2022	100040	Accounts Payable	Quill Corporation		121.64
	Invoice			Description		Amount
	24899217		05/03/2022	Records		6.00
	24992046		05/06/2022	Records		104.07
	24970457		05/06/2022	Records		11.57
Check	05/27/2022	100041	Accounts Payable	Regional Government Services		28,953.75
	Invoice			Description		Amount
	13376		03/31/2022	RGS-Marina Dunes-March 2022		11,886.00
	13499		04/30/2022	RGS-Dunes April 2022		16,026.75
	13498		04/30/2022	Joby Aviation - April 2022		306.00
	13500		04/30/2022	Quick Quack - April 2022		735.00
Check	05/27/2022	100042	Accounts Payable	Rincon Consultants, Inc.		723.75
	Invoice			Description		Amount
	39184		05/12/2022	DVSP		723.75

Marina, CA LIVE
AP Check Register 05-27-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	05/27/2022	100043	Accounts Payable	S&P Global Ratings		21,750.00
	Invoice		Date	Description		Amount
	11436313		05/19/2022	Analytical Services Rendered		21,750.00
Check	05/27/2022	100044	Accounts Payable	Salinas Valley Ford		1,171.46
	Invoice		Date	Description		Amount
	89817		05/13/2022	Ford Ranger Used ABS Sensor No Warranty		1,171.46
Check	05/27/2022	100045	Accounts Payable	Sara Steck Myers		5,760.00
	Invoice		Date	Description		Amount
	05-01-22		05/01/2022	Professional Services - MPWSP - April 2022		5,760.00
Check	05/27/2022	100046	Accounts Payable	Sentry Alarm Systems of America, Inc.		285.00
	Invoice		Date	Description		Amount
	2190642		05/15/2022	Alarm Monitoring - Sports Center 2800 2nd Ave - Jun-Aug		285.00
Check	05/27/2022	100047	Accounts Payable	Shartsis Friesse LLP		353,750.46
	Invoice		Date	Description		Amount
	5453542		03/22/2022	Professional Services - MPWSP - February 2022		139,002.25
	5455061		04/22/2022	Professional Services - MPWSP - March 2022		112,974.36
	5456563		05/20/2022	Professional Services - MPWSP - April 2022		101,773.85
Check	05/27/2022	100048	Accounts Payable	Sierra Springs & Alhambra		80.85
	Invoice		Date	Description		Amount
	7266038 051322		05/13/2022	Water Cooler Rental and Replacement Water		80.85
Check	05/27/2022	100049	Accounts Payable	Signs by Van Inc.		1,093.00
	Invoice		Date	Description		Amount
	12345		05/18/2022	Signs by Van Refund		1,093.00
Check	05/27/2022	100050	Accounts Payable	Stordok		65.00
	Invoice		Date	Description		Amount
	53546229		05/17/2022	Document Shredding Services - City Hall		65.00
Check	05/27/2022	100051	Accounts Payable	SWCA Environmental Consultants		12,446.51
	Invoice		Date	Description		Amount
	144621		04/29/2022	Vernal Pond Monitoring Equipment Install		12,446.51

Marina, CA LIVE

AP Check Register 05-27-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	05/27/2022	100052	Accounts Payable	U.S. Bank Equipment Finance		216.32
	Invoice		Date	Description		Amount
	471198242		04/28/2022	CDD Copier Lease - May 2022		216.32
Check	05/27/2022	100053	Accounts Payable	United Parcel Service		32.78
	Invoice		Date	Description		Amount
	00008Y4481202		05/14/2022	Shipping charges		32.78
Check	05/27/2022	100054	Accounts Payable	United Site Services		1,517.41
	Invoice		Date	Description		Amount
	114-13112337		05/20/2022	Windyhill Park ADA 05/20/22		260.13
	114-12591234		11/12/2021	Trailer Kit, Weekly Service		771.10
	114-12561477		11/05/2021	ADA Wheelchair Accessible and Service		243.09
	114-11881248		04/23/2021	Windyhill Park Beach Rd & Deforest Rd		243.09
Check	05/27/2022	100055	Accounts Payable	Verizon Wireless		732.21
	Invoice		Date	Description		Amount
	9906135898		05/10/2022	Monthly Verizon Bill-308174766		732.21
Check	05/27/2022	100056	Accounts Payable	Wallace Group, Inc.		39,923.78
	Invoice		Date	Description		Amount
	56140		05/10/2022	Program Management		39,923.78
Check	05/27/2022	100057	Accounts Payable	Marina Employees Association		140.00
	Invoice		Date	Description		Amount
	05-13-22		05/13/2022	24 - MEA Dues		140.00
Check	05/27/2022	100058	Accounts Payable	Marina Professional Fire Fighters Association		300.00
	Invoice		Date	Description		Amount
	05-13-22		05/13/2022	35 - MPFFA Dues		300.00
EFT	05/27/2022	2300	Accounts Payable	Richard B. Standridge	121042882 / 8312012522	3,942.50
	Invoice		Date	Description		Amount
	22-10		05/20/2022	Services 05-07/05-19-22		3,942.50
EFT	05/27/2022	2301	Accounts Payable	Marina Police Association-MPOA	322271627 / 901587928	260.00

User: Monika Collier

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5/26/2022 9:37:44 AM

Marina, CA LIVE

AP Check Register 05-27-22

Bank Account: 905 - Chase - Checking

Batch Date: 05/27/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice			Description		Amount
	05-13-22		05/13/2022	23 - MPOA Dues		260.00
EFT	05/27/2022	2302	Accounts Payable	Police Officers Association - POA	322271627 / 901589106	1,359.05
	Invoice			Description		Amount
	05-13-22		05/13/2022	25 - POA Dues		1,359.05
905 Chase - Checking Totals:						\$687,017.85

Transactions: 60

Checks: 57 \$681,456.30

EFTs: 3 \$5,561.55

Marina, CA LIVE
AP Check Register 06-03-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 06/03/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 905 - Chase - Checking						
Check	06/03/2022	100059	Accounts Payable	Ace Hardware		19.60
	Invoice		Date	Description		Amount
	082076		05/23/2022	Pnt Try Lnr 3 Pk		19.60
Check	06/03/2022	100060	Accounts Payable	Allstar Fire Equipment Inc.		442.50
	Invoice		Date	Description		Amount
	239804		05/16/2022	Fire hose with mount & Trailer hitch		442.50
Check	06/03/2022	100061	Accounts Payable	Applied Real Estate Inspections		1,650.00
	Invoice		Date	Description		Amount
	22-160		05/13/2022	Mold Clearance Inspection		1,650.00
Check	06/03/2022	100062	Accounts Payable	Aramark Uniform Service		202.35
	Invoice		Date	Description		Amount
	5110009062		05/25/2022	Masks, shop towels		70.51
	5110009057		05/25/2022	PW Uniforms		114.03
	5110009055		05/25/2022	Masks, PW Uniforms		17.81
Check	06/03/2022	100063	Accounts Payable	California Department of Transportation		106.00
	Invoice		Date	Description		Amount
	SL221112		05/04/2022	Signals & Lighting		106.00
Check	06/03/2022	100064	Accounts Payable	Cheryl Kent		660.00
	Invoice		Date	Description		Amount
	2022-65		05/26/2022	Code Force Investigations		660.00
Check	06/03/2022	100065	Accounts Payable	Cintas Corporation		120.24
	Invoice		Date	Description		Amount
	4120762282		05/27/2022	Mat Service City Hall		50.94
	4120762178		05/27/2022	Mat Service-Police/Fire 05/27/22		69.30
Check	06/03/2022	100066	Accounts Payable	First Alarm		52.44
	Invoice		Date	Description		Amount
	683594		05/12/2022	Intrusion System Service Call		52.44
Check	06/03/2022	100067	Accounts Payable	Gavilan Pest Control		82.00

Marina, CA LIVE

AP Check Register 06-03-22

Bank Account: 905 - Chase - Checking
Batch Date: 06/03/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
	Invoice			Description		Amount
Check	0145946		05/03/2022	Rodent Abatement		82.00
	06/03/2022	100068	Accounts Payable	Harris & Associates		11,797.50
	Invoice			Description		Amount
Check	51789		03/10/2022	Harris & Associates - March 2022		11,797.50
	06/03/2022	100069	Accounts Payable	Home Depot Credit Service		1,125.51
	Invoice			Description		Amount
Check	05-02-22		05/02/2022	Pliers with Grip		33.80
	05-04-22		05/04/2022	Head LED Flood/Wiring Tool		1,091.71
	06/03/2022	100070	Accounts Payable	L.N. Curtis & Sons		1,186.46
Check	PINV699038		05/23/2022	(2) Nomex fire tactical pants & (2) wildland coat		1,186.46
	06/03/2022	100071	Accounts Payable	Marina Coast Water District		6,918.37
	Invoice			Description		Amount
Check	000056019	051222	05/12/2022	211 Hillcrest Ave		1,019.33
	000056021	051222	05/12/2022	Reservation Rd/By 290-308 Reservation		36.77
	000056018	051222	05/12/2022	208 Palm Ave		287.05
	000056024	051222	05/12/2022	Del Monte/Palm		89.02
	000056022	051222	05/12/2022	Reser/Marina Auto Stereo/Irrigation		40.42
	000056020	051222	05/12/2022	304 Hillcrest Ave		103.72
	000056016	051222	05/12/2022	Resev Rd & Seacrest Ave-Next to Fire Hyd		36.77
	000056001	051222	05/12/2022	209-13 Cypress Ave		102.85
	000056094	052022	05/20/2022	2660 5th Ave		431.38
	012016000	052022	05/20/2022	199 A Paddon Place		36.77
	000056045	052022	05/20/2022	3100 Preston Drive		4,583.47
	000056046	052022	05/20/2022	3100 Preston Drive		150.82
	06/03/2022	100072	Accounts Payable	Monterey County Department of Health		2,727.00
	Invoice			Description		Amount
Check	IN1022181		05/02/2022	Fueling Yard		1,792.00
	IN1026170		05/02/2022	Corp Yard #2		935.00
	06/03/2022	100073	Accounts Payable	Monterey County Petroleum-Sturdy Oil Co.		8,466.68

Marina, CA LIVE
AP Check Register 06-03-22
 Bank Account: 905 - Chase - Checking
 Batch Date: 06/03/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	Invoice			Description		Amount
	27996A-IN		05/13/2022	Fuel Ethanol/Diesel		8,466.68
	06/03/2022	100074	Accounts Payable	MyFleetCenter - Wisconsin Quick Lube		594.59
	Invoice			Description		Amount
	36760802		05/23/2022	PD Maintenance		133.53
Check	36760729		05/22/2022	2015 Chevy PD Fleet & Maintenance		123.35
	36760357		05/16/2022	Ford Expedition Truck 5404 Service		226.80
	36760724		05/22/2022	2020 Chevy Truck 5461		110.91
	06/03/2022	100075	Accounts Payable	National Demographics, Inc.		28,500.00
	Invoice			Description		Amount
Check	1485		05/25/2022	Consulting Services - Marina Redistricting Process		28,500.00
	06/03/2022	100076	Accounts Payable	Pacific Gas & Electric		14,125.73
	Invoice			Description		Amount
	795-7.MAY22		05/20/2022	PG&E - 4467294795-7		392.18
	483-6.MAY22		05/31/2022	PG&E - 3982644483-6		13,733.55
Check	06/03/2022	100077	Accounts Payable	Pinnacle Healthcare		202.00
	Invoice			Description		Amount
	358910		05/18/2022	Pinnacle Healthcare - Pre Emp Px		202.00
	06/03/2022	100078	Accounts Payable	Safety-Kleen Corp.		241.89
	Invoice			Description		Amount
Check	88866717		04/21/2022	Parts Washer Solvent		241.89
	06/03/2022	100079	Accounts Payable	Suburban Propane		1,000.46
	Invoice			Description		Amount
	1602-105760		05/20/2022	Propane 241.8 Gallons		1,000.46
	06/03/2022	100080	Accounts Payable	Verizon Wireless		645.14
Check	Invoice			Description		Amount
	9906838509		05/18/2022	PW Verizon phone bill 041922-051822		645.14
	06/03/2022	100081	Accounts Payable	Wellington & Rathie		8,340.00
	Invoice			Description		Amount

AP Check Register 06-03-22

Bank Account: 905 - Chase - Checking

Batch Date: 06/03/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Check	26176	05/20/2022		Abrams Park-Marina Height-Sea Haven - April 2022		360.00
	26174	05/20/2022		Police Personnel Matters - April 2022		460.00
	26173	05/20/2022		Misc. Personnel Matters - April 2022		120.00
	26172	05/20/2022		Misc Litigation Matters - April 2022		420.00
	26167	05/20/2022		Cannabis Matters - April 2022		40.00
	26175	05/20/2022		Public Records Act Requests - April 2022		800.00
	26171	05/20/2022		Marina Equestrian Center - April 2022		640.00
	26170	05/20/2022		Land Use & Operations - April 2022		740.00
	26168	05/20/2022		General Matters - April 2022		2,360.00
	26166	05/20/2022		Marina Municipal Airport Matters - April 2022		440.00
Check	26169	05/20/2022		Joby Aero Inc - April 2022		1,960.00
	06/03/2022	100082	Accounts Payable	Marina Employees Association		140.00
Check	Invoice			Description		Amount
	05-27-22	05/27/2022		24 - MEA Dues		140.00
Check	06/03/2022	100083	Accounts Payable	Marina Professional Fire Fighters Association		300.00
	Invoice			Description		Amount
Check	05-27-22	05/27/2022		35 - MPFFA Dues		300.00
	06/03/2022	100084	Accounts Payable	Premier Access Insurance		6,388.50
Check	Invoice			Description		Amount
	06-01-22	06/01/2022		101 - Dental EE+1*		5,646.38
Check	06-01-22	06/01/2022		Dental Claim (06/2022)		742.12
	06/03/2022	100085	Accounts Payable	Vision Service Plan		1,961.66
EFT	Invoice			Description		Amount
	06-01-22	06/01/2022		103 - Vision EE*		1,871.24
EFT	06-01-22	06/01/2022		VSP Adjustment (06/2022)		90.42
	06/03/2022	2310	Accounts Payable	Marina Police Association-MPOA	322271627 / 901587928	250.00
EFT	Invoice			Description		Amount
	05-27-22	05/27/2022		23 - MPOA Dues		250.00
EFT	06/03/2022	2311	Accounts Payable	Police Officers Association - POA	322271627 / 901589106	1,350.00
	Invoice			Description		Amount

Marina, CA LIVE

AP Check Register 06-03-22

Bank Account: 905 - Chase - Checking

Batch Date: 06/03/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
905 Chase - Checking Totals:	05-27-22			25 - POA Dues		1,350.00
	Checks:	27				
	EFTs:	2				\$99,596.62

Marina, CA LIVE

SA Check Register 05-20-22

Bank Account: 921 - Chase - Successor Agency
Batch Date: 05/20/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: 921 - Chase - Successor Agency						
Check	05/20/2022	88	Accounts Payable	Applied Best Practices		1,675.00
	Invoice		Date	Description		Amount
	27161		04/14/2022	AB15139b GO		250.00
	27093		04/07/2022	AB15139a GO		1,425.00
921 Chase - Successor Agency Totals:						\$1,675.00
Checks:		1	\$1,675.00			



DRAFT

Agenda Item: **8b(1)**
City Council Meeting of
June 7, 2022

MINUTES

Tuesday, May 3, 2022

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 accordance with California Government Code §54953(e)(1)(A) and (C) and the Proclamation of a State of Emergency issued by Governor Newsom on March 4, 2020, under the provisions of Government Code §8625 related to the COVID-19 (coronavirus) pandemic, consistent with recommendations by State and local health officials regarding social distancing and in order to prevent an imminent risk to the health and safety of attendees as determined in Resolution 2022-48, public participation in City of Marina City Council public meetings shall be electronic only and without a physical location for public participation until the earlier of May 31, 2022, or such time as the City Council may adopt a resolution in accordance with Government Code §54953(e)(3). 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/>

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)

Cristina Medina Dirksen, David Burnett, Lisa Berkley, Mayor Pro-Tem/Vice Chair Kathy Biala, 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. Public Employment Appointment (Govt. Code Section 54957(b)(1):
Position: City Attorney

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 Francisco Tapia, 2021 Police Officer of the Year
- b Richard Janicki, 2021 Professional Support Person of the Year
- c Marina Earth Day Presentation

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.*

- Mike Owen – Spoke about affordable childcare quality measure. Commented on the Marina Tree Committee's formation and the supportive relationship it had with city staff. Commented on upcoming May 10th study session and Shea Homes and the group trying to save the trees are working on a solution.
- Shawn Adams – Spoke about the 20-30 acres of undeveloped land along Reservation Road across from his home left uncared for, and the homeless population that has moved into this space. It's not a sanitary space to walk or ride your bike through. Commented on the cleanup efforts Mayor Delgado is doing with the volunteers. Spoke about the potential for a Disc Golf Course in that area.
- Nick Kite – Echoed previous speaker. Announced that the Junior Jellies held their 2nd annual Disc Golf Days at Los Arboles over the weekend and thanked CSUMB's Disc Golf team for their help. Spoke about Marina youth Arts Utility Box Project. Announced Habitat for Humanity Monterey Bay has a 2-bedroom, one bath of house coming up available here in the city of Marina for a lucky low-income family.
- Tommy Bolea – Commented on the Habitat for Humanity organization, great place to purchase used items and to donate to. Commented on the homeless camps in the section along Reservation Road and if properly cleaned up would make a nice park. Asked council who owns Marina Beach? Commented on Marina's water supply.
- Greg Furey – Kudos to the Marina Garden Club and their tour on Sunday. Echoed the comments by Shawn on the condition of property along Salians Street and Reservation Road. Commented on the CSUMB formal dinner at Spanish Bay for outgoing President Eduardo Ochoa and the attendance from Council Members.
- Council Member Medina Dirksen – Announced on May 21, 2022, from 11:30am-2:00pm will be the Celebration of Life for Terry Siegrist at Vince DiMaggio Park. Also announced that Dad's Read is happening this weekend at the Marina Library. Shout out to Marina Youth Arts for production of Moana. Commented on attending the CSUMB Innovator Gala Awards Dinner. Commented on Covid and the need to continue to be safe while your out and about.
- Mayor Pro Tem Biala – Announced May as Asian American, Pacific Islander (AAIP) month and on Friday, May 30th from 6:00pm-7:30pm at Tacoa Hall, in Pacific Grove, author, Sandy Liner

who wrote “They came across the Sundown Sea” honoring the Chinese pioneers and their legacy will be in attendance. On next day, Saturday, May 14th is the Walk of Remembrance commemorating the Chinese immigrants that begins at the Pacific Grove Museum, and you walk to the Hopkins Marine Station. Commented on attending the CSUMB Innovator Gala Awards Dinner.

- Mayor Delgado – Kudos to the Garden Club and Marina Tree and Garden Club for putting out a great every 2 years Garden club after Covid. Mentioned on May 7th at 7:00pm we have the first ever home game of a professional soccer team called the Monterey Bay Football Club playing at the CSUMB Freeman Stadium against Las Vegas. Commented on attending the CSUMB Innovator Gala Awards Dinner. Announced on Sunday, May eighth from 10 am-Noon we have our next volunteer litter, cleanup community cleanup on Lapis Road.

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 99772-99873, totaling \$609,293.99
Accounts Payable for Successor Agency Check Numbers 84, totaling \$334.20

b. MINUTES:

- (1) April 19, 2022, Regular City Council Meeting

c. CLAIMS AGAINST THE CITY: None

d. AWARD OF BID: None

e. CALL FOR BIDS: None

f. ADOPTION OF RESOLUTIONS: None

g. APPROVAL OF AGREEMENTS: None

h. ACCEPTANCE OF PUBLIC IMPROVEMENTS: None

i. MAPS: None

j. REPORTS: (RECEIVE AND FILE):

- (1) City Council receiving Investment Reports for the City of Marina and City of Marina as Successor Agency to the Marina Redevelopment Agency for the quarter ended March 31, 2022.

- k. FUNDING & BUDGET MATTERS: None
- l. APPROVE ORDINANCES (WAIVE SECOND READING):
- m. APPROVE APPOINTMENTS:

DELGADO/BIALA: TO APPROVE THE CONSENT AGENDA. 5-0-0-0 Motion Passes by Roll Call Vote

9. PUBLIC HEARINGS:

- a. City Council consider Planning Commission recommendation to open a public hearing, take testimony from the public and consider adopting **Resolution No. 2022-52**, approving tentative subdivision map amendment within Phase 1B of The Dunes on Monterey Bay (formally University Villages) Specific Plan CEQA Determination: environmental impacts analyzed in prior EIR.

Council Questions: Can copies of the planning commission's minutes be provide to council in our packets when items like this come before us? Was the planning commission meeting well attended for this item? For parcel 4 what exactly was added for private streets, open space areas to exist with amended commercial associations, what type of amendments were there and what was adjusted and Does it also speak to those parcels needed parking? For parcel 7, was the right of way. allowing entry way into the town square, were they narrowed where they widen, and is it able to accommodate our public safety vehicles, such as our fire trucks? We talk about the entry is going to be realigned and narrow to promote more friendly pedestrian access, can you show us where the narrowing is? What goes into the linear parks, is it landscaping with trees or something? Will there be benches? The linear park is 50.5 down from 70 feet and it's got live work to the West, and has we work in a retail to the East so the reason for in that stretch, which is north of the South access road. is the reason for that to give more retail and residential space and last park space? On the South access road The park linear part goes up to 60.5 feet so it's down about 9 and a half feet from 70 But there's only residential on both sides so my question there is. Did we decrease the linear park width so that we could increase the residential square footage? Why are we giving up park space? What does the city Get out of it so it's a win, win situation? For the retail, post covid, have you all done any kind of markets study, or anything to determine what type of retail you'll actually have in there? What are the relevant scheduled performance milestones regarding the promenade? Are we on track, or the 2022 milestones? What is the consequence if a milestone is not met? Is the self-service draft beer on tap. Is that moving ahead? Is there any drawback to approving this tonight? Are the lots predetermined to have a bank or medical office or restaurant or is this just whoever comes and they look at the availability of the lots?

Mayor opened the public hearing for public comments:

- Les Martin – Thanked staff and council for having this meeting and showing the plans for this phase, overwhelmed that the shocked, how dense this area is. Asked when this whole development would be completed? Excited to see all the construction taking place. Looking forward to living at the Dunes.
- Denise Turley – Asked if there were going to be any Safe Routes to Schools in Phase 1B, concerned about the safety of the children walking to the school bus stops and to schools. Asked about the narrowing of roadway on Second Avenue and the cement blocks near the apartment complex.
- Liesbeth Visscher – Looking forward to seeing this next phase built. Commented on the narrowing of the linear park and linear parking. Commented on the garbage truck change of schedule change to accommodate a later pick up time for the Dunes residents.

- Brian McCarthy – Glad to see the discussion on the linear park and the history associated with it. confused on what the exact true history is of the linear Park concept is. Commented on seeing other linear parks in the US and Europe cities. Appreciates Council Member Burnett’s comments on wanting to hear the concerns from the Planning Commission.
- Tommy Bolea – Commented that this meeting sounds like a Planning Commission meeting and asked what’s the difference between this meeting and the planning commission? Spoke about a Trader Joe’s coming to the Dunes. Suggested someone contact the owner of Phil’s Fish Market and get them over in this area since they are being kicked out of their current location. Commented on the outside beer pub with Marina’s weather.
- Fred Watson – Commented that it's good to see the 12-foot trail down the middle of the linear park. likes to check anything that comes up against the specific plan that has a bike circulation and this checks out.

BIALA/BERKLEY: TO ADOPT RESOLUTION NO. 2022-52, APPROVING TENTATIVE SUBDIVISION MAP AMENDMENT WITHIN PHASE 1B OF THE DUNES ON MONTEREY BAY (FORMALLY UNIVERSITY VILLAGES) SPECIFIC PLAN CEQA DETERMINATION: ENVIRONMENTAL IMPACTS ANALYZED IN PRIOR EIR. 5-0-0-0 Motion Passes by Roll Call Vote

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. 2022-53**, approving the mid-cycle budget adjustments as outlined in the staff report, and authorizing the Finance Director to make all necessary accounting and budgetary entries.

Council Questions: The mutual aid for the firefighters of the \$517,000, that that goes back into the budget and allocations for fires, is that correct? There was talk about a 1% surplus cushion, what is the normal surplus both from a conservative and less conservative perspective? You're calling it a measure X bond is that because it's been deemed to be called measure x, or is just x a sort of anonymous, or it hasn't been given a name yet? When you're talking about the hotel projections just to clarify, have included the hotels that are planning to come online, meaning the Hampton Inn? Cannabis. You have some figures there for cannabis, but, as we know, the industry has stalled a bit and projections have fallen short at the county level, tell me how you came about at those figures, and if you have any updates? Are your numbers conservative and how they play into the trend? The TOT that we are showing, do you have a breakdown as to what is traditional hotels and what is Airbnb's, and fees that we've collected from home rentals? Do we have an accurate number of units (Airbnb's) in the city? Planning Department Document Scanning, is that equipment purchases or scanning service? Is this a one-time digitization of the current city files? Do you envision that there's going be a local scanner? Are those public documents are they going to be available for public perusal? TOT, is Marina recovering faster than other areas post-covid? Are other places on the same pattern? Cannabis Revenues, is it correct that we generated \$100,000 during the last fiscal year? Are our cannabis stores not generating the kind of revenues we expected? Deficit, slide was showing \$500,000 for this year,

what does 2022 look like? You say that there's a unallocated fund balance of \$3.7 million, what was the expected unallocated fund balance prior? In order to protect services, you're saying we went into a on paper deficit budget but in reality, turned out to be a surplus budget? Did Staff check the priority list before making the list of suggested new expenses today? Are suggested mid-cycle budget adjustments on our priority list? Did staff check our priority list before making this list? Now to mandatory urgent, Was the 15 K Cannabis fees, schedule update, and the \$15,000 general fee schedule update are those 2 mandatory urgent budget items in order to increase our revenue? So how do we, as a council, know whether those 2 mandatory, urgent reschedule updates are less important or more important than giving \$22,000 to Casa de Noche Buena or buying 2 mowers, etc.? In the priority list there are some general fund projects that are not mandatory, urgent and they include things like \$30,000 for high speed. Internet \$30,000 for website improvements Aren't those 2 items things we've been talking about for a long time, and they rated very high in our priority list? Might we have an opportunity at some point for new directors to get the lay of the land and figure out some things that will streamline their jobs? Can you directors learn what's already on the priority list in their department think about what else they need and then propose putting those on the priority list, so that we keep the priority list comprehensive?

Public Comments:

- Tommy Bolea – Commented on Cannabis tax, water bills, phone bills and the bills associated with all the litigation.
- Denise Turley – Asked about the new community development director Guido Persicone and finance director, asked if they were ever introduced to the public.

MEDINA DIRKSEN/DELGADO: WE ADOPT RESOLUTION NO. 2022- WITH THE MID-CYCLE ADJUSTMENTS BROUGHT BACK FOR DISCUSSION WITH THE ADDITIONAL ASKS; WE AUTHORIZE, GIVE HIM DIRECTION TO MOVE AHEAD MINUS THE 4 ASKS AS WE COME BACK AND TALK ABOUT PROCESSES FOR THE PRIORITIZATION LIST, AND THE NEW ASKS. 4-0-1(Burnett)-0

- b. City Council consider adopting Resolution No. 2022-, receiving a report on the Hilltop Park recommendations from the ad-hoc committee and City Council appointed liaisons and providing direction for the final design of the Hilltop Park at The Dunes. *Continued to May 17, 2022*

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.

13. **ADJOURNMENT:** The meeting adjourned at 10:50 pm

Anita Sharp, Deputy City Clerk

ATTEST:

Bruce C. Delgado, Mayor

May 17, 2022

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

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
CERTIFYING CITY OF MARINA COMPLIANCE WITH STATE LAW
(PROPOSITION 218) WITH RESPECT TO SPECIAL ASSESSMENT FOR
THE CYPRESS COVE II LANDSCAPE MAINTENANCE ASSESSMENT
DISTRICT FOR FISCAL YEAR 2022-2023**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for the Cypress Cove II Landscape Maintenance Assessment District for FY 2022-2023.

BACKGROUND:

On April 5, 2022, the City Council passed Resolution No. 2022-45, setting FY 2022-2023 special assessment for the Cypress Cove II Landscape Maintenance Assessment District, as recommended in the Engineer's report.

Except for the Constitutionally-limited 1% ad valorem tax, the Monterey County Auditor-Controller will not place taxes, assessments, fees or charges on the rolls unless the City Council certifies by resolution that the City is in compliance with Proposition 218, the 1996 '*Right to Vote on Taxes Act*' with respect to each such tax, assessment, fee and charge. Certification resolution(s) must contain hold harmless and indemnification provisions for administrative expenses of the County associated with collection of the City's taxes, assessments, fees and charges placed on the rolls. These certifications, along with copies of the resolutions setting the tax, assessment fee and/or charge rates and certain other documentation, must be submitted to the County no later than August 1, 2022.

ANALYSIS:

The following special levy, adopted by Resolution No. 2022-45 on April 5, 2022, is for assessment district operations and must be included in the certification adopted by the Council:

Cypress Cove II Landscape Maintenance Assessment District	\$ 180.78
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FISCAL IMPACT:

Special assessments finance the assessment district's approved maintenance. Total to be credited to the district is as follows:

Cypress Cove II Landscape Maintenance Assessment District	\$ 19,885.80
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CONCLUSION:

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

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

Juan Lopez
Finance Director
City of Marina

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

**A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW WITH RESPECT TO
LEVYING OF SPECIAL ASSESSMENTS FOR FISCAL YEAR 2022-2023**

WHEREAS, The City of Marina requests that the Monterey County Auditor-Controller enter the special assessment identified in Exhibit “A” on the property tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2022-23 (“**EXHIBIT A**”).

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

1. The City 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 and assessments 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 decisional law of the State of California.
2. The City further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees and agents, the City 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 and assessments identified in **EXHIBIT A** and that the City 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, 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 7th day of June 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

**ATTACHMENT TO RESOLUTION NO. 2022-___ OF THE CITY OF MARINA, COUNTY
OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW
WITH RESPECT TO THE LEVYING OF SPECIAL ASSESSMENTS FOR
FISCAL YEAR 2022-2023**

PER-PARCEL ASSESSMENTS:

Assessment District – Operations:

- Cypress Cove II Landscape Maintenance Assessment District \$180.78

May 17, 2022

Item No. **8f(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
CERTIFYING CITY OF MARINA COMPLIANCE WITH STATE LAW
(PROPOSITION 218) WITH RESPECT TO SPECIAL ASSESSMENT FOR
THE SEABREEZE LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT
FOR FISCAL YEAR 2022-2023**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for the Seabreeze Landscape Maintenance Assessment District for FY 2022-2023.

BACKGROUND:

On April 5, 2022, the City Council passed Resolution 2022-46 setting FY 2022/23 special assessment for the Seabreeze Landscape Maintenance Assessment District as recommended in the engineer's report.

Except for the Constitutionally-limited 1% ad valorem tax, the Monterey County Auditor-Controller will not place taxes, assessments, fees or charges on the rolls unless the City Council certifies by resolution that the City is in compliance with Proposition 218, the 1996 '*Right to Vote on Taxes Act*' with respect to each such tax, assessment, fee and charge. Certification resolution(s) must contain hold harmless and indemnification provisions for administrative expenses of the County associated with collection of the City's taxes, assessments, fees and charges placed on the rolls. These certifications, along with copies of the resolutions setting the tax, assessment fee and/or charge rates and certain other documentation, must be submitted to the County no later than August 1, 2022.

ANALYSIS:

The following special levy, adopted by Resolution 2022-46 on April 5, 2022, is for assessment district operations and must be included in the certification adopted by the Council:

Seabreeze Landscape Maintenance Assessment District	\$ 182.42 per parcel
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FISCAL IMPACT:

Special assessments finance the assessment district's approved maintenance. Total to be credited to the district is as follows:

Seabreeze Landscape Maintenance Assessment District	\$ 6,749.54
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CONCLUSION:

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

May 17, 2022

Item No. **8f(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
CERTIFYING CITY OF MARINA COMPLIANCE WITH STATE LAW
(PROPOSITION 218) WITH RESPECT TO SPECIAL ASSESSMENT FOR
THE MONTEREY BAY ESTATES LANDSCAPE MAINTENANCE
ASSESSMENT DISTRICT FOR FISCAL YEAR 2022-2023**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to special assessment for the Monterey Bay Estates Landscape Maintenance Assessment District for FY 2022-2023.

BACKGROUND:

On April 5, 2022, the City Council passed Resolution No. 2022-47 setting the FY 2022/23 special assessment for the Monterey Bay Estates Landscape Maintenance Assessment District as recommended in the engineer's report.

Except for the Constitutionally-limited 1% ad valorem tax, the Monterey County Auditor-Controller will not place taxes, assessments, fees or charges on the rolls unless the City Council certifies by resolution that the City is in compliance with Proposition 218, the 1996 '*Right to Vote on Taxes Act*' with respect to each such tax, assessment, fee and charge. Certification resolution(s) must contain hold harmless and indemnification provisions for administrative expenses of the County associated with collection of the City's taxes, assessments, fees and charges placed on the rolls. These certifications, along with copies of the resolutions setting the tax, assessment fee and/or charge rates and certain other documentation, must be submitted to the County no later than August 1, 2022.

ANALYSIS:

The following special levy, adopted by Resolution 2022-47 on April 5, 2022, is for assessment district operations and must be included in the certification adopted by the Council:

Monterey Bay Estates Landscape Maintenance Assessment District \$ 77.14 per parcel

FISCAL IMPACT:

Special assessments finance the assessment district's approved maintenance. Total to be credited to the district is as follows:

Monterey Bay Estates Landscape Maintenance Assessment District \$ 12,496.68

CONCLUSION:

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

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

Juan Lopez
Finance Director
City of Marina

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

**A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW WITH RESPECT TO
LEVYING OF SPECIAL ASSESSMENT FOR FISCAL YEAR 2022-2023**

WHEREAS, The City of Marina requests that the Monterey County Auditor-Controller enter that special assessment identified in Exhibit “A” on the property tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2022-2023 (**“EXHIBIT A”**).

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

1. The City 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 and assessments 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 decisional law of the State of California.
2. The City further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees and agents, the City 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 and assessments identified in **EXHIBIT A** and that the City 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, 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 7th day of June 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

**ATTACHMENT TO RESOLUTION NO. 2022-___ OF THE CITY OF MARINA, COUNTY
OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW
WITH RESPECT TO THE LEVYING OF SPECIAL ASSESSMENT FOR
FISCAL YEAR 2022-2023**

PER-PARCEL ASSESSMENTS:

Assessment District – Operations:

- Monterey Bay Estates Landscape Maintenance Assessment District \$77.14

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

Juan Lopez
Finance Director
City of Marina

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

**A RESOLUTION OF THE CITY OF MARINA CERTIFYING
COMPLIANCE WITH STATE LAW WITH RESPECT TO
LEVYING OF SPECIAL ASSESSMENTS FOR FISCAL YEAR 2022-2023**

WHEREAS, The City of Marina requests that the Monterey County Auditor-Controller enter those special assessments identified in Exhibit “A” on the property tax roll for collection and distribution by the Monterey County Treasurer-Tax Collector commencing with the property tax bills for fiscal year 2022-2023 (**“EXHIBIT A”**).

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

1. The City 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 and assessments 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 decisional law of the State of California.
2. The City further certifies that, except for the sole negligence or misconduct of the County of Monterey, its officers, employees and agents, the City 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 and assessments identified in **EXHIBIT A** and that the City 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, 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 7th day of June 2022, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

**ATTACHMENT TO RESOLUTION NO. 2022-___ OF THE CITY OF MARINA, COUNTY
OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW
WITH RESPECT TO THE LEVYING OF SPECIAL ASSESSMENTS FOR
FISCAL YEAR 2022-2023**

PER-PARCEL ASSESSMENTS:

Assessment Districts – Operations:

- Seabreeze Landscape Maintenance Assessment District \$182.42

May 25, 2022

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

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
CONFIRMING LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA
COMMUNITY FACILITIES DISTRICT NO. 2007-2 (LOCKE PADDON)
FOR FISCAL YEAR 2022-2023 AS AUTHORIZED BY ORDINANCE NO.
2007-09; AND RESOLUTION NO. 2022-, CERTIFYING CITY OF MARINA
COMPLIANCE WITH STATE LAW (PROPOSITION 218) WITH RESPECT
TO LEVYING OF SPECIAL TAXES ON BEHALF OF THE CITY OF
MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 FOR FISCAL
YEAR 2022-2023 AS AUTHORIZED BY ORDINANCE NO. 2007-09**

RECOMMENDATION:

It is requested that the City Council:

1. Consider adopting Resolution No. 2022-, confirming levy of a special tax for the City of Marina Community Facilities District No. 2007-2 (Locke Paddon) for Fiscal Year 2022-2023 as authorized by Ordinance No. 2007-09, and;
2. Consider adopting Resolution No. 2022-, certifying City of Marina compliance with State law (Proposition 218) with respect to levying of special taxes for the City of Marina Community Facilities District No. 2007-2 for Fiscal Year 2022-2023 as authorized by Ordinance No. 2007-09

BACKGROUND:

Pursuant to a special election held on July 17, 2007, on August 7, 2007, the City Council unanimously passed Ordinance No. 2007-09, forming the City of Marina Community Facilities District No. 2007-2 (commonly referred to as Locke-Paddon CFD, see “**EXHIBIT B**”). Ordinance 2007-09 also authorized an annual special tax levy for the purpose of landscape and park maintenance. The special tax was first levied for fiscal year 2008-09, in the amount of \$898.58 for each of the fifteen (15) assessed properties. Each subsequent year, Ordinance 2007-09 requires the special tax to be increased by two percent (2.00%) from the previous approved Maximum Special Tax.

For fiscal years 2013/14, 2014/15 and 2015/16, the special tax was temporarily reduced to zero. The City Council Resolutions affirmed that for future calculations, the full, authorized, maximum rate would continue to increase per Ordinance 2007-09. 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	Max. Per Parcel Tax	Approved Levy	Total Special Tax
FY 08/09	\$898.58	\$ 898.58	\$ 13,478.70
FY 09/10	\$916.56	\$ 916.56	\$ 13,748.40
FY 10/11	\$934.90	\$ 934.90	\$ 14,023.50
FY 11/12	\$953.60	\$ 953.60	\$ 14,304.00
FY 12/13	\$972.68	\$ 972.68	\$ 14,590.20
FY 13/14	\$992.14	\$ -	\$ -
FY 14/15	\$1,011.98	\$ -	\$ -
FY 15/16	\$1,032.22	\$ -	\$ -
FY 16/17	\$1,052.86	\$ 420.00	\$ 6,300.00
FY 17/18	\$1,073.92	\$ 475.00	\$ 7,125.00 [\$6,652 actual]
FY 18/19	\$1,095.40	\$ 450.00	\$ 6,750.00 [\$6,284 actual]
FY 19/20	\$1,117.30	\$ 488.00	\$ 7,320.00
FY 20/21	\$1,139.64	\$ 785.00	\$ 11,775.00
FY 21/22	\$1,162.44	\$ 820.00	\$ 12,300.00
FY 22/23	\$1,209.40	\$ 1,100.00	\$ 16,500.00

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 251 - CFD No. 2007-2 Locke Paddon. Likewise, expenditures and costs incurred on behalf of the District are paid out of Fund 251 expenditure. It is estimated that by June 30, 2022, the unexpended fund balance in Fund 251 (cumulative tax revenue in excess of expenditures since inception) is projected to be approximately \$4,330. On May 5th, City staff met with residents to discuss requested additional improvements and maintenance including: decorative fencing repair, lighting replacements, dog waste station, root barrier installation, irrigation repairs and other improvements. Expected landscaping, utilities, extraordinary maintenance, and City service expenditures for this coming fiscal year (2022-23) will be approximately \$16,610 (**"EXHIBIT C"**).

Due to the age of the site improvements at the District, a fund balance of \$4,221 will be maintained for replacement costs of site improvements as they reach the end of their life expectancy (e.g. street light fixtures, irrigation system) and for tree removal/replacement as needed.

The cost allocation charges adopted in July 2018 for this District was identified to be \$5,234.94. Staff had presented this cost figure to the City Council during the last assessment process for future consideration. These charges are associated with the expenses incurred by the City for administering the special tax assessment. As the District has not paid cost allocation charges in prior years, the additional charges would be a significant burden to the current budget. Staff is recommending a phased appropriation of cost allocation charges over a four-year period as shown in Exhibit C (See Note C).

Section 2 of Ordinance 2007-09 requires the CFD Administrator (the City Manager) "...to determine each year, without further action of this Council, the Special Tax...and, without further action of this Council, to provide all necessary and appropriate information to the Monterey County Auditor...necessary to effect the correct and timely billing and collection of the Special Tax...." Upon evaluation of the anticipated expenditures of the District for the upcoming Fiscal Year 22/23, it is the opinion of the CFD Administrator to assess a special tax of \$1,100.00 per parcel to maintain an adequate fund balance for any potential unforeseen extraordinary maintenance projects.

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. 2007-2 Special Tax for the 2022-23 fiscal year.

FISCAL IMPACT:

Special assessments finance the CFD's approved landscape maintenance services. Total to be credited to the district is as follows:

Fund 251 Community Facilities District No. 2007-2	\$16,500.00
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CONCLUSION:

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

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

Juan Lopez
Finance Director
City of Marina

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY OF MARINA CONFIRMING LEVY OF A SPECIAL TAX FOR THE CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 (LOCKE PADDON) FOR FISCAL YEAR 2022-2023 AS AUTHORIZED BY ORDINANCE NO. 2007-09

WHEREAS, Ordinance 2007-09 authorized the levy of a special tax for the benefit of the City of Marina Community Facilities District 2007-2 starting in Fiscal Year 2008-2009, and increasing each year by two percent (2%); and

WHEREAS the special tax has been levied each fiscal year as authorized, but was temporarily reduced to zero for Fiscal Years 2013/14, 2014/15 and 2015/16; and

WHEREAS the Administrator has calculated the maximum Fiscal Year 2022-2023 special tax to be \$1,209.40, and;

WHEREAS, the CFD administrator having further considered the special tax requirements in accordance with Exhibit A to Ordinance 2007-09, by which Community Facilities District 2007-2 was established and continues, has determined that a special tax for fiscal year 2022-2023 be assessed at \$1,100.00 per parcel.

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, \$1,100.00 per parcel for FY 2022-2023 assessment for the Locke Paddon Community Facilities District No. 2007-2.
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. 2007-2 shall be repaid from the next annual assessments levied and collected within Community Facilities District No. 2007-2.
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, 2022.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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. 2022-

A RESOLUTION OF THE CITY OF MARINA CERTIFYING COMPLIANCE WITH STATE LAW (PROPOSITOIN 218) WITH RESPECT TO LEVYING OF SPECIAL TAXES ON BEHALF OF CITY OF MARINA COMMUNITY FACILITIES DISTRICT NO. 2007-2 FOR FISCAL YEAR 2022-2023 AS AUTHORIZED BY ORDINANCE NO. 2007-09

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 2022-2023.

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 7th day of June 2022, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

Bruce C. Delgado, Mayor

Anita Shepherd-Sharp, Deputy City Clerk

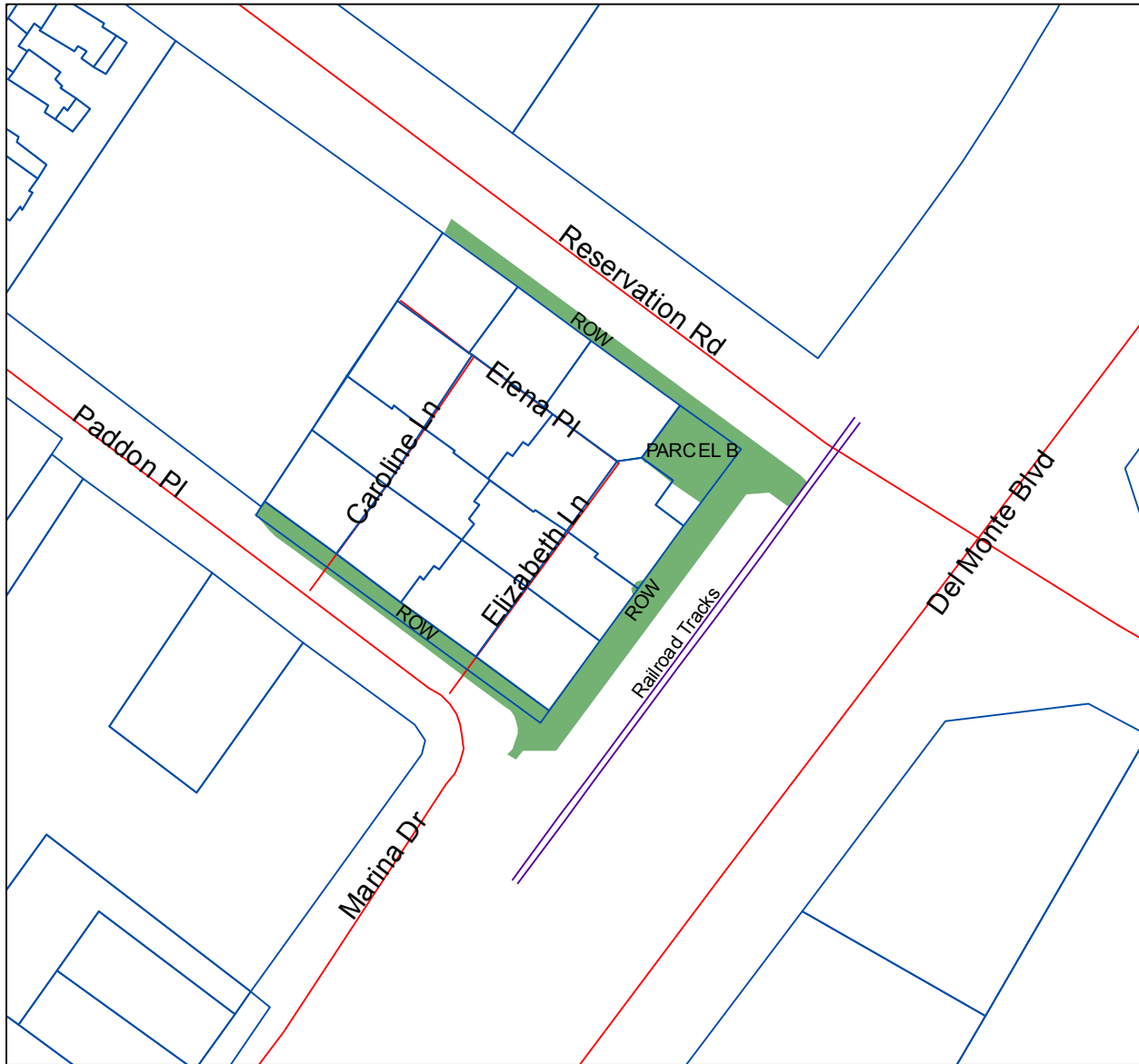
EXHIBIT “A”

**TO RESOLUTION NO. 2022- ____ OF THE CITY OF MARINA, COUNTY
OF MONTEREY, CALIFORNIA, CERTIFYING COMPLIANCE WITH STATE LAW
WITH RESPECT TO THE LEVYING OF SPECIAL TAXES FOR
FISCAL YEAR 2022-2023**

PER-PARCEL SPECIAL TAX:

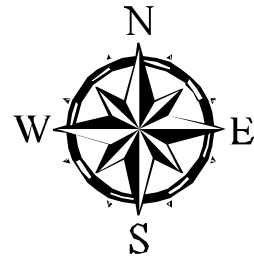
DIAGRAM & LOT NO.	ASSESSOR'S PARCEL NUMBER	SPECIAL TAX ASSESSMENT
1	033-135-001-000	\$ 1,100.00
2	033-135-002-000	\$ 1,100.00
3	033-135-003-000	\$ 1,100.00
4	033-135-004-000	\$ 1,100.00
5	033-135-005-000	\$ 1,100.00
6	033-135-006-000	\$ 1,100.00
7	033-135-007-000	\$ 1,100.00
8	033-135-008-000	\$ 1,100.00
9	033-135-009-000	\$ 1,100.00
10	033-135-010-000	\$ 1,100.00
11	033-135-011-000	\$ 1,100.00
12	033-135-012-000	\$ 1,100.00
13	033-135-013-000	\$ 1,100.00
14	033-135-014-000	\$ 1,100.00
15	033-135-015-000	\$ 1,100.00

EXHIBIT B CFD DIAGRAM



Locke Paddon Point Landscape Maintenance District

-  Area To Maintain
-  Parcels
-  Roads
-  Railroad Tracks



0 62.5 125 250 375 500 Feet

EXHIBIT C
LOCKE-PADDON COMMUNITY FACILITIES DISTRICT
BUDGET SUMMARY

Summary	Estimates FY 2021-2022	Estimates FY 2022-2023	Estimates FY 2023-2024	Estimates FY 2024-2025
Beginning Cash Balance, July 1 st	\$ 5,552	\$ 4,330	\$ 4,221	\$ 6,043
(a) Total Special Tax Revenue (15 Parcels)	\$ 12,688	\$ 16,500	\$ 13,500	\$ 13,500
Expenditures				
Contractor Services				
(b) Landscape Maintenance Contract	\$ 2,988	\$ 3,078	\$ 3,170	\$ 3,265
Utilities	\$ 1,200	\$ 1,236	\$ 1,273	\$ 1,311
Large Tree Trimming	\$ -	\$ -	\$ -	\$ -
Extraordinary Maintenance	\$ 5,104	\$ 6,370	\$ -	\$ -
Administrative Services				
Supervision	\$ -	\$ -	\$ -	\$ -
(c) Cost Allocation Charges	\$ 2,617	\$ 3,926	\$ 5,235	\$ 5,235
Administration (Incl. Engineer's Report)	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000
Total Expenditures	\$ 13,909	\$ 16,610	\$ 11,678	\$ 11,811
(d) Net Change in Fund Balance	\$ (1,221)	\$ (110)	\$ 1,822	\$ 1,689
(e) Ending Fund Balance, June 30 th	\$ 4,330	\$ 4,221	\$ 6,043	\$ 7,731

(a) Maximum Assessment per Rate of Apportionment is \$1,185.68 per parcel for FY 22/23. Actual Per Parcel Assessment for FY 22/23 is \$1,100.00

(b) Maintenance Costs are shown as increasing per fiscal year by an estimated Consumer Cost Index (CPI) of 3% as allowed by the Contract Specifications.

(c) Cost Allocation Charges adopted in 2018 of \$5,234.94 will be incrementally applied over a four-year period: FY 20/21 = \$1,308.74, FY 21/22 = \$2,617.47, FY 22/23 = \$3,926.21, FY 23/24 = \$5,234.94

(d) Net Change in Fund Balance equals the Total Expenditures subtracted from Total Special Tax Revenue for that Fiscal Year.

(e) End Fund Balance equals the Net Change in Fund Balance plus the Beginning Cash Balance of that Fiscal Year.

May 10, 2022

Item No. **8f(5)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting of
June 7, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-,
ADOPTING AN UPDATED LIST OF PROJECTS FOR FISCAL YEAR
2022-23 FUNDED BY SB 1: THE ROAD REPAIR AND
ACCOUNTABILITY ACT OF 2017**

RECOMMENDATION:

It is recommended that the City Council consider

- (1) Adopting Resolution No. 2022-, adopting an updated list of projects for Fiscal Year 2022-23 funded by SB 1: The Road Repair and Accountability Act of 2017.

BACKGROUND:

On April 28, 2017 the Governor signed Senate Bill 1 (Beall, Chapter 5, Statutes of 2017), which is known as the Road Repair and Accountability Act of 2017. To address basic road maintenance, rehabilitation and critical safety needs on both the state highway and local streets and road system, Senate Bill 1 (SB 1): increases per gallon fuel excise taxes; increases diesel fuel sales taxes and vehicle registration fees; and provides for inflationary adjustments to tax rates in future years.

The Road Repair and Accountability Act of 2017 provides \$5.2 billion annually and is a significant investment in California's transportation infrastructure. The bill provides \$15 billion for local streets and roads over the next ten years. Monterey County's share of the local streets and roads funding is approximately \$16.2 million in fiscal year 2022/23.

Beginning November 1, 2017, the State Controller deposits various portions of this new funding into the newly created Road Maintenance and Rehabilitation Account (RMRA). A percentage of this new RMRA funding is apportioned by formula to eligible cities and counties for basic road maintenance, rehabilitation, and critical safety projects on the local streets and roads system.

Prior to receiving an apportionment of RMRA funds from the State Controller in a fiscal year, a city or county must submit to the California Transportation Commission a list of projects proposed to be funded with these funds. All projects proposed to receive funding must be adopted by resolution by the applicable city council or county board of supervisors at a regular public meeting. The list of projects must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement. This report is due to the California Transportation Commission by July 1st of each year.

In addition to the project list report, for each fiscal year in which RMRA funds are received and expended, cities and counties must submit documentation to the California Transportation Commission that details the expenditure of all RMRA funds, including a description and location of each completed project, the amount of funds expended on the project, the completion date, and the estimated useful life of the improvement. This report on expenditures is due to the California Transportation Commission by October 1st of each year.

ANALYSIS:

As part of the City's Pavement Management Program's annual street maintenance project budget, the City has developed a fiscal year project list that will utilize the RMRA funds to supplement the financing of project administration and construction. This project list is substantially consistent with funding appropriations previously approved by the Council for Capital Improvement Program (CIP) Annual Street Resurfacing. The City Council can add more streets to the Annual Street Resurfacing street segment list at a later date as a result of the Measure X bond approved at the May 17, 2022 City Council meeting.

The proposed list (**Exhibit A**) is a representation of the City's intent for roadway maintenance projects to the California Transportation Commission to fulfill its annual reporting requirements and can be amended after submission. This action only pertains to the proposed expenditure of RMRA funds for the fiscal year 2022-2023. Once adopted, staff will enter the project list into the State SB1 Programs Project Intake website prior to the July 1st deadline.

FISCAL IMPACT:

Should the City Council approve this request, the entry of the City's proposed project list will allow the City to receive an estimated \$499,659 of SB 1 revenue. The submission of the project list is a declaration of intent to the California Transportation Commission that the City will dedicate the RMRA funds towards roadway maintenance.

CONCLUSION:

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

Respectfully submitted,

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2022-23 FUNDED BY
SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City, will receive an estimated \$499,659 in RMRA funding in Fiscal Year 2022-23 from SB 1; and

WHEREAS, this is the sixth year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has presented pavement rehabilitation scenarios at public meetings to ensure public input into our community's project list; and

WHEREAS, the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City maintain and rehabilitate 20 lane miles throughout the City this year and similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in an "at-risk" condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into a "good" condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND by the City Council of the City of Marina, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The following list of newly proposed projects will be funded in-part or solely with Fiscal Year 2022-23 Road Maintenance and Rehabilitation Account revenues:

Project Title: APR1801 Annual Street Resurfacing, Phase 1
Project Description: Phase 1 – HMA Overlay
Project Location: Various Locations (See Exhibit A)
Estimated Project Schedule: Start (04/23)– Completion (07/23) based on the component being funded with RMRA funds
Estimated Project Useful Life: 15yrs

Project Title: APR1801 Annual Street Resurfacing, Phase 2
Project Description: Phase 2 – Microsurfacing
Project Location: Various Locations (See Exhibit A)
Estimated Project Schedule: Start (05/23)– Completion (07/23) based on the component being funded with RMRA funds
Estimated Project Useful Life: 10yrs

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting held on the 7th day of June 2022 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

EXHIBIT A
SB 1 PROJECT LIST FOR CTC

Scenario: FY 22/23
Sections Selected for Treatment

Project Description: The Annual Street Resurfacing Projects will be **constructed in two project phases**, to include:
(1) New Installation & Repairs of ADA Curb Ramps along with HMA Overlay, and (2) Microsurfacing Treatment of existing pavement.

Location: Several locations throughout the City have been identified as in need of these improvements. Segments from Beach Road to Forest Circle, and Barrett Lane to 2nd Avenue are being considered to receive the proposed treatments in the annual projects.

Usefull Life: HMA Overlay, 10 to 15 years; Microsurfacing and Slurry Seal, 5 to 10 years

Completion: Project Phase 1: April through July 2023 Project Phase 2: May through July 2023

RoadName	BegLocation	EndLocation	Treatment	Useful Life (Yrs)	PCI Prior	PCI Treated	TreatmentCost	Cost
BEACH RD	DEL MONTE BLVD	347' E/O MELANIE RD	HMA OVERLAY	15	50	100	40	321,160.00
CRESCENT ST	Patton Parkway	Reindollar Ave	HMA OVERLAY	15	48	100	40	119,386.67
DELTA ST	Echo St	EAST END	HMA OVERLAY	15	50	100	40	59,111.11
EDDY ST	CONCORD CT	SOUTH CDS	HMA OVERLAY	15	48	100	40	32,320.00
EXETER PL	California Ave	END	HMA OVERLAY	15	50	100	40	61,448.89
FEHRING PL	Messinger Dr	END	HMA OVERLAY	15	47	100	40	31,964.44
FOREST CIR	Bayer St	END	HMA OVERLAY	15	50	100	40	65,995.56
GREENBROOK PL	Lakewood Dr	END	HMA OVERLAY	15	48	100	40	34,200.00
KAILUA CR	Ninole Dr	END	HMA OVERLAY	15	47	100	40	42,022.22
LAKESWOOD DR	DREW ST	CARDOZA AVE	HMA OVERLAY	15	45	100	40	109,511.11
LAKESWOOD DR	CARDOZA AVE	ABDY WY	HMA OVERLAY	15	46	100	40	108,088.89
LEWIS PL	Barrett Ln	END	HMA OVERLAY	15	46	100	40	131,577.78
LIBERTY CT	INDEPENDENCE AVE	LIBERTY CT	HMA OVERLAY	15	48	100	40	32,102.22
MAGYAR PL	Messinger Dr	END	HMA OVERLAY	15	46	100	40	51,115.56
MAX CIR	Reindollar Ave	END	HMA OVERLAY	15	45	100	40	76,053.33
REDWOOD DR	Reindollar Ave	Hillcrest Ave	HMA OVERLAY	15	50	100	40	83,680.00
SILVERWOOD PL	Cardoza Ave	END	HMA OVERLAY	15	47	100	40	39,840.00
SUNRISE PL	Sunrise Ave	END	HMA OVERLAY	15	47	100	40	78,933.33
WINDSOR CT	California Ave	END	HMA OVERLAY	15	48	100	40	62,137.78

Project/Phase 1 - HMA Overlay Total: 1,540,648.89

BARRETT LN	Carmel Ave	END	MICROSURFACING	10	68	77	4	5,344.44
ABRAMS DR	IMJIN PARKWAY	DENALI DR	MICROSURFACING	10	89	94	4	18,493.33
ABRAMS DR	DENALI DR	MARINA HEIGHTS DR	MICROSURFACING	10	89	94	4	31,061.33
ABRAMS DR	MARINA HEIGHTS DR	BRADEN WAY	MICROSURFACING	10	85	91	4	22,890.67
ABRAMS DR	BRADEN WAY	MACARTHUR DR	MICROSURFACING	10	85	92	4	35,904.00
BEACH RD	MARINA DR	DEL MONTE BLVD	MICROSURFACING	10	62	72	4	22,272.00
DEL MONTE BLVD	RESERVOIR RD	1811' N/O RESERVOIR RD	MICROSURFACING	10	63	73	4	6,439.11
DEL MONTE BLVD	1811' N/O REINDOLLAR AVE	BEACH RD	MICROSURFACING	10	85	92	4	7,210.67

EXHIBIT A
SB 1 PROJECT LIST FOR CTC

Scenario: FY 22/23
Sections Selected for Treatment

RoadName	BegLocation	EndLocation	Treatment	Useful Life (Yrs)	PCI Prior	PCI Treated	TreatmentCost	Cost
DEL MONTE BLVD	BEACH RD	507' S/O BEACH RD	MICROSURFACING	10	85	92	4	5,408.00
EIGHTH ST	Third Ave	Second Ave	MICROSURFACING	10	85	92	4	14,053.33
HILLCREST AVE	120 E/O OTTO DR	REDWOOD DR	MICROSURFACING	10	67	76	4	7,663.11
IMJIN PARKWAY	SECOND AVE	THIRD AVE	MICROSURFACING	10	86	92	4	17,733.33
IMJIN PARKWAY	THIRD AVE	FOURTH AVE	MICROSURFACING	10	86	92	4	15,906.67
IMJIN PARKWAY	FOURTH AVE	CALIFORNIA AVE	MICROSURFACING	10	86	92	4	15,386.67
IMJIN PARKWAY	CALIFORNIA AVE	ABRAMS DR (W)	MICROSURFACING	10	86	92	4	17,973.33
IMJIN PARKWAY	ABRAMS DR (W)	IMJIN RD	MICROSURFACING	10	86	92	4	13,866.67
IMJIN PARKWAY	IMJIN RD	ABRAMS DR (W)	MICROSURFACING	10	64	74	4	12,942.22
IMJIN PARKWAY	ABRAMS DR (W)	CALIFORNIA AVE	MICROSURFACING	10	86	92	4	17,973.33
IMJIN PARKWAY	CALIFORNIA AVE	FOURTH AVE	MICROSURFACING	10	86	92	4	15,386.67
IMJIN PARKWAY	FOURTH AVE	THIRD AVE	MICROSURFACING	10	86	92	4	15,906.67
IMJIN PARKWAY	THIRD AVE	SECOND AVE	MICROSURFACING	10	86	92	4	17,733.33
IMJIN PARKWAY	SECOND AVE	SR 1	MICROSURFACING	10	86	92	4	16,280.00
LAKE DR	PALM AVE	MESSINGER DR	MICROSURFACING	10	60	71	4	5,015.56
RESERVATON RD	DEL MONTE BLVD	SEACREST AVE	MICROSURFACING	10	64	74	4	19,200.00
RESERVATON RD	SEACREST AVE	CRESCENT AVE	MICROSURFACING	10	86	92	4	27,788.44
RESERVATON RD	CRESCENT AVE	630' E/O CRESCENT AVE	MICROSURFACING	10	86	92	4	9,240.00
RESERVATON RD	Del Monte Blvd	Seacrest Ave	MICROSURFACING	10	64	74	4	19,200.00
RESERVATON RD	630' E/O CRESCENT AVE	CRESCENT AVE	MICROSURFACING	10	86	92	4	10,640.00
RESERVATON RD	CRESCENT AVE	SEACREST AVE	MICROSURFACING	10	86	92	4	25,262.22
SECOND AVE	SOUTH CITY LIMIT	INTER-GARRISON RD	MICROSURFACING	10	85	92	4	9,980.44
SECOND AVE	INTER-GARRISON RD	FIFTH ST (S)	MICROSURFACING	10	85	92	4	8,678.22
SECOND AVE	FIFTH ST (S)	EIGHTH ST	MICROSURFACING	10	85	92	4	18,535.11
SECOND AVE	415 S/O GENERAL STILLWELL DR	TENTH ST	MICROSURFACING	10	85	92	4	2,215.11
SECOND AVE	TENTH ST	EIGHTH ST	MICROSURFACING	10	85	92	4	13,161.78
SECOND AVE	EIGHTH ST	FIFTH ST (S)	MICROSURFACING	10	85	91	4	18,535.11
SECOND AVE	FIFTH ST (S)	INTER-GARRISON RD	MICROSURFACING	10	85	92	4	9,345.78
SECOND AVE	INTER-GARRISON RD	SOUTH CITY LIMIT	MICROSURFACING	10	85	91	4	8,554.67
TENTH ST	Second Ave	Third Ave	MICROSURFACING	10	85	92	4	15,776.00
THIRD AVE	Tenth St	Imjin Parkway	MICROSURFACING	10	65	75	4	18,193.78
UNIVERSITY DR	MBEST DR	RESEARCH DR	MICROSURFACING	10	61	71	4	23,743.56
ALPHA ST	Imjin Rd	END	MICROSURFACING	10	68	78	4	2,786.67

Project/Phase 2 - Microsurfacing Total: 619,681.33

FY 22/23 Program (Phase 1 & 2) Total: 2,160,330.22

June 3, 2022

Item No. **8f(6)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-,
ESTABLISHING APPROPRIATIONS LIMIT FOR FY 2022-23**

REQUEST:

It is requested that the City Council:

1. Consider Adopting Resolution No. 2022-, establishing appropriations limit for FY 2022-23.

BACKGROUND:

Article 13B of the California Constitution states that a local government's annual appropriations shall not exceed the appropriations limit of the prior year, adjusted for the change in the cost of living and the change in population. Cost of living and population changes for all local governments are determined by the California Department of Finance.

The appropriations limit creates a restriction on the amount of revenue that can be appropriated in any fiscal year. Only revenues that are "proceeds of taxes" are subject to the limitation as defined by the law. Interestingly, this includes State subventions, which are "money received by a local agency from the State, the use of which unrestricted by the statute providing the subvention (Government Code Section 7903)."

Government Code Section 7910 requires a local government to establish its appropriations limit by resolution each year, for the following fiscal year, at a regularly scheduled or noticed special meeting. The meeting of June 7, 2022 has been noticed via regular agenda posting locations and City website.

ANALYSIS:

As part of the establishment of its annual appropriations limit, the City must formally adopt the two (2) variables used in the calculation as determined by the Department of Finance:

1. Cost-of-living change factor, and;
2. Population change factor.

In May 2022, the State of California Department of Finance has determined the change in California's per capita personal income factor as 7.55% ("**EXHIBIT A – Attachment A**"), the change in population for the City of Marina as .9% ("**EXHIBIT A – Attachment B**").

These figures combine to produce an appropriations limit calculation factor of 1.0852, which, when applied to the FY 21-22 appropriations limit of \$28,804,669, produces a FY 2022-23 appropriations limit of \$31,258,237 ("**EXHIBIT B**").

Based upon the above FY 2022-23 appropriation limit of \$31,258,237 and City FY 2022-23 estimated total applicable City local proceed of tax sources, State subventions and/or applicable interest income of approximately \$25.1 million, the City is approximately \$3.7 million (or 13%) below the limit. Therefore, the City is well within the limit and is compliant with this California State law.

Any challenge to the appropriations limit must be brought to the City of Marina's attention within forty-five (45) days of the effective date of this resolution.

FISCAL IMPACT:

None

CONCLUSION:

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

Respectfully submitted,

Juan Lopez
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
ESTABLISHING APPROPRIATIONS LIMIT FOR FY 2022-23

WHEREAS, Article XIII B of the California Constitution requires a governmental entity to establish an appropriations limit, and;

WHEREAS, California Government Code Section 7910 requires a local government to establish its appropriations limits by resolution each year, for the following fiscal year, at a regularly scheduled or noticed special meeting, and;

WHEREAS, the City discussed its budget at its regularly scheduled June 7, 2022 meeting, and;

WHEREAS, in May 2022, the State of California Department of Finance determined the change in California's per capita personal income factor ("EXHIBIT A - Attachment A"), the change in population for the City of Marina and the change in population for the County of Monterey ("EXHIBIT A - Attachment B"), and;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina establishes appropriations limit for FY 2022-23 at \$31,258,237 ("EXHIBIT B").

BE IT FURTHER RESOLVED that any challenge to the appropriations limit must be brought to the City of Marina's attention within forty-five (45) days of the effective date of this resolution.

PASSED AND ADOPTED by the City Council of the City of Marina at regular meeting duly held on the 7th day of June 2022, 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



Gavin Newsom ■ Governor

1021 O Street, Suite 3110 ■ Sacramento CA 95814 ■ www.dof.ca.gov

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit

California Revenue and Taxation Code section 2227 requires the Department of Finance to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2022, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2022-23. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2022-23 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts

Some special districts must establish an annual appropriations limit. California Revenue and Taxation Code section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The code section and the California Constitution can be accessed at the following website: <http://leginfo.ca.gov/faces/codes.xhtml>.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification

The population certification program applies only to cities and counties. California Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2022.**

Please Note: The prior year's city population estimates may be revised. The per capita personal income change is based on historical data.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

KEELY MARTIN BOSLER
Director
By:

ERIKA LI
Chief Deputy Director

Attachment

- A. **Price Factor:** Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2022-23 appropriation limit is:

Per Capita Personal Income

Fiscal Year (FY)	Percentage change over prior year
2022-23	7.55

- B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2022-23 appropriation limit.

2022-23:

Per Capita Cost of Living Change = 7.55 percent
Population Change = -0.30 percent

Per Capita Cost of Living converted to a ratio: $\frac{7.55 + 100}{100} = 1.0755$

Population converted to a ratio: $\frac{-0.30 + 100}{100} = 0.997$

Calculation of factor for FY 2022-23: $1.0755 \times 0.997 = 1.0723$

Attachment B
Annual Percent Change in Population Minus Exclusions*
January 1, 2021 to January 1, 2022 and Total Population, January 1, 2022

County City	<u>Percent Change</u> 2021-2022	<u>--- Population Minus Exclusions ---</u>		<u>Total Population</u>
		1-1-21	1-1-22	1-1-2022
Monterey				
Carmel-By-The-Sea	-1.74	3,095	3,041	3,041
Del Rey Oaks	-1.22	1,558	1,539	1,539
Gonzales	-1.79	8,492	8,340	8,340
Greenfield	4.97	18,705	19,634	19,634
King City	-1.08	13,476	13,331	13,331
Marina	0.87	21,271	21,457	21,457
Monterey	-1.69	24,283	23,872	28,082
Pacific Grove	-1.21	14,942	14,761	14,761
Salinas	-1.14	161,777	159,932	159,932
Sand City	-1.59	378	372	372
Seaside	2.64	26,891	27,600	32,068
Soledad	-1.15	19,226	19,004	26,308
Unincorporated	-1.32	105,741	104,341	104,851
County Total	-0.62	419,835	417,224	433,716

EXHIBIT B

CITY OF MARINA APPROPRIATION LIMIT FOR FISCAL YEAR 2022-23

The appropriations limit creates a restriction on the amount of revenue which can be appropriated in any fiscal year. Only revenues that are 'proceeds of taxes,' as defined by the State code, are subject to the limitation. The basis for calculating the limit began in fiscal year 1978-79 and is calculated each year based on population changes and inflation.

<u>Annual Adjustment</u>					
Change in Population %	-2.02%				
Converted to Ratio			0.9798		
Change in Per Capita Income %	5.73%				
Converted to Ratio			1.0573		
Combined Factor	0.9798	x	1.0573	=	1.0359
2021/22 Appropriation Limit					\$ 28,804,669
2021/22 Adopted Appropriation Limit					\$ 28,804,669
<u>Annual Adjustment</u>					
Change in Population %	0.90%				
Converted to Ratio			1.009		
Change in Per Capita Income %	7.55%				
Converted to Ratio			1.0755		
Combined Factor	1.009	x	1.0755	=	1.0852
2022/23 Appropriation Limit					\$ 31,258,237
* Estimated FY22/23					
Taxes					\$ 24,419,840
Intergovernmental					\$ 385,700
Interest Income					\$ 330,000
Total General Fund Revenues					\$ 25,135,540
Subject to Limit					
Amount Below Limit (\$)					\$ 3,669,129
As a Percent of Total (%)					13%

June 1, 2022

Item No. **8g(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting of
June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING THE PAVEMENT MANAGEMENT PROGRAM UPDATE
2022 REIMBURSEMENT AGREEMENT WITH THE TRANSPORTATION
AGENCY FOR MONTEREY COUNTY (TAMC) FOR THE CITY'S
PAVEMENT MANAGEMENT PROGRAM, AND; TO AUTHORIZE THE
CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF
THE CITY COUNCIL SUBJECT TO FINAL REVIEW AND APPROVAL
BY THE CITY ATTORNEY**

REQUEST:

It is recommended that the City Council:

1. Consider adopting Resolution No. 2022-, approving the Pavement Management Program Update 2022 Reimbursement Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program, and; (**"EXHIBIT A"**)
2. Authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.

BACKGROUND:

At the regular meeting of July 5, 2017, the City Council adopted Resolution No. 2017-66, approving the Master Programs Funding Agreement with the Transportation Agency for Monterey County (TAMC) for local allocation and expenditure of Measure X Transportation and Safety Investment Plan funds.

At the regular meeting of November 21, 2017, the City Council adopted Resolution No. 2017-104, approving the Regional Pavement Management Program Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This agreement funded the initial pavement network analysis and established the City's pavement condition index baseline.

At the regular meeting of April 6, 2021, the City Council adopted Resolution No. 2021-24, approving Amendment No. 1 to the Regional Pavement Management Program Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This amendment provided the discounted license agreement for the use of the Streetsaver Pavement Management Program software.

At the regular meeting of February 15, 2022, the City Council adopted Resolution No. 2022-18, approving the Pavement Management Program Update 2022 Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This agreement provided TAMC the confirmation of the City shows interest in the regional program with the understanding that TAMC would provide final program costs prior to executing the reimbursement agreement.

ANALYSIS:

On April 27, 2022, the TAMC Board of Directors approved a contract with Nichols Consulting Engineers (NCE) to provide Pavement Management consulting services for the regional program. Under the Pavement Management Program (PMP) Reimbursement Agreement, the City agrees to reimburse TAMC for all consultant costs associated with services rendered to the City's PMP. These services include: updating the City's database with new streets, providing inspection assessments of collector and arterial roadways, updating the City's geographic information system (GIS) database, creating presentation and reports for City Council, and providing training opportunities for City staff on the Streetsaver Pavement Management software.

TAMC will be responsible for overseeing the consultant services for the PMP Update. Executing the reimbursement agreement ("**EXHIBIT A**") confirms the City's participation in the regional program and will help the City prioritize the pavement network for rehabilitation and resurfacing projects.

FISCAL IMPACT:

The City's cost share of the regional program is \$36,366.93. A cost share summary for each City can be found in "**EXHIBIT B**". Should the City Council approve this request, adequate funding is available from the Measure X sales tax funds provided to the City for its Pavement Management Program costs.

CONCLUSION:

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

Edrie Delos Santos, P.E.
Senior Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING THE PAVEMENT MANAGEMENT PROGRAM UPDATE 2022 REIMBURSEMENT AGREEMENT WITH THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC) FOR THE CITY'S PAVEMENT MANAGEMENT PROGRAM, AND; TO AUTHORIZE THE FINANCE DIRECTOR TO MAKE THE NECESSARY ACCOUNTING AND BUDGETERY ENTRIES, AND; TO AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY COUNCIL SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY

WHEREAS, at the regular meeting of July 5, 2017, the City Council adopted Resolution No. 2017-66, approving the Master Programs Funding Agreement with the Transportation Agency for Monterey County (TAMC) for local allocation and expenditure of Measure X Transportation and Safety Investment Plan funds, and;

WHEREAS, at the regular meeting of November 21, 2017, the City Council adopted Resolution No. 2017-104, approving the Regional Pavement Management Program Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This agreement funded the initial pavement network analysis and established the City's pavement condition index baseline, and;

WHEREAS, at the regular meeting of April 6, 2021, the City Council adopted Resolution No. 2021-24, approving Amendment No. 1 to the Regional Pavement Management Program Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This amendment provided the discounted license agreement for the use of the Streetsaver Pavement Management Program software, and;

WHEREAS, at the regular meeting of February 15, 2022, the City Council adopted Resolution No. 2022-18, approving the Pavement Management Program Update 2022 Funding Agreement with the Transportation Agency for Monterey County (TAMC) for the City's Pavement Management Program. This agreement provided TAMC the confirmation of the City shows interest in the regional program with the understanding that TAMC would provide final program costs prior to executing the reimbursement agreement, and;

WHEREAS, on April 27, 2022, the TAMC Board of Directors approved a contract with Nichols Consulting Engineers (NCE) to provide Pavement Management consulting services for the regional program. Under the Pavement Management Program (PMP) Reimbursement Agreement, the City agrees to reimburse TAMC for all consultant costs associated with services rendered to the City's PMP. These services include: updating the City's database with new streets, providing inspection assessments of collector and arterial roadways, updating the City's geographic information system (GIS) database, creating presentation and reports for City Council, and providing training opportunities for City staff on the Streetsaver Pavement Management software, and;

WHEREAS, TAMC will be responsible for overseeing the consultant services for the PMP Update. Executing the reimbursement agreement (“**Exhibit A**”) confirms the City’s participation in the regional program and will help the City prioritize the pavement network for rehabilitation and resurfacing projects, and;

WHEREAS, the City’s cost share of the regional program is \$36,366.93. A cost share summary for each City can be found in Exhibit B. Should the City Council approve this request, adequate funding is available from the Measure X sales tax funds provided to the City for its Pavement Management Program costs.

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

1. Approving the Pavement Management Program Update 2022 Reimbursement Agreement with the Transportation Agency for Monterey County (TAMC) for the City’s Pavement Management Program, and;
2. Authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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

SAMPLE REIMBURSEMENT AGREEMENT

WHEREAS, [insert name of City or Monterey County] [choose ("CITY" or "COUNTY")] and the Transportation Agency for Monterey County ("TAMC") entered into a Pavement Management Program Update 2022 Funding Agreement ("PMP Update 2022 Funding Agreement") dated _____; and

WHEREAS, the PMP Update 2022 Funding Agreement provided that TAMC would issue a Request for Proposals for pavement management program update services ("PMP Update 2022 RFP"); and

WHEREAS, the PMP Update 2022 Funding Agreement also provided that [CITY OR COUNTY] would have the discretion to accept or reject the consultant selected by TAMC pursuant to that PMP Update 2022 RFP; and

WHEREAS, the [CITY or COUNTY] has considered the response to the PMP Update 2022 RFP proffered by the consultant selected by TAMC, with respect to [CITY's or COUNTY's] own needs.

NOW, THEREFORE,

1. [CITY or COUNTY] does hereby accept [consultant name] as the provider of services set forth in the PMP Update 2022 RFP on behalf of [CITY or COUNTY].
2. Pursuant to Section I, Paragraph 4, of the PMP Update 2022 Funding Agreement, [CITY or COUNTY] hereby agrees to reimburse TAMC for its share of consultant costs, as delineated in the agreement between TAMC and [consultant name], in an amount not to exceed the amount of _____ Dollars (\$ XX.XX).
3. Such reimbursement shall be made within thirty (30) days of TAMC's presentation to [CITY or COUNTY] of an invoice showing approval of and payment for the consultant's services. Prior to TAMC approval of consultant services with respect to [CITY or COUNTY], TAMC shall confer with [CITY or COUNTY].
4. Both [CITY or COUNTY] and TAMC acknowledge that this Reimbursement Agreement is implementing a portion of the full PMP Update 2022 Funding Agreement, and the PMP Update 2022 Funding Agreement is hereby acknowledged and incorporate herein.

[Signatures on next page]

DRAFT

In Witness Whereof, the parties have executed this AGREEMENT by their duly authorized officers as of the date first written below.

Enter Name
(CITY or COUNTY)

Transportation Agency for
Monterey County (TAMC)

By: _____
Name _____ Date _____
Title _____

By: _____
Todd A. Muck _____ Date _____
Executive Director

Approved as to Form and Legality:

Approved as to Form and Legality:

By: _____
Name _____ Date _____
Title _____

By: _____
Katherine Hansen _____ Date _____
TAMC Counsel

Informational Use Only

EXHIBIT A

SCOPE OF WORK AND SCHEDULE

PAVEMENT MANAGEMENT PROGRAM UPDATE 2022

Task 1. Project Management and Meetings

NCE will meet with TAMC staff to kick-off the project by reviewing the technical approach and any administrative matters that may be necessary. Items to be discussed will include the following:

1. Project goals
2. Scope of work, project schedule, budget and invoicing requirements
3. Information needed from TAMC and participating agencies
4. Field work
 - A. Scheduling and access requirements for field work
 - B. Public safety concerns, requirements and procedures
 - C. Quality Control Plan (QCP)
 - D. List of publicly maintained roads (as well as privately owned)
 - E. New roads
5. M&R practices, records and costs
6. Paving or maintenance budgets
7. Budgeting scenarios, including historical expenditures
8. Other items as needed

Prior to the kick-off meeting, NCE will prepare an agenda and project schedule which will be sent to TAMC staff for review. At least four progress meetings will be held to review the work performed and to address any questions or issues that arise as the work progresses.

DELIVERABLES:

1. Agenda and technical memoranda summarizing the results of meetings
2. Project schedule

Task 2. Database Review and Update

As part of this task, NCE will review the database inventory and coordinate with Carmel, Marina & the County regarding newly added roads (assumed to be 25 miles). Any new roads will be updated into the respective StreetSaver® databases. Road name, limits, surface type, functional classification, number of lanes, construction records, and road geometry will be verified before updating.

However, if there have been any modifications, NCE will recommend any sectionalization changes (either combining or splitting sections) to better represent the Cities'/County's maintenance practices. Factors to be considered when re-sectionalizing include road geometry, functional classification, pavement age, geographical boundaries, pavement performance, and maintenance practices. NCE will next field verify new roads and determine if the data received from agencies are accurate.

In addition, all historical M&R records provided by the County and cities since 2017 will also be entered into StreetSaver® if needed. Populating the database with recent M&R historical data is extremely useful for determining future treatments and predicting future performance. M&R activities include overlays, reconstructions and any surface seals or localized repairs. All M&R historical records must include the following information:

1. Street Name, Street and section IDs
2. Beginning and ending limits of work
3. Date and type of treatment
4. Cost of treatment (optional)

DELIVERABLES:

1. All data collected shall be submitted (Excel format) for city/county staff to review prior to updating the StreetSaver® database
2. M&R history report
3. Updated StreetSaver® databases

Task 3. Pavement Condition Surveys

NCE will perform pavement condition surveys on approximately 1,267 centerline miles of pavement in the County and cities. All participating agencies will need to have their arterials and collectors (482 miles) surveyed and updated. However, only Carmel, King City, Pacific Grove and the County will include residential/local roads (an additional 785 miles) in this task.

Participating Agency	Centerline Miles			
	Arterial	Collector	Residential	Total
Carmel-by-the-Sea	4.5	3.7	16.8	25
Del Rey Oaks	2.3	3.6		5.9
Greenfield	1.7	3.2		4.9
King City	9.8	3.9	17	30.7
Marina	21.5	17.3		38.8
Pacific Grove	8.6	13.2	44.9	66.7
Monterey County	16.5	372.6	705.8	1094.9
Total	64.9	417.5	784.5	1266.9

The distress collection protocols will be in accordance with the latest edition of MTC's *"Pavement Condition Index Distress Identification Manual for Flexible & Concrete Pavements."* In 2019/20, TAMC utilized a hybrid approach as not all agencies had an updated shapefile. For agencies who had no shapefile, walking surveys were utilized. For the other roads and streets, the semi-automated approach was utilized. This will be the same approach utilized for this update.

NCE will be responsible for providing all equipment necessary to perform this task. Should County or City personnel wish to observe NCE's crews during the surveys, we can accommodate the staff. Note that this scope of work and condition surveys do not address issues including, but not limited to traffic, safety and road hazards, geometric issues, road shoulders, sidewalks, curb and gutters, drainage issues or short-term maintenance that should be performed.

Quality Control

Dr. James Signore (QC Manager) will be responsible for:

1. Calibrating all data collection activities
2. Reviewing field activities, including spot checks on the field crews
3. Reviewing field procedures and making changes, as needed
4. Comparing the field data collected with on-site conditions
5. Reviewing all data entry functions, including random spot checks
6. Reviewing reports generated and analyses performed to ensure a quality product

NCE will prepare a QC Plan (QCP) that will include the following components:

1. Description of condition survey procedures (distress types, severities). All procedures, changes, or modifications should be well documented in the QCP so that future updates will be consistent.
2. Accuracy required for data collection or acceptability criteria.
3. Description of how data will be checked for accuracy, e.g., control sections setup and distress comparisons between walking and semi-automated surveys.

A draft QC Plan will be submitted to TAMC for approval, and no field work will commence until a final plan has been accepted. Our QC Plan meets MTC's requirements for all 100+ jurisdictions in the Bay Area.

All data collected from the condition surveys will then be uploaded into the database. This task will be performed at NCE's office to provide quality control of all data entered into the system. NCE will then perform the PCI calculations, and correct any errors found.

DELIVERABLES:

1. Quality Control plan
2. Updated StreetSaver® databases with pavement distress data and PCIs calculated
3. Pavement inventory report

Task 4. Update Maintenance and Rehabilitation Strategies & Decision Tree

NCE will next review M&R strategies with City/County staff. This will include the recommendation and selection of appropriate treatments and the determination of treatment unit costs. This will also be an appropriate time to review the use of new/sustainable treatments or materials, such as Portland cement concrete, bonded overlays, rubberized asphalt, rubberized cape seals, microsurfacing, rejuvenators, CIR, FDR (see picture), warm mix asphalt, etc.

Development of the M&R decision tree is a critical step in any pavement management update as it has a direct and significant impact on the final work plan that is developed, as well as funding consequences. Therefore, NCE will review any recent bid tabs, together with those from neighboring cities. Also, unit prices will be fully loaded rates, and will include not just contractors' prices, but also design, inspection and testing costs.

DELIVERABLES:

1. M&R meeting agenda
2. M&R decision trees updated in StreetSaver® databases

Task 5. Budgetary Analysis & Funding Scenarios

NCE will perform a Budget Needs analysis using an analysis period to be determined by Carmel and the County. This will identify M&R requirements for each street section and determines the total maintenance and rehabilitation requirements over the entire analysis period. The needs analysis identifies road sections that need treatment and applies the M&R decision trees to each section. The costs are then summed for the entire period. This forms the basis for performing budget scenario evaluations, which optimize the street sections for repair under constrained budgets.

The **budget scenarios** evaluation prioritizes sections for repair under constrained, realistic, budgetary assumptions.

Multiple budget or target-driven scenarios (minimum of four) will be performed after discussion with Carmel and County staff. Examples of typical scenarios include:

1. Evenly distributed funding needs to reach a state of good repair
2. Impacts of existing funding levels or projected revenues based on historical trends, e.g., SB1, Measure L fund
3. Funding required to maintain certain PCI levels
4. Funding to improve the PCI

After the analysis is completed, NCE will prepare a report for the City/County to review (see Task 6).

DELIVERABLES:

1. Updated StreetSaver® database

Task 6. Final Reports & Presentations

Next, NCE will prepare a final report for all participating agencies to summarize data collection results in this update. The report will contain, at a minimum, the following information:

1. Executive Summary
2. Study Objectives
3. Background and methodology of regional PMP update
4. Pavement network inventory with PCI (and International Roughness Index as applicable)
5. Inventory of new roads
6. M&R history report
7. M&R decision tree and unit cost assumptions (only for Carmel, Marina and County)
8. Budget analysis (only for Carmel and County)
 - A. Projected PCI under existing funding levels over the next years for all road classes
 - B. Projected annual repair/rehabilitation programs for road maintenance for a multi-year period
 - C. Multi-year plan for road maintenance, resurfacing, rehabilitation and reconstruction
 - D. Impact of deferred maintenance (backlog) on the overall network condition
 - E. Recommended funding scenario and pavement strategies
9. GIS maps to show impacts of scenarios (all agencies except Carmel)

NCE will deliver the draft report to the Cities/County for review in electronic format. Upon receipt of the comments on the draft report, NCE will complete the final report for submittal.

In addition, a presentation to City Council/Board of Supervisors will be prepared; this presentation may be a short (15 to 20 minutes) informational item to elected officials or a longer (1-2 hours) educational/advocacy workshop, depending on the Cities/County's needs.

This task includes one videoconference with agency staff prior to the presentation to discuss items such as the goal of the presentation, the level of knowledge and backgrounds of the audience, the number of stakeholders involved and other potential issues. NCE will deliver the draft presentation to the County/Cities for review in electronic format. Upon receipt of the comments on the draft presentation, NCE will complete the final presentation and schedule the Council/Board meetings.

DELIVERABLES:

1. Draft reports (electronic)
2. Final reports (electronic, two hard copies to agency, one hard copy to TAMC)
3. Draft and final PowerPoint presentation

Task 7. Training & Technical Support

NCE will prepare and present a one-day training class for Marina and the County. The class will cover the following items:

1. Creating or editing street sections
2. Entering pavement distress data
3. Performing PCI Calculations
4. Entering M&R history
5. Revising the M&R decision tree
 - A. Identifying treatment strategies
 - B. Determining appropriate unit costs
6. Determining Budget Needs
7. Creating budget scenarios
 - A. Project selection tools
 - B. Target-driven analysis
 - C. Needs analysis
8. Generating reports
 - A. Pre-defined reports
 - B. Budgetary reports
9. Generating GIS maps

All training materials will be provided by NCE. It is assumed that the training will be conducted on-site and will include up to two participants per agency. *It is assumed that computers and internet access will be provided by TAMC or a participating agency.* However, should the pandemic preclude the ability to conduct in-person training, then we will transfer the training to an online environment. In November 2020, NCE developed and delivered an online 4-day StreetSaver® training for MTC (2 hours per day). This will be a viable option for TAMC member agencies. Note too that NCE conducts identical training for MTC – agencies may register for the MTC training at a nominal cost (typically \$250 to \$300 per module).

In addition, field training to identify and measure pavement distresses, severity level, and quantities will be discussed and covered with County/City staff as part of Task 3.

NCE will also allocate up to 25 hours of technical support per agency. Typically, most technical support is related to providing one-on-one assistance, performing budget scenarios, updating M&R records, providing customized reports, providing pavement treatment recommendations, GIS maps, etc.

DELIVERABLES:

1. StreetSaver® training manuals/training logins for StreetSaver®
2. Field training to collect pavement distress data (part of Task 3)
3. Up to 25 hours technical support per agency

Task 8. GIS Linkage & Mapping

StreetSaver® allows the database to be linked to a shapefile so that GIS maps can illustrate the results of the analysis. Built-in queries are available within StreetSaver® such as:

- PCI Range by street section
- Future PCI by street section
- Maintenance Treatment History
- Impacts of different budget scenarios
- Sections Selected for Treatment

Once linked, maps can be generated within minutes. If StreetSaver has not been linked, then NCE will perform the linkage in this task and generate the desired maps. The shapefiles may be exported to ArcMap for additional editing if desired. This task assumes that the centerline shapefile is complete and accurate.

DELIVERABLES:

1. GIS shapefile linked to StreetSaver® database

Task 9. Traffic Sign Inventory

NCE also collect data on traffic signs as non-pavement assets as part of the field surveys in Task 3. The mobile data collection units utilized can also gather high-resolution, 360-degree, geo-referenced right-of-way digital images. This mobile mapping system provides the ability to inventory traffic signs assets with a high level of accuracy. The following is a list of attributes that NCE will collect for traffic signs:

- Latitude and longitude
- MUTCD code
- Support type

The County can view the 360-degree images on Mapillary.com at no additional cost.

DELIVERABLES:

1. Updated GIS shapefile linked to ArcGIS

PROJECT SCHEDULE

Task Description	Months After NTP						
	NTP	1	2	3	4	5	6
Task 1: Project Management & Meetings	X		X		X		
Task 2: Database Review and Update							
Task 3: Pavement Condition Surveys							
3.1 Residential and Local Roadways							
3.2 Arterial and Collector Roadways							
Task 4: Update M&R Strategies and Decision Tree							
Task 5: Budget Analysis and Funding Scenarios							
Task 6: Final Reports and Presentations							
6.1 Draft & Final Reports							
TAMC/Agency Review							
Final Reports							
6.2 Presentations	To be Scheduled at Agencies' Convenience						
Task 7: Training and Technical Support (Optional)							
7.1 StreetSaver Software Training	To be Scheduled at Agencies' Convenience						
7.2 On-site Field Training	Included in Task 3						
7.3 Technical and Software Support	As-Needed						
Task 8: GIS Linkage & Mapping							
Task 9: Traffic Signs Inventory							

Assumptions

Prior to Task 2, all StreetSaver licenses must be current.

Task 3 - No weather delays are anticipated; approx. 1,267 miles are included.

EXHIBIT B
TO STAFF REPORT

PAVEMENT MANAGEMENT PROGRAM UPDATE 2022
AGENCY COST BY TASK

Agency	Centerline Miles					Agency Cost by Task											Agency Total Cost
	Residential and Local	Arterial + Collector			Total Centerline Miles	1	2	3.1	3.2	4	5	6.1	6.2	7	8	9	
		Arterial	Collector	Arterial + Collector		Project Mgmt	Database Review & Update	Pvmt Condition: Residential & Local	Pvmt Condition: Arterial & Collector	Update M&R Decision Tree	Budget Analysis & Funding Scenarios	Final Reports	Council Presentations	Training & Technical Support	GIS Linkage and Update	Traffic Sign Inventory	
1 Carmel	16.8	4.5	3.7	8.2	25.0	\$ 1,691.28	\$ 169.00	\$ 5,486.00	\$ 2,678.00	\$ 2,408.00	\$ 5,638.00	\$ 4,635.63	\$ 4,644.85	\$ 3,549.14	\$ 6,273.00		\$ 37,172.90
2 Del Rey Oaks	3.7	2.3	3.6	5.9	9.6	\$ 1,691.28			\$ 1,959.00			\$ 4,635.63	\$ 4,644.85	\$ 3,549.14	\$ 2,776.00		\$ 19,255.90
3 Greenfield	30.8	1.7	3.2	4.9	35.7	\$ 1,691.29			\$ 1,633.00			\$ 4,635.63	\$ 4,644.86	\$ 3,549.14	\$ 2,776.00		\$ 18,929.92
4 King City	17.0	9.8	3.9	13.7	30.7	\$ 1,691.28		\$ 5,606.00	\$ 4,518.00			\$ 4,635.63	\$ 4,644.86	\$ 3,549.14	\$ 2,776.00		\$ 27,420.91
5 Marina	36.5	21.5	17.3	38.8	75.3	\$ 1,691.29	\$ 263.00		\$ 12,736.00	\$ 2,408.00		\$ 4,635.63	\$ 4,644.86	\$ 7,212.15	\$ 2,776.00		\$ 36,366.93
6 Pacific Grove	44.9	8.6	13.2	21.8	66.7	\$ 1,691.29		\$ 14,729.00	\$ 7,151.00			\$ 4,635.63	\$ 4,644.86	\$ 3,549.14	\$ 2,776.00		\$ 39,176.92
7 Monterey Co	705.8	16.5	372.6	389.1	1,094.9	\$ 1,691.29	\$ 7,394.00	\$ 86,761.00	\$ 47,831.00	\$ 2,408.00	\$ 5,638.00	\$ 9,271.22	\$ 4,644.86	\$ 7,212.15	\$ 2,776.00	\$ 162,000.00	\$ 337,627.52
Total	855.5	64.9	417.5	482.4	1,337.9	\$ 11,839.00	\$ 7,826.00	\$ 112,582.00	\$ 78,506.00	\$ 7,224.00	\$ 11,276.00	\$ 37,085.00	\$ 32,514.00	\$ 32,170.00	\$ 22,929.00	\$ 162,000.00	\$ 515,951.00

Notes

- 1 For Task 3, one (1) maintenance and rehabilitation decision tree meeting will be held.
- 2 All agnecies except Carmel have a GIS mapping integration module. Task 8 cost includes purchasing the service for Carmel

Honorable Mayor and Members
of the Marina City Council

City Council Meeting of
June 7, 2022

**CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING THE WAYFINDING REGIONAL FUNDING AGREEMENT
WITH THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY
(TAMC), AND AUTHORIZING THE CITY MANAGER TO EXECUTE
THE AGREEMENT ON BEHALF OF THE CITY COUNCIL SUBJECT TO
FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY**

REQUEST:

It is recommended that the City Council:

1. Consider adopting Resolution No. 2022-, approving the Wayfinding Regional Funding Agreement with the Transportation Agency for Monterey County (TAMC), and; (“EXHIBIT A”)
2. Authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.

BACKGROUND:

The need for a wayfinding plan was identified in the Transportation Agency’s 2011 Master Bicycle and Pedestrian Plan as a means for promoting bicycling and walking throughout the county. Wayfinding signs can ease navigation for bicyclists and pedestrians, reduce travel times and enhance a region’s brand by publicizing key regional destinations. When combined with secure bicycle storage and a network of bicycle paths and lanes, a wayfinding system can attract more bicyclists.

In 2016, TAMC adopted the Regional Pedestrian and Bicyclist Wayfinding Plan for Monterey County. The plan was developed in coordination with a Wayfinding Plan Advisory Committee with representatives from the Bicycle and Pedestrian Committee, the County of Monterey, local cities, the Monterey County Health Department, Building Healthy Communities, the Fort Ord Reuse Authority, the Velo Club, Green Petal Couriers, Fort Ord Recreation Trails Friends, the Pebble Beach Company, and Monterey-Salinas Transit. In addition, TAMC staff solicited public input on the proposed routes and sign designs using an interactive web page. The Wayfinding Plan specifies routes to be signed throughout Monterey County to enhance connections between neighboring cities and to various destinations in the region. The plan also provides standard sign design guidelines. Local jurisdictions are encouraged to use the sign guidelines to sign their own bicycle and pedestrian routes beyond those contained in the plan.

On December 1, 2021, TAMC executed a contract with Statewide Traffic Safety and Signs in an amount not to exceed \$456,990, with an anticipated completion date of December 2022, for construction of the Regional Wayfinding Program Signs project throughout Monterey County.

ANALYSIS:

In March 2021, the TAMC Board authorized executing funding agreements with participating jurisdictions (“**EXHIBIT A**”). The agreement outlines the responsibilities of the Transportation Agency and the underlying jurisdictions. TAMC will fund the fabrication and installation of the wayfinding signs and the underlying jurisdictions will issue permits and accept ownership and maintenance of the installed signs.

Based on previous meetings between the City and TAMC, parties have concurred the design of Wayfinding signs presented in “**EXHIBIT B**”. Thus, the agreement requires the City to allow the placement of at least 35 and up to 43 signs within its jurisdiction, generally at the locations designated in “**EXHIBIT C**”. This agreement is written to be effective until completion of the project, which is ten years after the installation of the last Wayfinding sign.

FISCAL IMPACT:

There is no fiscal impact at this time. However, the agreement states that the City shall bear all costs related to the issuance of permits, and the maintenance and repair of Wayfinding signage within its jurisdiction. According to past records for sign maintenance, the staff anticipates \$510 annually for the maintenance expenses of the signs pursuant to this agreement. Maintenance of signs is an eligible gas tax expenditure.

CONCLUSION:

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

Saber Messhenas
Assistant Civil Engineer
Public Works Department
City of Marina

REVIEWED/CONCUR:

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

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

CITY COUNCIL TO CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING THE WAYFINDING REGIONAL FUNDING AGREEMENT
WITH THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY
(TAMC), AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT ON BEHALF OF THE CITY COUNCIL SUBJECT TO FINAL
REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, the need for a wayfinding plan was identified in the Transportation Agency's 2011 Master Bicycle and Pedestrian Plan as a means for promoting bicycling and walking throughout the county, and;

WHEREAS, Wayfinding signs can ease navigation for bicyclists and pedestrians, reduce travel times and enhance a region's brand by publicizing key regional destinations. When combined with secure bicycle storage and a network of bicycle paths and lanes, a wayfinding system can attract more bicyclists, and;

WHEREAS, in 2016, TAMC adopted the Regional Pedestrian and Bicyclist Wayfinding Plan for Monterey County, and;

WHEREAS, on December 1, 2021, TAMC executed a contract with Statewide Traffic Safety and Signs in an amount not to exceed \$456,990, with an anticipated completion date of December 2022, for construction of the Regional Wayfinding Program Signs project throughout Monterey County, and;

WHEREAS, in March 2021, the Board authorized the Agency to execute funding agreements with participating jurisdictions ("Exhibit A"). The agreement outlines the responsibilities of the Transportation Agency and the underlying jurisdictions. TAMC will fund the fabrication and installation of the wayfinding signs, and the underlying jurisdictions will issue permits and accept ownership and maintenance of the installed signs, and;

WHEREAS, based on previous meetings between the City and TAMC, parties have concurred the design of Wayfinding signs presented in "Exhibit B". Thus, the agreement requires the City to allow the placement of at least 35 and up to 43 signs within its jurisdiction, generally at the locations designated in "Exhibit C". This agreement is written to be effective until completion of the project, which is ten years after the installation of the last Wayfinding sign, and;

WHEREAS, there is no fiscal impact at this time. However, the agreement states that the City shall bear all costs related to the issuance of permits, and the maintenance and repair of Wayfinding signage within its jurisdiction. According to past records for sign maintenance, the staff anticipates \$510 annually for the maintenance expenses of the signs pursuant to this agreement, and;

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

1. Approve the Wayfinding Regional Funding Agreement with the Transportation Agency for Monterey County (TAMC), and;

2. Authorize the City Manager to execute the Agreement on behalf of the City Council subject to final review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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

EXHIBIT A

REGIONAL FUNDING AGREEMENT FOR PEDESTRIAN AND BICYCLE WAYFINDING PROGRAM

REGIONAL FUNDING AGREEMENT
between the
TRANSPORTATION AGENCY FOR MONTEREY COUNTY
and
[ENTER NAME OF JURISDICTION OR AGENCY]

PEDESTRIAN AND BICYCLE WAYFINDING PROGRAM

This Regional Funding Agreement for Pedestrian and Bicycle Wayfinding Program ("Agreement") is effective the _____ of _____, 2021, and is entered into by and between the Transportation Agency for Monterey County ("TAMC") and the [enter name of Jurisdiction or Agency] ("RECIPIENT").

RECITALS

1. On May 25, 2016, the TAMC Board of Directors adopted the Regional Pedestrian and Bicyclist Wayfinding Plan for Monterey County ("Wayfinding Plan") and authorized the submission of grant applications to implement the Wayfinding Plan.
2. The Wayfinding Plan was determined to be exempt from CEQA under 14 CCR Section 15301: Existing Facilities, as affecting minor alterations to existing public structures and facilities. All applicable statutes of limitations concerning the approval of the Wayfinding Plan under CEQA have been exhausted.
3. TAMC has been awarded Local Transportation Funds and State SB1 Local Partnership Program funds in the amount of One Million Nine Hundred Thirty-one Thousand Dollars (\$1,931,000) for the development and implementation of the Wayfinding Plan within TAMC's jurisdictional boundaries.
4. RECIPIENT desires to improve bicycle and pedestrian safety within its jurisdiction, and concurrent with this Agreement, has also determined that TAMC's Regional Pedestrian and Bicyclist Wayfinding Plan is one means to achieve that desire.
5. This Agreement delineates the obligations of the Parties to this Agreement with respect to the implementation of the Regional Pedestrian and Bicyclist Wayfinding Plan, adopted by the TAMC Board, within the jurisdiction of RECIPIENT.

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

Article I: Covenants of Recipient

1.1. Project Description. The complete Project Description is specified in Exhibit “A” and incorporated herein by this reference. The Project consists of the acceptance of Wayfinding signage, the identification of appropriate locations for Wayfinding signage and the installation and maintenance of such signage.

1.2. Change In Project Scope. No change in the Project scope as described in Exhibit A may be approved or implemented until it has been reviewed and approved in writing by an amendment to this Agreement approved by the TAMC Board of Directors.

1.3. Eligible Costs. Eligible costs to be funded by TAMC pursuant to this Agreement are those related to the solicitation and award of one or more contract by TAMC for the manufacture and installation of Wayfinding signage approved by RECIPIENT, as set forth below. RECIPIENT shall bear all costs related to Recipient’s actions related to this Agreement, including the issuance of permits, and the maintenance and repair of Wayfinding signage within its jurisdiction.

1.4. Acceptance of Signage. RECIPIENT hereby accepts the designs relative to the Wayfinding signage as shown in Exhibit “B,” and incorporated herein by this reference. RECIPIENT shall allow the placement of at least XX and up to YY signs within its jurisdiction, generally at the locations designated in Exhibit “C,” and incorporated herein by this reference. RECIPIENT agrees to work diligently and in good faith to provide and issue necessary permits for such signage at or near the designated locations, as physical conditions permit.

1.5. Timing of Installation. RECIPIENT shall permit and allow the installation of at least Z signs within the first six (6) months after notification by TAMC.

1.6. Maintenance and Repair. RECIPIENT shall, at its cost, maintain the installed signage in good repair and visibility throughout the period of this Agreement.

Article II: Covenants of TAMC

2.1. TAMC shall develop, award and fund one or more contracts for the fabrication and installation of Wayfinding Signage in generally the following manner:

2.1.1. A customized “Sign Topper” portion approved by RECIPIENT that incorporates agreed upon logos and color scheme that helps to establish a regional wayfinding brand. A rendering of the Jurisdictional Sign Topper selected by RECIPIENT is shown as Exhibit B.

2.1.2. A standardized “directional/distance” portion shared by all Wayfinding signage pursuant to the TAMC Pedestrian and Bicyclist Wayfinding Plan that assists a traveler in determining directions/distance to relevant locations. A rendering of the Directional/ Distance signage is shown as Exhibit B.

2.1.3. Installation of Wayfinding Signage, suitable to the location and manner of installation of such Wayfinding signage. Such installation may be by new post(s) or pole(s), or installation on an existing structure.

2.1.4. In addition, a standardized “confirmation” portion shared by all Wayfinding signage pursuant to the TAMC Pedestrian and Bicyclist Wayfinding Plan that indicates travelers are on a designated regional route. A rendering of the Confirmation signage is shown as Exhibit B.

2.2. In entering into a contract for the fabrication and installation of Wayfinding Signage for RECIPIENT, TAMC shall call for the fabrication of one and one-half (1.5) times the number of Jurisdictional Sign Toppers. The additional Jurisdictional Sign Toppers above the number to be installed pursuant to this Agreement shall be directed to be delivered to RECIPIENT for use in RECIPIENT’s maintenance responsibilities.

Article III: **Mutual Covenants**

3.1. Term. This Agreement shall remain in effect until discharged or terminated as provided in Section 3.2 or Section 3.15.

3.2. Discharge/Termination. This Agreement shall be subject to discharge as follows:

3.2.1. Termination by Mutual Consent. This Agreement may be terminated at any time by mutual consent of the Parties. At the time of any such mutual termination, TAMC shall receive or retain any Jurisdictional Sign Toppers and standardized Directional signs which may be the subject of an executed contract as described in Section 2.1, but not yet installed.

3.2.2. Discharge Upon Completion of Project. Except as to any rights or obligations which survive discharge as specified in Section 3.14, this Agreement shall be discharged, and the Parties shall have no further obligation to each other, upon completion of the Project, which shall continue for a ten (10) year period after installation of the last Wayfinding Sign pursuant to this Agreement.

3.3. Indemnity. It is mutually understood and agreed that RECIPIENT shall, to the full extent permitted by law, fully defend, indemnify and hold harmless TAMC, its Board and Directors, and any officer, agent, or employee of TAMC, against any damage or liability occurring by reason of anything done or omitted to be done by RECIPIENT under the Agreement. It is also fully understood and agreed that, pursuant to Government Code Section

895.4, RECIPIENT shall fully defend, indemnify and hold TAMC, its Board and Directors, its officers, agency and employees, harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by RECIPIENT under this Agreement or in connection with any work, authority, or jurisdiction delegated to RECIPIENT or funded by RECIPIENT under this Agreement.

3.4. Liability. As TAMC is only acting with the approval of RECIPIENT with respect to the design, designated location and installation of Wayfinding signage herein identified, TAMC is not liable for any loss, cost, liability, damage, claim, lien, action, cause of action, demand or expense which may arise as a result of the acts or omissions of RECIPIENT or its agents, contractors, consultants, engineers, or representatives. Nor shall TAMC be liable for any loss, cost, liability, damage, claim, lien, action, cause of action, demand or expense which may arise as a result of TAMC's provision of funds or materials which may be utilized in, but not limited to the acquisition of, the design, implementation, or construction of the Project herein described.

3.5. Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal or electronic (delivery receipt enabled) service, or by certified or registered mail, return receipt requested, to the addresses set forth below:

TAMC
Todd A. Muck
Executive Director
55B Plaza Circle
Salinas, California 93901
Todd@tamcmonterey.org

RECIPIENT
[Name]
[Title]
[Address]
[City, State, Zip]
[email address]

Either Party may change its address by giving notice of such change to the other party in the manner provided in this Section 3.5. All notices and other communications shall be deemed communicated as of actual receipt or after the second business day after deposit in the United States mail.

3.6. Additional Acts and Documents. Each Party agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent, and purpose of the Agreement.

3.7. Integration. This Agreement, together with the Pedestrian and Bicyclist Wayfinding Plan, represents the entire Agreement of the Parties with respect to the subject matter hereof. No representations, warranties, inducements, or oral agreements have been made by any of the Parties except as expressly set forth herein, or in other contemporaneous written agreements.

3.8. Amendment. This Agreement may not be changed, modified, or rescinded except in writing, signed by all Parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

3.9. Independent Agency. RECIPIENT renders its services under this Agreement as an independent agency and TAMC is also an independent agency under the Agreement. None of the RECIPIENT's agents or employees shall be agents or employees of TAMC and none of TAMC's agents or employees shall be agents or employees of RECIPIENT.

3.10. Assignment. The Agreement may not be assigned, transferred, hypothecated, or pledged by any Party without the express written consent of the other Party.

3.11. Binding on Successors. This Agreement shall be binding upon the successor(s), assignee(s) or transferee(s) of TAMC or RECIPIENT, as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement other than as provided above.

3.12. Severability. Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either Party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the Parties.

3.13. Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by the Parties; each counterpart shall be deemed an original, but all counterparts shall constitute a single document.

3.14. Survival. The following provisions in this Agreement shall survive discharge:

As to both Parties, the following section shall survive discharge: Section 3.3. (indemnity) and Section 3.4 (Liability), until the expiration of all relevant statutes of limitations.

3.15. Time. Time is and shall be of the essence of this Agreement and each of its provisions in which performance is a factor.

3.16. Remedies Cumulative. No remedy or election of remedies provided for in this Agreement shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. Each remedy shall be construed to give the fullest effect allowed by law.

3.17. Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

3.18. Captions. The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the construction or interpretation of any of its provisions.

3.19. No Continuing Waiver. The waiver by any Party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision of this Agreement.

3.20. No Rights in Third-Parties. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies on any third-party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third-party to any Party to this Agreement, nor shall any provision of this Agreement give any third-party any right of subrogation or action over or against any Party to this Agreement.

3.21. Signatory's Warranty. Each Party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other Party.

3.22. List of Exhibits. This Agreement contains the following Exhibits:

Exhibit A:	Project Description
Exhibit B:	Wayfinding Sign Designs
Exhibit C:	General Locations of Wayfinding Signs

**** SIGNATURES ON THE NEXT PAGE ****

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

[insert NAME] (RECIPIENT):

TRANSPORTATION AGENCY FOR
MONTEREY COUNTY (TAMC):

By: _____
[Name]
City Manager

By: _____
Todd A. Muck
Executive Director

Dated: _____

Dated: _____

APPROVED AS TO FORM:

By: _____
[Name]
[City Attorney or legal Counsel]

By: _____
Katherine Hansen
TAMC Counsel

EXHIBIT A

PROJECT DESCRIPTION

Installation and maintenance of signs at the locations generally described in Exhibit C, in order to encourage and facilitate active transportation to and around locations in Monterey County, with an emphasis on the [enter name of Jurisdiction or Agency].

EXHIBIT B

WAYFINDING SIGN DESIGN ACCEPTED BY RECIPIENT

1. CUSTOMIZED SIGN TOPPERS (to be used in conjunction with confirmation and direction signs)
[Jurisdiction to select either Full Color or Two Color sign topper]



Full Color



Two Color

2. CONFIRMATION SIGNS



3. DIRECTION SIGNS

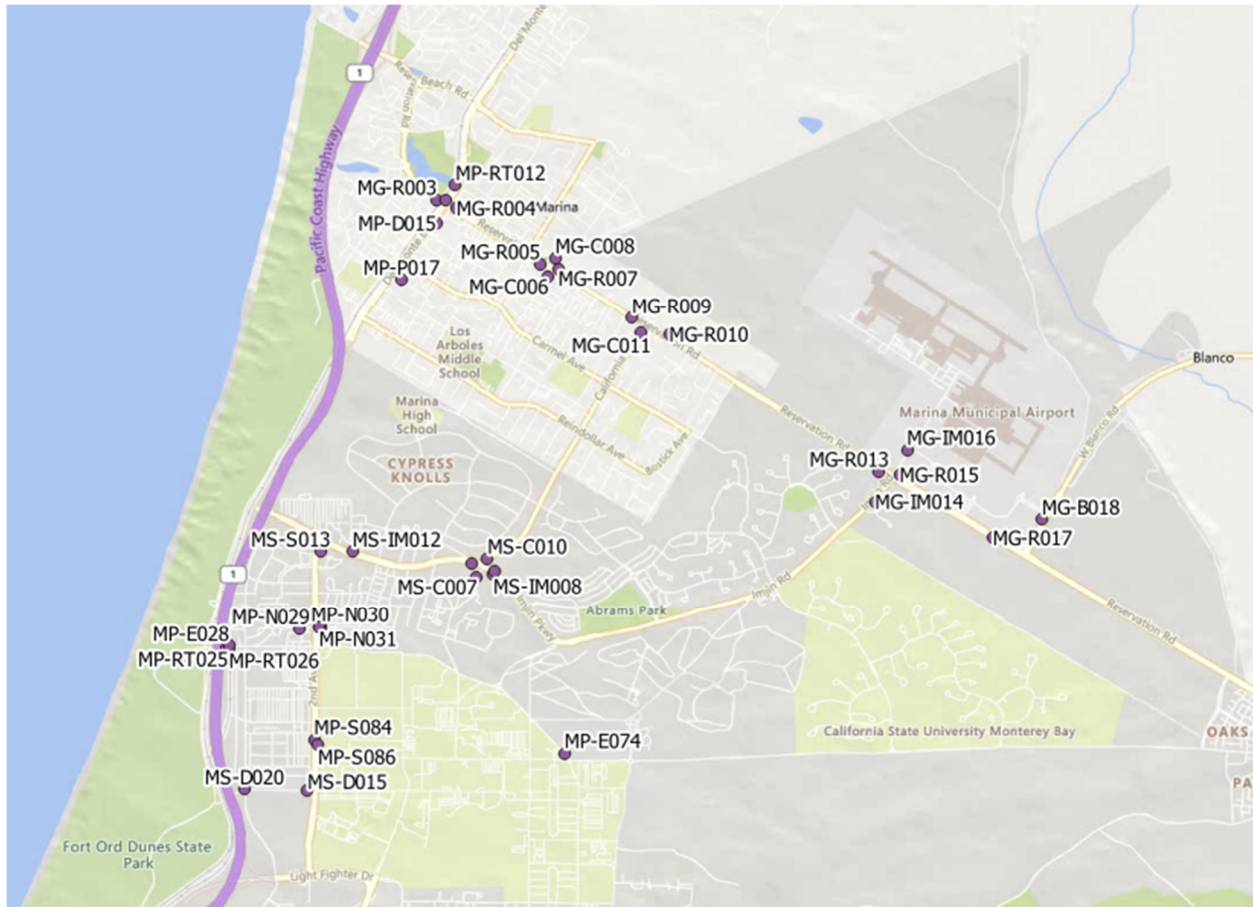


EXHIBIT C

GENERAL LOCATION OF WAYFINDING SIGNS

EXHIBIT C

GENERAL LOCATION OF WAYFINDING SIGNS



June 2, 2022

Item No: **8g(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF
MARINA AND UNINSURED SKYDIVE MONTEREY BAY, INC. dba
SKYDIVE MONTEREY BAY. FOR A PORTION OF 721 NEESON ROAD
(BUILDING 533) AT THE MARINA MUNICIPAL AIRPORT, AND
AUTHORIZING CITY MANAGER TO EXECUTE THE LEASE
AGREEMENT ON BEHALF OF THE CITY, SUBJECT TO FINAL
REVIEW AND APPROVAL BY CITY ATTORNEY**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2022-, approving a Lease Agreement between the City of Marina and Uninsured Skydive Monterey Bay, Inc. dba Skydive Monterey Bay. for a portion of 721 Neeson Road (Building 533) at the Marina Municipal Airport; and
2. Authorizing City Manager to execute the Lease Agreement, on behalf of the City, subject to final review and approval by City Attorney.

BACKGROUND:

On July 6, 2006, the City Council approved a lease with Skydive Monterey Bay for a portion of 721 Neeson Road (Building 533). This lease has expired and been on a month-to-month basis. The City and Skydive Monterey Bay would like to enter an updated lease.

ANALYSIS:

Building 533 is a steel framed structure with corrugated metal siding; a large central hangar bay (approximately 130 feet wide, 150 feet long) with sliding doors at each end (facing northwest and southeast); door clearance height of 35-40 feet; and two-story storage or office and restroom space along both sides of the hangar bay. The building is noncompliant with the Americans with Disabilities Act (“ADA”) The total interior space of the building consists of approximately 35,000 square feet including 19,500 square feet of the hangar bay floor.

The proposed Lease Agreement would include a total approximate 9,097 square feet, including 6,845 square feet of hangar floor space and 3,132 square feet of office and storage space as depicted on **EXHIBIT B** to the attached lease. Additionally, the lease would provide for the nonexclusive use of 20 parking spaces as shown on **EXHIBIT A** to the lease.

Skydive Monterey Bay will utilize the lease space for the operations of its skydiving business. Per FAA regulations, skydiving is classified as an aeronautical use.

The proposed Lease Agreement provides for:

- Base Term of 10 years and one conditional option period of five years.
- Market Rate Base Rent consistent with the recent Airport Rent Study completed in 2020 which is approximately \$0.28 per square foot for aeronautical uses.
- Rent will increase annually by two and one-half percent (2.5%) annually.

The Rent Payment schedule will be as follows:

The monthly rent payable shall be \$2,793.56 (at the rate of \$0.28 per square foot, rounded to the nearest even dollar). Thereafter, the rent shall increase annually by two and one-half percent (2.5%) above the monthly rent payable in the prior year as follows:

Rent for Year Two =	\$2,863.40 per month
Rent for Year Three =	\$2,934.98 per month
Rent for Year Four =	\$3,008.36 per month
Rent for Year Five =	\$3,083.57 per month
Rent for Year Six =	\$3,160.66 per month
Rent for Year Seven =	\$3,239.67 per month
Rent for Year Eight =	\$3,320.66 per month
Rent for Year Nine =	\$3,403.68 per month
Rent for Year Ten =	\$3,488.77 per month

Rent for Year One of option to extend =	\$ 3,575.99 per month
Rent for Year Two of option to extend =	\$ 3,665.39 per month
Rent for Year Three of option to extend =	\$ 3,757.03 per month
Rent for Year Four of option to extend =	\$ 3,850.95 per month
Rent for Year Five of option to extend =	\$ 3,947.23 per month

Tenant shall also pay as additional rent, every month as provided above, the amounts set forth in Article 12 herein for utilities (water, sewer, and gas), trash collection and assessments. Because this is a shared building, the tenant will only pay its prorated share of the utilities for the building as billed by the City. The rent payable under this Lease shall be triple net (i.e., Tenant shall pay all of its operating expenses, insurance premiums and taxes including possessory interest tax). Rent and all net charges shall commence upon the Effective Date.

FISCAL IMPACT:

Should the City Council approve this request, anticipated beginning annual rent revenue to the airport will be approximately \$33,520.

Building lease rent revenue is recorded to Airport Operations Fund 555, Facilities Rents Building Rents, Account No. 555.000.000.00-5460.220.

CONCLUSION:

This request is submitted for the City Council consideration and approval

Respectfully submitted,

Matt Mogensen
Assistant City Manager
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MARINA AND
UNINSURED SKYDIVE MONTEREY BAY, INC. dba SKYDIVE MONTEREY BAY.
FOR A PORTION OF 721 NEESON ROAD (BUILDING 533) AT THE MARINA
MUNICIPAL AIRPORT, AND AUTHORIZING CITY MANAGER TO EXECUTE THE
LEASE AGREEMENT ON BEHALF OF THE CITY, SUBJECT TO FINAL REVIEW
AND APPROVAL BY CITY ATTORNEY

WHEREAS, on July 6, 2006, the City Council approved a lease with Skydive Monterey Bay for a portion of 721 Neeson Road (Building 533). This lease has expired and been on a month-to-month basis. The City and Skydive Monterey Bay would like to enter an updated lease.; and,

WHEREAS, Building 533 consists of an approximate 33,800 square foot steel framed structure with corrugated metal siding; a large central hangar bay (approximately 130 feet wide, 150 feet long) with sliding doors at each end (facing northwest and southeast); door clearance height of 35-40 feet; and two-story storage or office and restroom space along both sides of the hangar bay. The Building is noncompliant with the Americans with Disabilities Act (“ADA”); and,

WHEREAS, The total interior space of the building consists of approximately 35,000 square feet including 19,500 square feet of the hangar bay floor; and,

WHEREAS, the Lease Agreement includes a total approximate 9,097 square feet, including 6,845 square feet of hangar floor space and 3,132 square feet of office and storage space as depicted on **Exhibit B** to the attached lease. Additionally, the lease would provide for the nonexclusive use of 20 parking spaces as shown on **Exhibit A** to the lease; and,

WHEREAS, anticipated annual rent revenue to the airport will be approximately \$33,520. Building lease rent revenue is recorded to Airport Operations Fund 555, Facilities Rents Building Rents, Account No. 555.000.000.00-5460.220.

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

1. Adopt Resolution No. 2022-, approving a Lease Agreement between the City of Marina and Uninsured Skydive Monterey Bay, Inc. dba Skydive Monterey Bay. for a portion of 721 Neeson Road (Building 533) at the Marina Municipal Airport; and
2. Authorize the City Manager to execute the Lease Agreement, on behalf of the City, subject to final review and approval by City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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

MARINA MUNICIPAL AIRPORT

LEASE BETWEEN

THE CITY OF MARINA

AND

**UNINSURED SKYDIVE MONTEREY BAY, INC.
dba SKYDIVE MONTEREY BAY**

for

A PORTION OF BUILDING 533

Recording Requested by and)
When recorded mail to:)
City Clerk)
City of Marina)
857 Cass Street, Suite D.)
Monterey, California 93940)
)
APN 031-112-024)
_____)

LEASE

THIS LEASE (the "Lease"), made and entered into this ____ day of June 2022, by and between the **CITY OF MARINA**, a California municipal corporation ("City"), and **UNINSURED SKYDIVE MONTEREY BAY, INC. dba SKYDIVE MONTEREY BAY** a California corporation ("Tenant" or "Skydive"), as follows:

Recitals:

This Lease is entered into with reference to the following facts and circumstances, which are hereby found and determined by the parties:

- A. City owns and operates the Marina Municipal Airport (the "Airport") located in the City of Marina. The Airport was formerly known and operated by the U.S. Army as Fritzsche Airfield and was part of the Fort Ord Military Reservation.
- B. Tenant desires to lease a portion of the Airport real property, which includes a structure formerly utilized by the U.S. Army as an aircraft hangar and office facility, for use in the Tenant's aeronautical use in connection with Tenant's business of proving skydiving operations. Portions of Building 533 are, upon execution of this Lease, occupied by the Juliette Kilo, LCC, under the terms of a lease between the City and the Juliette Kilo, LLC.
- C. As the lease of an existing public structure this Lease is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Categorical Exemption 15301.
- D. It is mutually agreed that this Lease is upon and subject to the following contingency, terms, covenants, conditions and provisions and Tenant covenants, as a material part of the consideration of this Lease, to keep, perform and comply with each and all of said terms, covenants, conditions and provisions to be kept, performed and complied with, and this Lease is made upon the condition of such performance and compliance.

Terms and Conditions

Conditions Precedent

1. Approval of the terms and conditions of this Lease by the Federal Aviation Administration (FAA).
2. Approval of this Lease by the City Council of the City of Marina.
3. Approval of Tenant's current plans specifications for the leased premises and its improvements, in any such approvals are pending, as may be submitted to the City's Building Inspection, Planning Commission, Design Review Board, Public Works and Public Safety Departments.

ARTICLE 1. LEASE OF PREMISES, EASEMENT AND RESERVATION, TERM

1.01 **Leased Premises.** City hereby leases to Tenant, and Tenant hereby leases from City a portion of the following described premises (the "Premises"), being a portion of the Marina Municipal Airport, located within Building Number 533 (the "Building" or "Building 533") located at 721 Neeson Rd., Marina, County of Monterey, California, as shown on **Exhibit A**, attached hereto and made a part hereof. The interior space leased are known as Suite 2, 3, 4, 7, 8 and a portion of the hangar floor, all consisting of approximately 9,997 square feet as outlined on the floor plan attached hereto as **Exhibit B** and made a part hereof. Building 533 is a steel framed structure with corrugated metal siding; large central hangar bay (approximately 130 feet wide, 150 feet long) with sliding doors at each end (facing northwest and southeast); door clearance height of 35-40 feet; with two-story storage or office and restroom space along both sides of the hangar bay. The total interior space of the building consists of approximately 35,000 square feet including 19,500 square feet of the hangar bay floor as designated on the floor plan. The Premises are noncompliant with the Americans with Disabilities Act ("ADA"). An easement is granted for ingress to and egress from the leased Premises for vehicles and the following rights, appurtenances, and easements and no others:

a) The nonexclusive use of 20 parking spaces as shown on **Exhibit A**. City reserves the right to designate alternate parking areas for Tenant's use. Tenant may, in a manner approved in advance and in writing by the City, mark or designate parking spaces for its use.

b) The right to use, in common with the other tenants in the building, their agents, employees and invitees, the building's restrooms, common areas, stairways, service passages; but Tenant shall not use, or enter into, areas posted with restrictive signs or notices, such as "Keep Out," "Private," or other.

c) The furniture, furnishings, fixtures, and equipment, if any, to be set forth in the Schedule of Property attached hereto as **Exhibit E** and made a part hereof.

The foregoing rights shall terminate simultaneously on expiration or sooner termination of this Lease.

1.02 **Easement and Reservation.** The following described easement and reservation is hereby reserved by the City:

a) **Avigation Easement.** The leased Premises shall be subject to an easement and right of way for the unobstructed passage of aircraft in the airspace above the leased Premises, which is reserved by City for the benefit of itself and all members of the general public operating aircraft which land at or take off from the Airport. Concomitant and coextensive with said easement and right of way, City and general public shall have the further right to cause in all airspace above the surface of the leased Premises such noise, vibrations, fumes, dust, fuel particles, and other effects that may be caused by the operation of aircraft landing at or taking off from or otherwise operating at the Airport. In connection with this easement and right of way, Tenant agrees not to cause or permit any structure, natural growth, or other object on the leased Premises which extends into the airspace over the leased Premises more than 210 feet above mean sea level, and not to use or permit the use of the leased Premises in such a manner as to create electrical interference with radio communications between aircraft and the Airport, to make it difficult for flyers to distinguish between airport lights and other lights, to impair visibility in the vicinity of the Airport, or to otherwise endanger aircraft landing at or taking off from the Airport. Tenant further agrees that in the event it causes or permits any structure, natural growth, or other object on the leased Premises which extends into the airspace over the leased Premises more than 210 feet above mean sea level, or otherwise causes or permits any condition on the leased Premises which endangers aircraft landing at or taking off from the Airport, then City shall have the right to enter upon the leased Premises and to remove such structure, natural growth, object or condition endangering aircraft landing at or taking off from the Airport, all at Tenant's sole cost and expense.

b) **Utility Reservation.** City reserves the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, and connections; water, oil and gas pipelines; telephone, telegraph and electrical power lines; and the appliances and appurtenances necessary or convenient in connection therewith, in, over, upon, through, across and along any and all portions of the leased Premises. No right reserved by the City in this clause shall be so exercised as to interfere unreasonably with Tenant's operations or to impair the security of any secured creditor of Tenant.

c) **Parking.** The City reserves the right, with prior written notice to Tenant, to use the parking area in conjunction with special events held at the Airport (see 2.03 below). In making use of the parking area, City shall consider and make a good faith effort to alleviate adverse effects on Tenant's operations. City and Tenant agree to reasonably cooperate concerning the City's occasional use of the parking area.

1.04 **Term.** The term of this Lease ("Term") shall be effective upon the Effective Date. City and Tenant shall confirm the Effective Date of this Lease in writing. The Term shall continue for ten years following the Effective Date, to the "Expiration Date" ten years hence unless terminated earlier as provided herein.

1.05 **Conditional Option to Extend.** Tenant shall have the conditional right and option to renew and extend the term of this Lease by written amendment for an additional period of five years only, through the election and exercise of one five-year option following the Expiration Date in §1.04 hereof. This option may be exercised by the Tenant by its giving written notice of its intent to exercise

this option to the City not sooner than 210 nor less than 180 days before the expiration of the Term.

1.06 **Option to Extend – Rent Payable.** The monthly rent to be paid by the Tenant for the conditional five-year option will be increased by two- and one-half percent (2.5%) above the monthly rent payable in the final year of the Term as follows:

Rent for Year One of option to extend =	\$ 3,575.99 per month.
Rent for Year Two of option to extend =	\$ 3,665.39 per month.
Rent for Year Three of option to extend =	\$ 3,757.03 per month.
Rent for Year Four of option to extend =	\$ 3,850.95 per month.
Rent for Year Five of option to extend =	\$ 3,947.23 per month.

1.07 **Holding Over.** Any holding over after the expiration of the initial or extended term of this Lease with the consent of the City shall be construed to be a tenancy from month-to-month at a monthly rental equal 125% of the monthly rental for final month of the previous term. Tenant's occupancy during any period of holding over shall otherwise be on the same terms and conditions herein specified so far as applicable

1.08 **Tenant Option to Elect Early Termination.** Provided Tenant is in compliance with all terms and conditions of this Lease including, but not necessarily limited to the payment of rent and other charges, Tenant shall have the option to terminate this Lease following the end of the twenty-fourth month following the Effective Date by giving written notice to the City of Tenant's election to terminate this Lease at least 180 days prior to the early termination date.

ARTICLE 2. USE OF LEASED PREMISES

2.01 **Use.** This Lease is made for the purpose of allowing Tenant's commercial, aeronautical, use of the leased Premises and for granting Tenant certain rights and privileges to occupy portions of Building 533 and to use the adjacent areas designated for parking for Tenant's use. Tenant may use the Premises in its business of skydiving operations. Tenant shall not use the leased premises, or any part thereof, or permit them to be used for any purpose, including residential purposes, other than the purpose specified herein without the consent of the City, such consent not to be unreasonably withheld. There shall be no outdoor storage except within fenced and screened areas approved in advance and in writing by the City or for storage of hazardous materials approved in advance and in writing by the City's Fire Chief.

The Tenant by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the leased Premises in any manner that might interfere with the landing and taking off of aircraft or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the Tenant.

2.02 **Airport Rules & Regulations.** In making use of the leased Premises as specified in this Lease the Tenant shall, in common with all other users of the Airport, comply with the following rules and regulations:

a) Tenant acknowledges that it has received and reviewed a copy of the City's Airport Operating Ordinance (Marina Municipal Code Chapter 13.22) and shall comply with the minimum operating standards or requirements promulgated by City and applicable to each of Tenant's activities on the Airport.

b) Subject to the provisions of the California Code of Civil Procedure §731a, Tenant shall not do or permit to be done upon the Premises any act or thing which constitutes a nuisance, i.e., which may disturb the quiet enjoyment of City, any other tenant of City or private businesses on adjacent land or neighboring property. If City notifies Tenant that such a nuisance or disturbance exists, Tenant agrees, within 72 hours from receiving written notice by the City, to abate or otherwise cause said nuisance to be cured. In the event Tenant has not taken corrective action within 72 hours, the City may enter and abate said nuisance, including but not limited to entering the Premises and abating the nuisance or disturbance, at the expense of Tenant without any liability whatsoever to City for monetary loss or anticipated profits of Tenant or others.

c) Tenant shall have the right, at its expense, to place in the leased Premises a sign or signs identifying Tenant. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved in advance by the City and in conformance with any overall directional graphics or sign program established by the City including section 17.28.060 of the City's Zoning Ordinance. Tenant shall expeditiously submit its application to the City Planning Department to process Tenant's request for a sign or signs to be affixed to the leased Premises, to be readily visible from Neeson Road. City's approval shall not be delayed or withheld unreasonably. Notwithstanding any other provision of this Lease, any signs shall remain the property of Tenant. Tenant shall remove, at its own expense, all lettering, signs and placards so erected on the Premises upon termination of this Lease.

d) Tenant shall have the right, at its expense, to place in or on the Premises trade fixtures, furnishings, personal property, equipment and materials necessary to perform any services provided for or authorized hereunder. Said trade fixtures, furnishings, personal property, equipment and materials shall remain the property of Tenant.

e) Tenant shall comply with all federal, state and local laws, rules and regulations which may apply to the conduct of the business provided for and authorized hereunder, including rules and regulations promulgated by the City, and Tenant shall maintain in effect and post in a prominent place all necessary or required licenses or permits, including an Occupancy Permit obtained pursuant to Marina Municipal Code, Chapter 15.54 and a City business license pursuant to Marina Municipal Code Title 5, prior to commencing occupancy and operations. Tenant shall prepare an Emergency Action/Fire Protection Plan. Current plan shall be kept on file with the City's Fire Department.

g) Tenant shall be responsible for the maintenance and repair of the Premises as set forth in §10.02 of this Lease and shall keep and maintain the Premises in good condition, order and repair, and shall surrender same upon the expiration of this Lease in the condition in which they are required to be kept, reasonable wear and tear and damage by the elements not caused by Tenant's negligence excepted. Tenant, by this Lease, specifically waives the provisions of §§1941 and 1942 of the California Civil Code with respect to the landlord's obligations for the tenantability of leased Premises

and the Tenant's right to make repairs and deduct the expenses of such repairs from rent.

h) Tenant understands and agrees that its right to use the leased Premises for the purposes provided for by this Lease shall not be, and shall not be construed to be, exclusive of the right of any other person or firm to operate the same or a similar business at the Marina Municipal Airport and to lease premises at the Airport from the City for such purposes, within the meaning of §308A of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1349a). City reserves the right, at its sole discretion, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to Tenant by this Lease, excepting any rights with respect to the use or possession of the leased Premises.

i) Tenant shall, in good faith use its best efforts to efficiently utilize the facilities covered by this Lease in order to promote and aid the commerce of the Marina Municipal Airport and the use of its facilities at no additional cost to Tenant.

2.03 **Special Events.** Tenant understands and acknowledges that the City will, from time to time, conduct special events at the Airport. Tenant agrees to cooperate with the City concerning these events (e.g. allowing the City to use the Premises Parking Area during weekends). City shall provide not less than 14-days prior written notice to Tenant of any special event which is expected to have an impact on Tenant's operations or use of the property.

ARTICLE 3. USE AND MAINTENANCE OF AIRPORT FACILITIES

3.01 **Maintenance of Airport Facilities.** The City reserves the right but shall not be obligated to the Tenant to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport together with the right to direct and control all activities of the Tenant in this regard.

3.02 **Aerial Approaches.** City reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Tenant from erecting or permitting to be erected, any building or other structure on or adjacent to the Premises which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.

3.03 **FAR Notification Requirements.** Tenant agrees to comply with the notification and review requirements covered in of the Federal Aviation Regulations in the event future construction of a building is planned for the leased Premises or in the event of any planned modification or alteration of any present or future building or structure situated on the leased Premises. This requires the submission of FAA Form 7460-1 *Notice of Construction or Alteration to the FAA*. The Tenant by accepting this Lease expressly agrees for itself, its successors and assigns that it will not erect nor permit the erection of any structure or building nor permit objects of natural growth or other obstructions on the land leased hereunder above a height as determined by the application of the requirements of Title 14 CFR Part 77. In the event the aforesaid covenants are breached, the City reserves the right to enter upon the land hereunder and to remove the offending structure or object or cut the offending natural growth, all of which shall be at the expense of Tenant.

3.04 **FAA Safety & Security Rules & Regulations.** Tenant will conform to Airport and FAA safety and security rules and regulations regarding use of the Airport operations area including runways, taxiways, and aircraft aprons by vehicles, employees, customers, visitors, etc., in order to prevent security breaches and avoid aircraft incursions and vehicle/pedestrian deviations; will complete and pass airfield safe driving instruction program when offered or required by the Airport; and will be subject to penalties as prescribed by the Airport Manager for violations of the Airport safety and security requirements.

3.05 **Non Interference with Landing and Taking off of Aircraft.** The Tenant by accepting this Lease agrees for itself, its successors and assigns that it will not make use of the leased premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the City reserves the right to enter upon the Premises hereby leased and cause the abatement of such interference at the expense of the Tenant.

ARTICLE 4. RENTS AND FEES

4.01 **Time and Place of Payment.** Tenant shall pay all rental charges and all other obligations due to the City under this Lease every month in advance on or before the first day of the month during the term of this Lease at the office of the City Finance Director, City Hall, 211 Hillcrest Avenue, Marina, California 93933. The rent for certain months of this Lease may be pro-rated. For purposes of calculating and pro-rating rents and other charges due, each month shall be considered to have 30 days, and each year of the initial or any extended term of this Lease to have 360 days.

4.02 **Rent: Initial Rent Amount.** The monthly rent payable shall be \$2,793.56 (at the rate of \$0.28 per square foot, rounded to the nearest even dollar). Thereafter, the rent shall increase annually by two and one-half percent (2.5%) above the monthly rent payable in the prior year as follows:

Rent for Year Two =	\$2,863.40 per month
Rent for Year Three =	\$2,934.98 per month
Rent for Year Four =	\$3,008.36 per month
Rent for Year Five =	\$3,083.57 per month
Rent for Year Six =	\$3,160.66 per month
Rent for Year Seven =	\$3,239.67 per month
Rent for Year Eight =	\$3,320.66 per month
Rent for Year Nine =	\$3,403.68 per month
Rent for Year Ten =	\$3,488.77 per month

Tenant shall also pay as additional rent, every month as provided above, the amounts set forth in Article 12 herein for utilities (water, sewer, and gas), trash collection and assessments. The rent payable under this Lease shall be triple net (*i.e.*, Tenant shall pay all of its operating expenses, insurance premiums and taxes including possessory interest tax). Rent and all net charges shall commence upon the Effective Date.

4.03 **Delinquency Charge.** Tenant hereby acknowledges that late payment by Tenant of rent

and other sums due hereunder will cause the City to incur costs not contemplated by this Lease, the exact amount will be extremely difficult to ascertain. Should any payments due under this Lease remain unpaid ten days after the due date of such payment, a penalty of 10% shall be added to any payments past due. City may, but is not required to, provide written notice to Tenant of Tenant's failure to pay rent when due. City and Tenant agree that this late charge represents a fair and reasonable estimate of costs that the City will incur by reason of the late payment of rent by the Tenant. Acceptance of any such late charge shall not constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent the City from exercising any of the other rights and remedies available to it by reason of such default. Interest on any unpaid rents, charges and any penalty shall accrue at the rate of 1.5% per month thereafter until paid.

4.04 **Performance Deposit.** Prior to the commencement date of this lease, Tenant has paid to the City the sum of \$2,751.70, deposited with the City's funds as partial security of future rental and other payments due. The parties agree that these funds will remain on deposit with the City and shall be considered a performance deposit under this Lease. In the event the City is required to utilize this deposit or any portion thereof during the term of this Lease for the payment of rents, charges, or fees due, Tenant within thirty (30) days from such use of the deposit funds shall deposit with the City an additional sum sufficient to restore the performance deposit to the amount herein set forth. This performance deposit, or any remaining portion thereof, shall be returned to the Tenant without interest at the termination of this Lease, after deduction of any amounts therefrom for payment of any obligation of Tenant due and owing to the City under any of the provisions of this Lease.

4.07 **Accord and Satisfaction.** No payment by Tenant or receipt by the City of a lesser amount of any sum due hereunder shall be deemed to be other than on account of the earliest due rent or payment, nor shall any endorsement or statement on any check or payment, or any letter accompanying any such check or payment, be deemed an accord and satisfaction, and the City may accept such check or payment and pursue any other remedy available in this Lease, at law or in equity. The City may accept any partial payment from Tenant without invalidation or any contractual notice require to be given herein (to the extent such contractual notice is required) and without invalidation of any notice require to be given pursuant to California Code of Civil Procedure section 1161 *et seq.*, or any successor statute thereto.

4.08 **Commissions.** City shall not be liable for the payment of any brokerage commissions or fees associated with this Lease to engineers, contractors, or attorneys working on behalf of Tenant.

ARTICLE 5. TAXES AND ASSESSMENTS

5.01 **Payment.** Tenant shall meet all expenses and payments in connection with the use of the Premises and the rights and privileges herein granted including a **possessory interest tax** created by this Lease, permit and license fees, it being understood by Tenant that although the public property is held in public ownership, **Tenant's interest therein will be taxable as a possessory interest** (California Revenue & Taxation Code §107.6). Tenant shall pay any personal property taxes levied on Tenant's inventory, furnishings, personal property or trade fixtures. Tenant may, at its sole expense and cost, contest any tax or fee. All taxes, fees, assessments, charges, etc. shall be paid prior to their delinquency date and satisfactory evidence that such taxes have been paid shall be furnished to the City.

5.02 **Joint Assessment.** If the Premises are not separately assessed, Tenant's liability shall be an equitable portion of the possessory interest taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by the City from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. The City's reasonable determination thereof, in good faith, shall be conclusive.

5.03 **Assessment by the Monterey County Water Resources Agency (MCWRA).** Tenant shall pay any assessment levied by the MCWRA. If the leased Premises are not separately assessed by MCWRA, Tenant's liability shall be an equitable portion of the MCWRA assessment for all of the land and improvements of which the Premises are a part included within the parcel(s) so assessed, such proportion to be determined by the City from the respective valuations assigned in the MCWRA's work sheets or such other information as may be reasonably available. The City's reasonable determination thereof, in good faith, shall be conclusive provided, however, Tenant may appeal the City's determination of the proration of any MCWRA assessments to the City Council, whose decision shall be final. In the event Tenant fails to pay any assessment when due, the City may, at its option, pay the same and collect from Tenant's performance deposit (see Section 4.06) the amounts so disbursed, plus interest at the rate of 10% per annum or fraction thereof.

ARTICLE 6. SUBORDINATE TO FEDERAL AGREEMENT AND REGULATIONS

6.01 **Subordinate to Agreements with U.S.** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States government or any department thereof relative to federal aid for the development and maintenance of the Airport or the development, operation or maintenance of the Airport. Failure of the Tenant or any occupant to comply with the requirements of any existing or future agreement between the City and the United States, which failure shall continue after reasonable notice to make appropriate corrections, shall be cause for immediate termination of Tenant's rights hereunder. Tenant acknowledges it has been given an opportunity to review the Deed of Conveyance for the leased Premises from the U.S. Army to the City and agrees to comply with all requirements pertinent to Tenant's activities contained in that document.

6.02 **War or National Emergency.** This Lease and all provisions hereof shall be subject to whatever right the United States government has affecting the control, operation, regulation and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

6.03 **Conformance with Federal Aviation Administration Regulations.** Tenant agrees that Tenant's use of the leased Premises, including all future construction, modification or alteration thereon, shall comply with all applicable Federal Aviation Administration regulations now in force or that may be hereafter adopted by Federal authority. This Lease and Tenant's occupancy of the leased Premises is governed by and subject to the provisions set forth in the Federal Aviation Administration Assurances ("**Exhibit D**") attached hereto and incorporated herein by this reference and as they may be amended in the future. In the event of a conflict between the Federally Aviation Administration Assurances and the terms and conditions of this Lease, the Federally Aviation Administration

Assurances shall prevail and control.

6.04 **Federal or State Grants.** City and Tenant agree to mutually cooperate in any application for such economic development grants and loans as may be available to City or Tenant for relocation, job training and economic development of the Airport.

ARTICLE 7. NON-DISCRIMINATION

7.01 Non-Discrimination.

(a) Tenant, for its personal representatives successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree "as a covenant running with the land" that in the event facilities are constructed, maintained, or otherwise operated on the leased Premises for a purpose for which a Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) Tenant, for its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree "as a covenant running with the land" that: (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the leased Premises, (2) that, in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Tenant shall use the leased Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) The Tenant assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the Tenant or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of, personal property or real property or interest therein or structures or improvements thereon. In these cases, this provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the City as the Airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the City as the Airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.

(d) In the event of breach of any of the nondiscrimination covenants, City (through the City Manager/Airport Manager) shall have the right to terminate this Lease, and to re-enter the Premises,

and hold the same as if this Lease had never been made or issued. This provision does not become effective until the procedures of 49 Code of Federal Regulations Part 21 are followed and completed including expiration of appeal rights.

7.02 **Compliance with Non-Discrimination Covenants.** Without limiting the generality of any other terms or provisions of this Lease, noncompliance with Section 7.02 above shall constitute a material breach thereof and in the event of such noncompliance City (through the City Manager/Airport Manager) shall have the right to terminate this Lease and the estate hereby created without liability therefor or, at the election of the City of the United States, either or both said governments shall have the right to judicially enforce Sections 7.01 and 7.02 of this Article 7.

7.03 **Affirmative Action Program.** If Lessee employs 50 or more persons in its aviation workforce, the Lessee will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Lessee assures that it will require that its covered sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effort.

7.04 **Covenants in Other Ancillary Agreements.** Tenant agrees that it shall insert the above three (3) provisions in any agreement, sublease, assignment or other agreement by which Tenant grants a right or privilege to any person, firm or corporation to render accommodations and/or non-aeronautical services to the public on the Premises.

7.05 **Community Hiring Program.** Lessee and City agree to enter into negotiations to develop a hiring program for entry level jobs targeting low income residents of the community.

ARTICLE 8. CONDITION OF THE PREMISES

8.01 **Acceptance of Leased Premises.** Tenant understands that the leased Premises were formerly used by the federal government as part of an Army air base, that surrounding lands which were also part of such Army air base have, in the past been found to contain concentrations of volatile organic chemicals which exceed standards prescribed by the environmental agencies and the state and federal governments. Pursuant to Health & Safety Code §25359.7(a) Tenant is provided this notice that the structure may contain asbestos materials and lead-based paints. The City has provided to the Tenant an asbestos survey report prepared by the U.S. Army Corps of Engineers for Building 533, which is attached hereto as **Exhibit E**. Tenant acknowledges that City has granted to Tenant the right to review all maps and records of the old Army air base presently on file in the office of the City's Planning Department as well as the right to inspect the leased Premises and perform any tests of the soils and improvements thereon or the groundwater thereunder, all in order to afford Tenant a full and complete opportunity to investigate and determine whether the leased Premises can be used for the purposes for which it is being leased.

8.02 **No Warranty.** Tenant further understands and agrees that no representation, statement, or

warranty, express or implied, has been made by or on behalf of the City as to the condition of the leased Premises or the suitability of the Premises for its intended use, save and except for the representation and warranty that no City officer, employee, contractor, subcontractor, tenant, subtenant or agent has caused any condition of pollution or contamination which may now exist on the leased Premises. Such representation and warranty, however, shall not extend to any condition of pollution or contamination caused by the federal government. Upon entering into occupancy, Tenant also agrees to accept the leased Premises in its present condition and "as is", with respect to all conditions which may now exist on or under the leased Premises save and except for any condition of pollution or contamination caused by an officer, employee, or agent of City. Moreover, Tenant agrees to waive any claim or right of action against the City which Tenant now has or hereafter may acquire arising out of the condition of the leased Premises, its soils and/or the groundwater underlying the leased Premises, including but not limited to any claim of indemnity which Tenant may have by reason of costs incurred by Tenant arising out of the abatement or cleanup of any pollution or contamination condition discovered on the leased Premises hereinafter required under applicable state, federal or city laws or regulations save and except for a claim or right of action arising out of a condition of pollution or contamination caused by an officer, employee or agent of the City. Tenant is not responsible for the cost of environmental abatement, remediation or cleanup of pollution or contamination which is unrelated to the activities of the Tenant, or its officers, employees, agents, contractors or invitees, on the Premises. As of the Effective Date, Tenant waives, releases and discharges the City, its Council, Commissions, Boards and Departments, their respective elected and appointed officials, officers, employees, agents, representatives and attorneys from any and all present and future claims, demands suits, legal and administrative proceedings, and from all liability, damages, losses, costs, liabilities, fees and expenses (including without limitation attorney's fees) arising out of or in any way connected with the Tenant's use, maintenance, leasehold or operation of the leased Premises, any Hazardous Materials, contamination in any state on the leased Premises, however the Hazardous Materials came to be placed there. Tenant acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code of Civil which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

To the extent of the release set forth in this Section 8.02, Tenant hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

Tenant's Initials: _____

8.03 Americans with Disabilities Act (ADA). The Building 533 described in this Lease and the real property of which it is a part has not undergone inspection by a certified access specialist (CASp) and has not been determined to meet all applicable construction-related accessibility standards pursuant to California Civil Code Section 55.53. In accordance with a written agreement between the City and the Tenant per California Civil Code section 1938(b). Tenant understands and acknowledges that, with the exception of: (1) an ADA compliant path of travel from the public way to inside the building, including common area; and the common area ADA compliant restroom on the first floor of the Building, the City makes no representation concerning the Premises compliance with the ADA. A CASp can inspect the Premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not

require a CASp inspection of the subject Premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject Premises for the occupancy or potential occupancy of the lessee or tenant if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

Tenant is solely responsible for determining whether or not Tenant's intended use of Building 533 and the leased Premises will be or is in compliance with the ADA. The City and Tenant acknowledge that certain portions of Building 533 remain inaccessible for some disabled individuals. Upon the Effective Date of this Lease, Tenant shall be responsible for the leased premises compliance with the ADA and Tenant shall hold the City harmless for any liability, loss, damages or claim arising out of or related to compliance with the ADA.

8.04 Disclosure to Sub Lessees and Assignees. Tenant agrees that in the event Tenant subleases all or any portion of the Premises or assigns its interest in this Lease, Tenant shall indemnify and defend the City for, from and against any matters which arise as a result of Tenant's failure to disclose any relevant information about the Premises or the improvements to any subtenant or assignee. It is the intention of the City and Tenant that the immediately preceding sentence shall survive any release of Tenant by the City upon any assignment of this Lease by Tenant.

ARTICLE 9. LEASEHOLD IMPROVEMENTS

9.01 Improvements to Leased Premises. During the initial or any extended term of this Lease Tenant or its contractors or subcontractors shall not make any additions or alterations to the improvements on the leased Premises which attach to, alter, or in any way affect the structural integrity of the Premises, without the prior written consent of the City, such consent not to be unreasonably delayed or withheld. Moreover, upon receiving consent to make an addition or alteration to the improvements on the leased Premises which attach to, alter or in any way affect any structural element of Building 533, Tenant or its contractors or subcontractors shall not commence work on the construction or installation of such added or altered improvement until plans and specifications for same have been submitted to and approved by the City's review processes and a building permit issued. During the initial or any extended term of this Lease, Tenant may make or cause to be made improvement which do not attach to, alter or in any way affect the structural integrity of the Premises and are required for Tenant's use. In making any such improvement Tenant shall obtain all required permits and be solely responsible for any damage to the Premises. Prior to making any improvements that do not attach to, alter or in any way affect the structural integrity of the Premises Tenant shall notify the Airport Manager in writing concerning the improvement and the Airport Manager shall have ten calendar days to object. If the Airport Manager lodges an objection to the improvement the Airport Manager and Tenant shall work in good faith to achieve the Tenant's goal.

9.02 Performance Bond. Tenant shall cause to be made, executed and delivered to City, prior to the date of commencement of any work in or on the leased area which attach to, alter or in any way affect any structural element of Building 533, performance bonds approved as to form and as to surety by the City, with Tenant or Tenant's contractor as principal, and the City specifically named as an additional insured, each in the sum of one hundred percent (100%) of the amount of the contract for all

work costing in excess of \$5,000.00 for a) the said required work in accordance with the approved plans and specifications and b) to provide that if Tenant or its contractor or contractors fail to pay for any materials, provisions or other supplies, used in or upon, for or about the performance of the work to be done, or for any work or labor thereon of any kind, that the surety will pay the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon the bond, a reasonable attorney's fee as set by the court.

9.03 **Insurance.** Before commencing any work which attaches to, alters, or in any way affects any structural element of Building 533 which work will be performed by Tenant or its contractors and/or subcontractors engaged by the Tenant, Tenant agrees to obtain, or cause to be obtained, with a responsible insurance carrier authorized under the laws of the State of California to insure employees against liability for compensation under the Workers Compensation Insurance and Safety Act, compensation insurance covering full liability for compensation under said Act, for any person injured while performing any work or labor incidental to the work in or on the leased Premises.

9.04 **Title to Improvements.** Upon termination of this Lease or any extended periods thereof, all additions or alterations to the improvements on the leased Premises made by Tenant or its contractors or subcontractors shall become the property of the City without payment of any compensation therefor; provided, however, that upon termination of this Lease, City shall have the option to require Tenant to remove any or all added improvements or restore any altered improvement to the same condition as it was at the commencement of the term of this Lease, all at Tenant's sole cost and expense.

9.05 **Prevailing Wages.** Tenant shall abide by the regulations promulgated by the Fort Ord Reuse Authority in the FORA Master Resolution regarding the payment of prevailing wages for construction and/or improvement projects on former Fort Ord properties including the requirement that Tenant, any contractor, and any subcontractor performing work for which prevailing wages are required on the Premises be registered with the California Department of Industrial Relations ("DIR") in accordance with California Labor Code 1725.5. For any work paid for in whole or in part by public funds, Tenant shall comply with the requirements and implementing regulations of California Labor Code §1720 et seq. for payment of prevailing wages on "public works projects."

9.06 **Improvements by the City.** Except as otherwise expressly set forth in this Lease, the City is not obligated to construct or install any improvements on or off of the leased Premises. The City shall have no obligation on account of any construction or installation of any improvement by Tenant to pay for all or any portion of the costs or expenses arising out of such construction or installation.

9.07 **Right of Entry for Construction and Maintenance.** The City and Tenant each agree that the other shall be permitted to enter upon its property, as may reasonably be necessary in order for Tenant to make the Improvements or do other work required by this Lease or in order for the City to fulfill its responsibilities to make improvements and for maintenance as set forth in Section 10.01, and to maintain or repair the respective party's property. The right of each party to enter the other's property or the Premises shall extend to such party's lessees, and licensees and contractors. A party's exercise of its right of entry shall not unreasonably interfere with the other party's use of its property. Any interference shall be temporary and all work on the entering party's property shall proceed

expeditiously as necessary to avoid or minimize any such interference. The City shall provide reasonable advanced notice prior to entry to the property and make reasonable efforts to do so during normal business hours. A party intending to exercise the right of entry shall first give to the other party reasonable prior written notice before commencement of any work on the other party's property. In the event a party's entry results in any damage to the other party's property, the same shall be repaired expeditiously at the entering party's expense.

9.08 Prevailing Wage Required.

(a) Prevailing Wage Standards.

(1) Basic Requirements. Tenant agrees that, with respect to any construction at or on the Premises for which prevailing wage is required by California Labor Code §1720 et seq. for work paid for in whole or in part from public funds or for "First Generation Construction Work" pursuant to the FORA Master Resolution Section 3.03.090. For the purposes of determining whether prevailing wage applies, Tenant and its contractors and subcontractors shall be considered as transferees of a FORA member agency, Tenant (and its contractors and subcontractors) shall comply with the then current Public Works Prevailing Wage Requirements, as the same may be amended from time-to-time (collectively, the "Prevailing Wage Requirements").

(2) Additional Prevailing Wage Provisions. The following provisions of this Section apply only if, and to the extent that, the Prevailing Wage Requirements are applicable:

(a) The Prevailing Wage Requirements shall apply to the employees of any employer including Tenant and any Tenant's contractor(s) or subcontractor(s), including their successors and assignees, but shall not apply to supervisory or managerial personnel or to persons employed in the operation or maintenance of the Premises.

(b) Tenant shall cause the provisions of this Section to be incorporated into each contract and subcontract for each Tenant contractor and subcontractor which would be subject to this Section. In the event the provisions are not so incorporated, Tenant shall be liable to the worker in any action for the difference between the prevailing wage rate required to be paid under the Prevailing Wage Requirements and the amount actually paid to the worker, including costs and attorney fees, as if Tenant were the actual employer.

(c) Nothing in this Lease shall prevent the employment of any number of properly registered apprentices, as defined in Chapter 4, Division 3 of the California Labor Code. Every such apprentice shall be paid not less than the standard wage paid to apprentices under the regulations of the crafts or trade at which the apprentice is employed and shall be employed only at the work of the craft or trade to which the apprentice is registered. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which the apprentice is in training. Tenant and Tenant's contractors and subcontractors shall be responsible for complying with Section 1777.5 of the California Labor Code concerning apprentice-able occupations, with respect to all work covered by that section.

(d) Tenant agrees that to the extent that Tenant and its contractors and subcontractors are required to comply with the Prevailing Wage Requirements. Tenant shall assure that all workers are

paid the prevailing rate of per diem wages, and travel and subsistence payments (defined in applicable collective bargaining agreements filed in accordance with the California Labor Code), in effect at the time the work is performed. Copies of the applicable prevailing rate of per diem wages are on file at the City's Building Division office and will be made available to any interested party on request. Tenant agrees to post a copy of the prevailing rate of per diem wages at the leased Premises.

(e) Except where the context otherwise requires, the definitions of terms and phrases contained in the California prevailing wage law, Sections 1720 et seq. of the California Labor Code, and in the implementing administrative regulations, shall apply to the same terms and phrases which are used in the Prevailing Wage Requirements of this Section 9.08.

(f) In the event a civil wage and penalty assessment is served by the Labor Commissioner, acting through the Division of Labor Standards Enforcement, on the City, the Tenant, or any contractor or subcontractor of the Tenant, as a result of the failure of Tenant or any of its contractors or subcontractors to comply with this Section 9.08, Tenant shall withhold from amounts due to the contractor or subcontractor sufficient funds to satisfy the assessment and, if the assessment becomes final, Tenant shall pay as a penalty to the City the amount determined by the Labor Commissioner in accordance with California Labor Code §1775, as the penalty assessment payable for each worker for each day, or portion thereof, such worker was paid less than the applicable prevailing wage rates for such work or craft in which such worker was employed. Further, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Tenant or by Tenant's contractor or subcontractor. Tenant, and each affected contractor and subcontractor, shall have the right to request a review by the Labor Commissioner of the civil wage and penalty assessment served by the Labor Commissioner by transmitting a written request for review to the Labor Commissioner within sixty days after service of the assessment, and Tenant and its contractors and subcontractors shall not be obligated to pay the civil wage and penalty assessment to the City until a final written decision affirming, modifying or dismissing the assessment is issued by the Labor Commissioner.

(g) The Prevailing Wage Requirements of this Section 9.08 will be monitored and enforced by the City's Building Division. In addition to any other rights provided by California law to recover compensation, a worker that has been paid less than the prevailing wage rates shall have a right to commence an action or proceeding against the employer of the worker for the difference between the prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which the worker was paid less than the compensation required to be paid under the provisions of this subsection. No issue other than that of the liability of the employer for the amount of unpaid wages allegedly due shall be determined in such action or proceeding, and the burden shall be on the employer to establish that the amounts demanded are not due. A worker recovering any or all of the wages claimed to be due shall recover his costs and attorney fees in securing such recovery. Nothing in this Section shall preclude its enforcement by the California Division of Labor Standards Enforcement.

(h) Tenant agrees to keep or cause to be kept by each contractor and subcontractor an accurate payroll record for each worker employed on work covered by this Section showing all of the information specified in subsection (a) of Section 1776 of the California Labor Code. All such payroll records shall be certified, available for inspection and filed monthly in accordance with the procedures

specified in subsections (b)-(e) inclusive of Section 1776 and Section 1771.4 of the California Labor Code. In addition, copies of such certified payroll records shall be filed with the City within a reasonable time not to exceed thirty days from close of payroll by the respective employer. In the event Tenant or its contractor or subcontractor fails to make the certified payroll records available for inspection within ten days of a written request made by the Labor Commissioner, acting through the Division of Labor Standards Enforcement, and a penalty assessment is served or levied by the Labor Commissioner arising out of such failure, Tenant shall forfeit as a penalty to the City a penalty assessed per calendar day, or portion thereof, for each worker determined in accordance with California Labor Code §1776, not otherwise paid to the City by the contractor or subcontractor who failed to comply with California Labor Code §1776. In accordance with California Labor Code §1813, in the event Tenant or its contractor or subcontractor requires or permits a worker to work in violation of California Labor Code Division, 2, Part 7, Chapter 1, Article 3 (payment for work in excess of eight hours in one calendar day and forty hours in one calendar week), Tenant shall forfeit as a penalty to the City the sum of Twenty-five Dollars (\$25.00) for each worker so employed, provided such penalty is not otherwise collected from the contractor or subcontractor who permitted its worker(s) to work in violation of such California Labor Code provisions.

(i) It is understood and agreed that all documents that Tenant is required to submit to or file with the City under this Section shall constitute public records that shall be available to any member of the public for review or copying in accordance with the California Public Records Act and in accordance with restrictions on disclosure of personal identification information set forth in the California Labor Code.

(j) Tenant shall indemnify, defend (with counsel approved by the City) and hold the City, its officers, officials, employees, and agents harmless from and against all claims which directly or indirectly in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781) or the requirement of competitive bidding, the failure to comply with any state or federal labor laws, regulations or standards in connection with the Lease, including but not limited to the prevailing wage laws, or any act or omission of Tenant related to this Lease with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such claims. It is further agreed that City does not and will not waive any rights against Tenant that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or deposit by Tenant to City of any of the insurance policies described in this Lease. The provisions of this subsection survive the expiration or earlier termination of this Lease. The indemnification obligations of Tenant as set forth in this section shall not apply to claims arising from the gross negligence or willful misconduct of the City, its officials, officers, employees or agents.

(k) Contractors or subcontractors shall not be qualified to perform work on improvements or be listed in a bid proposal for such work, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for the work, unless currently registered and qualified to perform public work pursuant to Section 1725.5 of the Labor Code.

9.09 Performance and Labor and Material Bonds. Before the commencement of any construction work hereunder for improvements, the City will require that Tenant, or its contractors, at no cost or expense to the City, furnish to the City the following security concerning Improvements to be constructed by or on behalf of Tenant and covering any obligation of Tenant under the Prevailing Wage Requirements provisions of this Lease:

(a) Performance Bond. A bond in cash, or securities satisfactory to the City in its sole discretion, or issued by a surety company licensed to transact business in the State of California and satisfactory to the City, in a sum of not less than 100% of any construction contract (or in the event Tenant serves as its own general contractor, 100% of the anticipated construction costs of the Tenant improvements) for the proposed Tenant improvements, payable to the City and conditioned upon full, faithful and satisfactory performance by Tenant its contractor(s) of the such Tenant improvements within the period of time specified in the construction schedule. Upon Tenant's or its contractor(s) full, faithful and satisfactory performance and completion of the such Tenant improvements, said bond shall be cancelled or returned to Tenant or contractor, as the case may be; otherwise, such part of the amount of the bond as shall be required to complete such Tenant improvements shall be payable to or retained by the City, as the case may be. In the event that said bond shall be in cash, the City shall have the right to invest and reinvest the same as it shall see fit, and any interest earned thereon during the time it is so held by the City shall accrue to and belong to the City, and Tenant or contractor shall have no interest in or claim thereto.

(b) Labor and Material Bond. A bond in cash or securities satisfactory to the City in its sole discretion, or issued by a surety company licensed to transact business in the State of California and satisfactory to the City with Tenant's contractor(s), as principal(s), in a sum not less than 100% of any construction contract (or in the event Tenant serves as its own general contractor, 100% of the anticipated construction costs of the Tenant improvements) for the proposed Tenant improvements as such costs are set forth in the estimated Tenant improvement completion costs, guaranteeing the payment for all materials, provisions, provender, supplies and equipment used in, upon, for or about the performance of said work or labor done thereon of any kind whatsoever and protecting the City from any liability, losses or damages arising therefrom.

(c) General. In the event and to the extent that Tenant obtains from Tenant's contractor(s) the bonds required hereunder which are satisfactory to the City, the City, upon application by Tenant and upon naming the City as an additional obligee of Tenant's principal and surety under such bond or bonds, shall release Tenant from and consent to the cancellation of the bond or bonds originally furnished by Tenant. It is understood and agreed that any bond which, as to the City as obligee, is conditioned upon Tenant making all necessary payments to the contractor shall not be satisfactory to the City. A combination performance and labor and material bond shall satisfy the foregoing requirements of this Section.

9.10 No Right to Demolish. Notwithstanding any other provisions of this Article, Tenant has no right to demolish the Tenant improvements, once built, or to remove any improvements in whole or in part, unless Tenant has received the prior written approval of the City.

9.11 Insurance. Before commencing any construction work and during the course of

construction, Tenant agrees to obtain, and cause its contractor(s) to be obtain, with a responsible insurance carrier authorized under the laws of the State of California to insure employees against liability for compensation under the Workers Compensation Insurance and Safety Act, compensation insurance covering full liability for compensation under said Act, for any person injured while performing any work or labor incidental to the work in or on the leased Premises. During the course of construction, Tenant shall, at its cost, keep in full force and effect a policy of builder's risk and liability insurance, including installation floater coverage, in a sum equal, from time to time, to the agreed full replacement cost of Buildings 533 prior to completion of the improvements, such amount to be provided by the City prior to commencement of construction work plus the estimated amount to be expended for construction of the improvements. All risk of loss or damage to the improvements during the course of construction shall be on Tenant with the proceeds from insurance thereon payable to Tenant. The City and Tenant's general contractor shall be additional named insureds on Tenant's builder's risk and liability insurance.

ARTICLE 10. MAINTENANCE AND REPAIR

10.01 **City's Obligation under this Lease.** The City shall be responsible for the following maintenance and repair of Building 533 for the initial and any extended term of this Lease:

- a) Maintaining and repairing, with the exception of painting, all structural elements of the building's exterior walls, surfaces and foundations.
- b) Maintaining the watertight integrity of the building's exterior walls.
- c) Maintain, repair, or replace as required roof coverings, gutters and drains.
- d) Maintain and repair all exterior underground plumbing, drains and utility connections.
- e) Maintaining in compliance with applicable law, regulations and codes, the interior fire alarm system. Any damage to the interior fire alarm system resulting from tenant misuse or negligence shall be repaired or replaced by the Tenant.
- f) Maintenance of the large, aircraft hangar doors on the south facing side of Building 533.

10.02 **Tenant's Obligations under this Lease.** Tenant promptly pay its prorate share, as reasonably determined by the City, of any maintenance or repair of such portion of the leased Premises. City and Tenant shall negotiate in good faith to equitably amortize the cost of any capital repairs over the anticipated life of the repair and Tenant shall pay a proportionate share based upon the remaining term of this Lease, or any extension thereof. Failure to pay such prorate share of costs, shall be deemed a material breach of this Lease by Tenant. Tenant shall be responsible for the following maintenance and repair of Tenant's leased Premises within Building 533 for the initial and any extended term of this Lease.

- a) Maintenance, repair or replacement of interior systems and components for the electrical, plumbing, ventilation, and mechanical systems.

- b) Interior and exterior glass, glazing, if any, and doors damaged by Tenant or its invitees.
- c) All interior walls, ceiling, floors, bathrooms, drains and other structures or components, if any.
- d) All compressed air and gas line systems and components.
- e) All air conditioning systems and components, if any.
- f) All communication systems and components.
- g) Maintaining in compliance with regulations issued by the City's Department of Public Safety, all fire sprinklers and interior safety systems alarms and controls, in addition to the requirements of Section 2.02(f).
- h) All security alarm systems and components, if any.
- i) Maintenance, sweeping and keeping clear of refuse, regular trash and waste removal, repair or replacement of sidewalks, driveways and asphalt parking areas as well as any damage to the building structure or components or paved surfaces caused by Tenant or its invitees.
- j) General maintenance and upkeep of the leased Premises not specified herein.

10.03 **Surrender.** On the last day of this Lease, Tenant shall surrender the leased Premises to the City in the same condition as when received, broom clean, ordinary wear and tear excepted. Tenant shall repair any damage to the leased Premises occasioned by the removal of Tenant's trade fixtures, furnishings and equipment which repair shall include the patching and filling of holes and repair of structural damage to the City's satisfaction.

ARTICLE 11. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

11.01 Destruction or Substantial Damage of Premises.

a) If, during the initial or any extended term of this Lease, any of the insured improvements now or hereafter located on the leased Premises are substantially damaged or destroyed by a fire or other casualty (excluding earthquake or flood) beyond Tenant's control, City shall proceed with reasonable diligence to restore the leased Premises substantially to the condition thereof immediately prior to such damage or destruction; provided, however, that either party may elect to terminate this Lease by giving written notice of such election to the other party prior to commencement of restoration and not later than 30 days after the date of loss, if the necessary restoration work would reasonably require a period longer than 90 working days to complete, or City may elect to terminate

within 30 days of the date of loss if the total of the necessary restoration work would reasonably require the expenditure of more than fifteen thousand dollars (\$15,000.00) including insurance proceeds. In no event will City be required to repair or replace Tenant's stock in trade, fixtures, improvements, furniture, furnishings and equipment.

(b) If, during the initial or any extended term of this Lease, any substantial damage or destruction occurs to the leased Premises and the cost to repair the damage or destruction that is not covered by insurance exceeds fifteen thousand dollars (\$15,000.00), the City may terminate this Lease upon giving thirty (30) days prior written notice to the Tenant; provided, however, that the Tenant shall have the right to elect to pay the difference between the cost of repairing or restoring the damaged or destroyed improvements and fifteen thousand dollars (\$15,000), in which case this Lease shall remain in full force and effect, and Tenant shall proceed with reasonable diligence to restore the Premises.

c) In no event will the City be required to make repairs for any damage caused by the willful acts or negligence of Tenant or Tenant's employees, agents, subtenants or invitees, which damage Tenant shall promptly repair, replace or restore at Tenant's sole cost and expense. Upon any termination of this Lease under this section, City and Tenant shall be released thereby without further obligation to each other, except for obligations which have theretofore accrued and are then unpaid or unperformed.

d) In the event that restoration is made pursuant to this section, this Lease shall remain in full force and effect, and City shall be entitled to and shall have possession of the necessary parts of the leased Premises for such purposes, and if there is any substantial interference with Tenant's business on account of such repairs, Tenant shall be entitled to a proportionate reduction of rent during the time that said repairs are being made from the date on which such damage occurred until the City completes repairs computed on the basis of the relation which the gross square foot area of space rendered untenable bears to the total square footage of the Premises and the extent to which the Premises are unusable by Tenant. Should any dispute arise over the reduction of rent to which Tenant is entitled, such dispute shall be resolved according to the provisions of §17.04 of this Lease.

11.02 **Waiver.** Except as otherwise specifically provided in this section, Tenant specifically waives the provisions of §§1932 and 1933 of the California Civil Code with respect to the termination of the hiring of a thing by virtue of the perishing or destruction of the thing being hired.

ARTICLE 12. UTILITIES, GARBAGE COLLECTION & ASSESSMENT

12.01 **Provision of Utilities.** Tenant shall have the right to use the utility service facilities serving the Premises at the commencement of the Term of this Lease. The City will use its best efforts to continue all utility services, but it cannot and does not guarantee that there will be no interruptions of service and Tenant hereby waives any rights or claims it may have resulting from temporary interruptions of service. To the extent it has knowledge the City will provide notice of any work scheduled which may interrupt the utility service to the leased Premises. If City is unable to provide utility service facilities due to the imposition of any limit on consumption or on the construction of additional utility facilities, or the allocation or curtailment of utility facilities or services by law or regulation, it shall have no obligation hereunder.

12.02 **Payment of Utilities.** Tenant agrees upon entering into occupancy of the Premises to pay directly to the utility providers for all utility services provided under the terms of any contract between the Tenant and the utility provider and to pay the City or the Government a pro-rated portion for all utility services provided under the terms of any contract between the City or the Government and a utility provider serving the premises through existing lines and connections. Pro-rata charges shall be based upon a schedule determined by the City or the Government. This determination shall be based upon factors such as: the building size and type, the floor space of the leased Premises, the equipment installed by Tenant, the anticipated usage and occupancy by Tenant, and shall be adjusted by any extraordinary demand caused by the nature and type of equipment operated by Tenant as determined by the City or the Government and/or the utility provider. Tenant may be required to submit to, and cooperate with, the City and the Government in an audit investigation of the Tenant's energy usage. Tenant may appeal the City's determination of utility charges to the City Council, whose decision shall be final. Tenant will establish and submit to the City written procedures to appeal the Government's determination of utility charges.

Tenant shall be responsible to provide and pay for all new connection equipment and any fees required. Tenant shall pay all utility charges within twenty (20) days of receipt of invoice and shall provide evidence of payment when requested to do so in writing by the City. In the event Tenant fails to pay any utility bill when due, the City may, at its option, pay the same and collect from Tenant's performance deposit the amounts so disbursed, plus interest at the rate of 1½% per month or fraction thereof.

12.03 **Telephone / Internet Connectivity.** Tenant shall be responsible for providing and paying directly to the provider for telephone and internet connection to the Premises.

12.04 **Garbage/Trash Collection.** Tenant agrees to pay its pro-rated portion of charges for the building for garbage and trash collection and removal services. Charges shall be invoiced to Tenant with the invoice for utilities and will be based upon a schedule determined by the City. This determination shall be based upon factors such as: floor space of the leased Premises, the equipment installed by Tenant, the anticipated usage and occupancy by Tenant, and shall be adjusted by an extraordinary demand caused by the nature and type of Tenant's activities as determined by the City. Charges will be due and payable within fifteen (15) days of the date of the invoice. Provided, however, Tenant may appeal the City's determination of the proration of garbage or trash collection charge to the City's Airport Commission, whose decision shall be final. In the event Tenant fails to pay any bill when due, the City may, at its option, pay the same and collect from Tenant's performance deposit the amounts so disbursed, plus interest at the rate of 1½% per month or fraction thereof.

12.05 **Monterey County Water Resources Agency (MCWRA) Assessment.** Tenant agrees to pay its pro rata share of assessments levied by the MCWRA. Tenant's liability shall be an equitable portion of the MCWRA assessment for all of the land and improvements included within the parcel so assessed, such proportion to be determined by the City from the respective valuations assigned in the MCWRA's work sheets or such other information as may be reasonably available. The City's reasonable determination thereof, in good faith, shall be conclusive. Charges will be due and payable within fifteen (15) days of the date of the invoice. Provided, however, Tenant may appeal the City's determination of the proration of MCWRA assessments to the City's Airport Commission, whose

decision shall be final. In the event Tenant fails to pay any assessment when due, the City may, at its option, pay the same and collect from Tenant's performance deposit the amounts so disbursed, plus interest at the rate of 1½% per month or fraction thereof.

12.06 **Compliance with Regulations of Local Agencies.** It shall be the responsibility of the Tenant under this Lease to contact, consult and comply with any regulation applicable to Tenant's activities at the Airport which are now or may be promulgated by a local public or private utility provider or regulator having jurisdiction over activities or utility services at the Airport, including, but not limited to, the Fort Ord Reuse Authority, Monterey Regional Water Pollution Control Agency, Marina Coast Water District, Pacific Gas & Electric Company and the Monterey Bay Unified Air Pollution Control District and the Monterey County Water Resources Agency.

ARTICLE 13. INSURANCE & INDEMNIFICATION

13.01 **Insurance to be provided by the Tenant.** The Tenant shall obtain insurance coverage, as set forth in **Exhibit C** and made a part hereof, naming the City, its council, boards, commissions and members thereof, its officers, employees, volunteers and agents as an additional insured, and maintain same continuously in effect at all times during the term of this Lease:

a) **Commercial General Liability Insurance** (primary) shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or a form approved by the City's Risk Manager including contractual liability, independent contractors, board form property damage, sudden and accidental pollution, personal injury and products and completed operations. Policy limits shall be no less than one million dollars per occurrence (i.e., nonaggregate program) for all coverage and two million aggregate. City and its Council, boards, commissions, officers, employees, volunteers and agents shall be added as additional insureds using ISO form GC 20 10 11 85 or a form approved by the City Attorney. Coverage shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any employee or agent of the City and must include a severability of interest (cross liability) provision, that is, it shall act as though a separate policy were written for each insured and additional insured named in the policy.

Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractor's limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

b) **Umbrella Liability Insurance** (over primary) is required and shall apply to bodily injury/property damage, personal injury/advertising injury, contractual and products and completed operations at a minimum, and shall be in an amount of not less than two million dollars (\$2,000,000) and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policy limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies. The policy shall have starting and ending dates concurrent with the underlying coverages.

c) **Workers' Compensation/Employer's Liability** shall provide workers' compensation statutory benefits as required by law. Employer's liability limits shall be no less than one million dollars per accident or disease. Employer's liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects the City, its Council, boards, commissions, officers, employees or agents.

d) **Business Auto Coverage** If Tenant uses or causes to be used vehicles in connection with its use of the leased property, it shall obtain comprehensive or business automobile liability insurance with limits not less than \$1,000,000.00 each occurrence combined single limit for bodily injury and property damage, including owned, non-owned and hired vehicles. Coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or on a form approved by the City Attorney. Limits shall be no less than one million dollars per accident. This policy shall be scheduled as underlying insurance to any umbrella policy required above for a total limit of no less than \$2,000,000.00 each accident.

13.02 **Fire insurance.** The City shall obtain and maintain continuously in effect at all times during the term of this Lease, the following insurance coverage:

a) Fire and extended coverage insurance (excluding smoke pollution, or damage occasioned by earthquake or flood) on the structure and fixed improvements located on the Premises; with deductibles to be paid by the City for insured losses, in an amount equal, from time to time, to the full replacement cost of Building 533 to be determined by the City in its sole discretion during the term of this Lease. The proceeds of any such insurance may be used for rebuilding or repairing permanent improvements, subject to the provisions of Article 11 of this Lease.

b) Tenant shall reimburse the City for the full cost, if any, of all additional insurance assessments required by City's insurer due to any hazardous activities by Tenant on the leased property.

c) Tenant hereby agrees to maintain, at its own cost and expense, during the entire term of this Lease or as said term may be extended, a policy or policies of insurance against loss or damage upon its furnishings, fixtures, inventory, personal property and equipment. A certificate or certificates of Tenant's current insurance coverage must be filed with the City's Risk Manager.

13.03 **Tenant and the City further agree as follows:**

a) This Article supersedes all other sections and provisions of this Lease to the extent that any other section or provision conflicts with or impairs the provisions of this section.

b) The insurance requirements set forth in this Article are intended to be separate and distinct from any other provision in this Lease and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Lease shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Lease or any other agreement relating to the City or its operations limits the application of such insurance coverage.

Nothing contained in this Article is to be construed as affecting or altering the legal status of the parties to this Lease.

d) For purpose of insurance coverage only, this Lease will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards, performance of this Lease.

e) Requirements of specific coverage features or limits contained in this Article are not intended as a limitation on coverage limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage or a waiver of any type.

f) All general or auto liability insurance coverage provided pursuant to this Lease or any other agreements pertaining to the performance of this Lease, shall not prohibit Tenant and Tenant's employees, or agents, from waiving the right of subrogation prior to a loss. Tenant waives its right or subrogation against the City.

g) Unless otherwise approved by the City, Tenant's insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best's" Insurance Guide rating of "A:VII." Self-insurance will not be considered to comply with these requirements.

h) In the event any policy of insurance required under this Lease does not comply with these requirements or is canceled and not replaced, the City has the right but not the duty to obtain insurance it deems necessary and any premium paid by City will be promptly reimbursed by Tenant.

i) Tenant agrees to provide evidence of the insurance required herein, satisfactory to the City prior to taking any steps in furtherance of this Lease and annually upon renewal of the Tenant's business license, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement to Tenant's general liability and umbrella policies using ISO form CG 20 10 1 85 or a form approved by the City Attorney. Certificate(s) are to reflect that the insurer will provide 30 days' notice of any cancellation of coverage. Tenant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Tenant agrees to provide complete certified copies of policies to City within 10 days of City's request for said copies.

j) Tenant shall provide proof that policies of insurance required herein expiring during the term of this Lease have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished within 72 hours of the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Lease in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Tenant agrees to require all contractors, subcontractors or other parties hired to

perform work on the leased Premises to provide general liability insurance naming as additional insureds all parties to this Lease. Tenant agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Tenant agrees to require that no contract used by any contractor or subcontractor, will reserve the right to charge back to City the cost of insurance required by this Lease. Tenant agrees that upon request, all agreements with contractors or subcontractors or others with whom Contractor contracts with will be submitted to City for review. Failure of City to request copies of such agreements will not impose any liability on City, its Council, commissions, officers, employees and agents.

m) Tenant agrees to provide immediate notice to City of any claim or loss against Tenant or its contractors or subcontractors that includes or potentially may include the City as a defendant. City assumes no obligation or liability by such notice but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

n) In the event of any loss that is not insured due to the failure of Tenant to comply with these requirements, Tenant agrees to be personally responsible for any and all losses, claims, suits damages, defense obligations and liability of any kind assessed or attributed to City, or City's employees as a result of such failure.

o) Coverage will not be limited to the specific location or individual or entity designated as the address of the leased Premises.

p) Tenant agrees not to attempt to avoid its defense and indemnity obligations to City and its Council, commissions, boards, employees, agents, officials and servants by using as a defense Tenant's statutory immunity under workers compensation and similar statutes.

q) Tenant agrees to require all contractors, subcontractors or parties, including architects or others, with which it enters into contracts or hires pursuant to or related in any way with the performance of this Lease, to provide insurance covering the operations contracted for and naming as additional insureds all parties to this Lease. Tenant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided as required here.

r) Tenant agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between the Tenant and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with Tenant or its employees.

s) Insurance requirements shall be applied uniformly to all Tenants engaged in similar-type operations at the Airport, and such requirements shall be consistent with industry standards.

13.04 Approval of Insurance Coverage. Upon execution of this Lease, a copy of the insurance policy or policies required herein or, in lieu thereof, the face page of such policy or policies and any endorsements which limit or otherwise affect the coverage provided therein shall be delivered by Tenant to the City Manager, or his or her designee, for approval as to form and sufficiency. When such insurance policy or policies have been so approved, Tenant may substitute for same a certificate

of insurance issued by the respective insurance company or companies certifying that such insurance policies are in full force and effect and that all liabilities arising out of this lease or Tenant's possession and use of the leased property are covered by such insurance policy or policies and a current copy of such certificate shall be provided to the City annually upon renewal of Tenant's business license. Notwithstanding any provisions to the contrary contained herein, Tenant shall not have the right to take possession of the leased property until such insurance policy or policies are filed with and approved by the City Manager.

13.05 Review of Insurance Coverage. City shall have the right at any time during the term of this Lease to review the type, form and coverage limits of the insurance requirements. If in the opinion of the City, the insurance provisions of this Lease are not sufficient to provide adequate protection for the City and the members of the public using the Airport, the City may require Tenant to maintain insurance sufficient to provide such adequate protection. Insurance requirements shall be applied uniformly to all Tenants engaged in similar-type operations at the Airport, and such requirements shall be consistent with industry standards. City shall notify Tenant in writing of any changes in the insurance provisions necessary to provide adequate protection. If Tenant does not deposit acceptable certificates evidencing valid insurance policies acceptable in form and content to the City, incorporating such changes, within 60 days of receipt of such notice, this Lease shall be in default. The procuring of such policy of insurance shall not be construed to be a limitation upon Tenant's liability nor as a full performance of its part of the indemnification provisions of this Lease; Tenant's obligation being, notwithstanding said policy or policies of insurance, the full and total amount of any damage, injury or loss caused by the negligence or neglect connected with the operation under this Lease.

13.06 Indemnification. Tenant and the City agree that City, its Council, boards and commissions, officers, employees, agents, and volunteers, should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuits, cost, expense, attorney's fees, litigation costs, defense costs, court costs or any other cost arising out of or in any way related to the matters set forth below.

Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the City. Tenant acknowledges that City would not enter into this Lease in the absence of the commitment from Tenant to indemnify and protect City as set forth here.

To the full extent permitted by law, Tenant shall defend, indemnify and hold harmless the City, its Council, boards and commissions, officers, employees, agents, and volunteers, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by the City, court costs, interest, defense costs, including expert witness fees and any other costs or expenses of any kind whatsoever without restriction or limitation incurred in relation to, as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part to (i) the intentional act or negligence of Tenant or Tenant's employees, agents, contractors, subcontractors or invitees, (ii) any breach or default in performance of any obligation to be performed by Tenant under this Lease, or (iii) the occupancy of the Premises by Tenant and the operation of Tenant's business thereon. All obligations under this provision are to be paid by Tenant upon receipt

of notice by Tenant from the City that the City has suffered or incurred the same.

Without affecting the rights of the City under any provision of this Lease or this section, Tenant shall not be required to indemnify, defend or hold harmless City as set forth above to the extent liability is attributable to the sole negligence, gross negligence or willful misconduct of City, or officers, employees, agents, contractors, subcontractors, tenants, subtenants or volunteers of the City, provided such is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely or grossly negligent or to have engaged in willful misconduct and not in instances where Tenant is solely or partially at fault, or in instances where City's fault account for only a percentage of the liability involved. In those instances, the obligation of Tenant will be for that portion of the liability not attributable to the City's gross negligence or willful misconduct.

Notwithstanding the above, or anything in the Lease, the City shall not in any event, including, without limitation, the sole or gross negligence or willful misconduct of the City or any person for whom it is responsible in law, be in any way liable or responsible to the Tenant for any consequential, indirect, special, punitive or incidental loss, injury or damages of any nature whatsoever (including, without limitation, loss of income or revenue or business interruption) that may be suffered or sustained by the Tenant or its representatives, customers or any other person for whom the Tenant is responsible in law.

Tenant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Article from any assignee, contractor, subcontractor or any other person or entity involved by, for, with or on behalf of Tenant in the performance of Tenant's obligations under this Lease. In the event Tenant fails to obtain such indemnity from such third parties, as required here, Tenant agrees to be fully responsible according to the terms of this section.

Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors and assigns of Tenant and shall survive the termination of this Lease or this Article.

ARTICLE 14. LIENS & CLAIMS

14.01 **Liens and Claims.** Tenant shall not suffer or permit to be enforced against City's title to the leased Premises, or any part thereof, any lien, claim or demand arising from any work of construction, repair, restoration, maintenance or removal as herein provided, or otherwise arising (except liens, claims or demands suffered by or arising from the actions of City).

14.02 **Tenant to Pay Liens & Claims.** Tenant shall pay all such liens, claims and demands before any action is brought to enforce same against said land; and Tenant agrees to hold City and said land free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses in connection therewith.

14.03 **Payment of Liens & Claims by City.** Should Tenant fail or refuse to pay any lien, claim, or demand arising out of the construction, repair, restoration maintenance and use of said

Premises and the buildings and improvements thereon, or any other claim, charge or demand which Tenant has agreed to pay under the covenants of this lease, Tenant or its authorized encumbrancers, if any, shall, within 30 days written notice from City to Tenant of its said encumbrance, pay and discharge the same or shall furnish to City, in a form satisfactory to City, sufficient security for such lien, claim or demand and all costs and expenses in connection therewith. Should Tenant or its said encumbrancer within said 30 day period, not pay and discharge said lien, claim or demand, or not provide said security to City, then City may, at its option, either treat such failure or refusal as a breach of or default under this Lease, or may pay any such lien, claim, charge or demand, or settle or discharge any action therefore or judgment thereon, and all costs, expenses and other sums incurred or paid by City in connection therewith shall be repaid to City by Tenant upon written demand, together with interest thereon at the rate of 10%, per annum from the date of payment until repaid, and any default in such repayment shall constitute a breach of the covenants and conditions of this Lease.

ARTICLE 15. TRANSFERS & ENCUMBRANCES

15.01 **Sales, Assignments, Transfers, Subleases, and Encumbrances.** Tenant shall not sell, assign, transfer, or encumber this lease, any interest of Tenant in and to the leased Premises, nor sublease the leased Premises, in whole or in part, except with the consent of City, which consent shall not be unreasonably withheld. Tenant acknowledges and understands that the leased Premises are restricted to aviation/aeronautical-related uses unless a non aviation/non aeronautical use is approved by both the City and the Federal Aviation Administration. Neither shall this Lease, nor any interest of Tenant in and to the leased Premises be subject to an involuntary sale, assignment or transfer, or sale, assignment or transfer by operation of law in any manner whatsoever. Any such sale, assignment, transfer, encumbrance or sublease, whether voluntary or involuntary shall be void and of no effect and shall be a default which entitles City to terminate this Lease, Tenant's rights in and to the leased Premises, in the manner hereinafter provided by this lease.

15.02 **Tenant Affiliate.** Notwithstanding the provisions of §15.01, the Tenant may assign or sublet the Premises, or any portion thereof, with the City's consent to any corporation which controls, is controlled by or is under common control with the Tenant, or to any corporation resulting from the merger or consolidation with Tenant, or to any person or entity which acquires all the assets of Tenant as a going concern of the business that is being conducted on the Premises, provided that said assignee assumes, in full, the obligations of Tenant under this Lease. Any such assignment shall not, in any way, affect or limit the liability of Tenant under the terms of this lease even if after such assignment or subletting the terms of this Lease are materially changed or altered without the consent of Tenant, the consent of whom shall not be necessary.

15.03 **No Release of Tenant.** Regardless of City's consent, no subletting or assignment shall release Tenant of Tenant's obligation or alter the primary responsibility of Tenant to pay the rent and to perform all other obligations to be performed by Tenant under this Lease. The acceptance of rent by the City shall not be deemed consent to any subsequent assignment or subletting. In the event of default by any assignee of Tenant or any successor of Tenant in the performance of any of the terms hereof, City may proceed directly against Tenant without the necessity of exhausting remedies against said assignee. City may consent to subsequent assignments or subletting of this Lease or amendments or modifications to this Lease with assignees of Tenant without notifying Tenant, and without obtaining his consent thereto and such action shall not relieve Tenant of liability under this Lease.

ARTICLE 16. HAZARDOUS SUBSTANCES

16.01 **Hazardous Materials.** “Hazardous Materials” shall include substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or “hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq., the Resources Conservation and Recovery Act; all environmental laws of the State of California, and any other environmental law, regulation or ordinance now existing or hereinafter enacted.

16.02 **Hazardous Materials Study.** Prior to, or following its occupancy of the Premises, Tenant may, at its sole cost and expense, arrange for a Hazardous Materials study of the leased property. City shall provide Tenant any documents, drawings and data in its possession relating to environmental analysis of the leased property. Tenant and City agree that, upon occupancy, the City shall have no further obligation under this Lease to remove any Hazardous Materials in or on the leased property, including any required repairs identified in any study Tenant may choose to make, prior to, or after Tenants occupancy of the leased Premises.

16.03 **Hazardous Substances.** Pursuant to Health and Safety Code §25359.7(b), Tenant shall notify City in writing within a reasonable time, of any material release of Hazardous Materials and of any hazardous substances that have come to be located beneath the Marina Municipal Airport. Tenant will comply with all applicable Hazardous Materials laws and such other reasonable rules, regulations and safeguards as may be required by the City (or any insurance carrier of the City) in connection with using, generating, manufacturing, refining, producing, processing, storing or disposing of Hazardous Materials on, under of about the leased Premises. Tenant shall, at its expense, procure, maintain in effect and comply with all conditions of any and all permits, license and other governmental and regulatory approvals required for the storage and use by Tenant of Hazardous Materials on the Premises including, without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving Building 533.

16.04 **Removal.** Prior to the expiration of this Lease, Tenant shall at its sole expense, remove all items of personal property, including but not limited to all flammable substances and Hazardous Materials and wastes as defined by state or federal law at the time of the expiration of this lease.

16.05 **Inspection of Records.** Tenant shall make available for inspection to the City, all records relating to the maintenance, release, mitigation and cleanup for any hazardous substances on the Premises.

16.06 **Notice.** Upon execution of this Lease, Tenant shall provide the City’s Fire Department with a complete list of all Hazardous Materials used or to be used or stored on the Premises with total quantities of each Hazardous Material. Tenant shall notify City of changes in quantity of type within five days of change.

16.07 **Right to Inspect.** The City, in its proprietary capacity, agrees to give reasonable notice in accordance with the general laws of the City, prior to entering upon and inspecting the Premises at any time.

ARTICLE 17. GENERAL PROVISIONS

17.01 **Additional Rules & Regulations.** The City Manager/Airport Manager shall have the power to establish in writing such additional rules and regulations respecting operation of the Airport as are not inconsistent with provisions of this Lease or any applicable ordinances or laws, providing such rules and regulations are found to be necessary or convenient by the City Manager/Airport Manager for the operation of the Airport or the enforcement of the provisions of this Lease, the provisions of any and all applicable laws and ordinances, and the preservation of the public peace, health, safety and welfare; and Tenant shall comply with any and all such rules and regulations adopted in writing by the City Manager/Airport Manager. Tenant may within ten days of Tenant's receipt of any additional rule or regulation established in writing by the City Manager/Airport Manager appeal such rule or regulation to the City Council/Airport Commission, such appeal to be heard within thirty days. The decision of the City Council/Airport Commission shall be final.

17.02 **Compliance with Laws; Permits and Licenses.** Tenant's business shall be conducted and maintained in strict compliance with all applicable laws, ordinances, regulations, and other requirements of federal, state, county, city or other governmental agencies having jurisdiction over the operation of Airports. Similarly, Tenant will obtain and pay for any necessary permits, licenses and other consents for the operation of Tenant's business including a City of Marina Business License. Tenant represents and warrants that it has full power and authority to enter into this Lease and perform hereunder and holds all permits and licenses which are required by law or regulation for complete performance in accordance with the terms of this Lease.

17.03 **Independent Status.** Tenant is an independent entity. Tenant is solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing in this Lease shall be construed as creating a partnership or joint venture between City and Tenant. Neither Tenant nor its officers, employees, agents or subcontractors shall obtain any rights to retirement or other benefits which accrue to City employees.

17.04 **Dispute Resolution.** The parties agree that if any dispute arises over the interpretation or performance of this Lease, the parties will first attempt to negotiate any such dispute informally. If such informal negotiation fails, and if the parties mutually agree at the time, the parties may then submit the dispute for formal mediation to the American Arbitration Association (AAA) or the Judicial Arbitration and Mediation Services (JAMS), or such other mediation service as the parties may mutually agree upon. Expenses of such mediation shall be shared equally between the parties.

17.05 **Confidentiality.** To the extent allowed by law, the City shall not disclose Tenant's financial statement or confidential financial condition. Tenant acknowledges that the City is a municipal corporation and has limited powers to withhold information from the public.

17.06 **Attorney's Fees and Costs.** Should the dispute of the parties not be resolved by negotiation or mediation, and in the event it should become necessary for either party to enforce or interpret any of the terms and conditions of this Lease by means of court action or administrative enforcement the laws of the State of California shall govern the interpretation of the terms and conditions of this Lease and such action shall be brought in a court of proper jurisdiction in Monterey

County, the prevailing party, in addition to any other remedy at law or in equity available to such party, shall be awarded all reasonable costs and reasonable attorney's fees in connection therewith, including the fees and costs of experts reasonable consulted by the attorneys for the prevailing party.

17.07 **Litigation Involving Lease.** In the event the City is made a party to any litigation concerning this Lease or the leased Premises by reason of any act or omission by Tenant, Tenant shall hold the City harmless from all loss or liability, including reasonable attorney's fees, incurred by the City in such litigation. In case suit shall be brought for an unlawful detainer of said Premises, for the recovery of any rent due under the provisions of this Lease, or because of the breach of any other covenant or provision herein contained on the part of Tenant to be kept or performed, and the City prevails therein, Tenant shall pay to the City a reasonable attorney's fee, which shall be fixed by the court.

17.08 **Bankruptcy and Insolvency.** If Tenant shall, at any time during the term of this Lease, become insolvent, or if proceedings in bankruptcy shall be instituted by or against Tenant, or if Tenant shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of Tenant shall be appointed in any suit or proceeding brought by or against Tenant, or if Tenant shall make any assignment for the benefit of creditors, then in each and every case, this Lease and the rights and privileges granted hereunder shall immediately cease, terminate and be forfeited and canceled; provided, however, that if Tenant shall, within six days after the filing and service on Tenant of any involuntary petition in bankruptcy or for appointment of a receiver, commence proper proceedings to dismiss or deny the petition or vacate the receivership and shall expeditiously pursue and diligently exhaust all proper remedies toward that end, the bankruptcy or receivership shall not constitute a default until the entry of a final determination adverse to Tenant.

17.09 **Eminent Domain.** In the event of a total or partial taking of the leased Premises or any interest therein by a public authority under the power of eminent domain, including but not limited to any taking of Tenant's leasehold estate by City under City's power of eminent domain, then the rights of the Tenant with respect to the term, rent, and the just compensation awarded in such eminent domain proceeding shall be in accordance with the law in effect when such taking occurs.

17.10 **No Relocation Benefits.** This Lease creates no rights under the California Government Code Sections 7260 to 7277 or the Federal Uniform Relocation Assistance Act for Tenant to receive relocation assistance upon termination of this Lease.

17.1 **Force Majeure; Waiver.** Tenant shall not be in default under this Lease in the event that the activities of Tenant are temporarily interrupted for any of the following reasons: riots; war or national emergency declared by the President or Congress and affecting the City of Marina; sabotage; civil disturbance; insurrection; explosion; natural disasters such as floods, earthquakes, landslides and fires; strikes, lockouts and other labor disturbances; or other catastrophic events which are beyond the reasonable control of Tenant. "Other catastrophic events" does not include the financial ability of Tenant to perform or failure of Tenant to obtain any necessary permits or licenses from other governmental agencies or the right to use facilities of any public entity where such failure occurs because Tenant has failed to exercise reasonable diligence. It is understood and agreed to by the Tenant that the Tenant cannot, and will not, claim force majeure or request that the time for

commencement of construction or completion of the improvements be tolled the based on an economic downturn of any type.

17.12 **Abandonment.** Tenant shall not vacate or abandon the leased Premises or any part thereof at any time during the term of this Lease. If Tenant shall abandon, vacate or surrender the leased Premises or be dispossessed by process of law or otherwise, any property belonging to Tenant and left on the leased Premises shall be deemed, at the option of City, to be abandoned. Upon relinquishing possession, Tenant shall be in default of this Lease and City shall be entitled to terminate this lease, Tenant's rights in and to the leased Premises in the manner hereinafter provided by this Lease.

17.13 **Default.** Tenant shall be deemed in default under this Lease:

a) Upon breach of any of the covenants and conditions of this Lease with respect to discrimination on the grounds of race, creed, color, national origin, or sex; with respect to economic discrimination; with respect to the sale, assignment, transfer, encumbrance, or subletting of the leased Premises which is the subject matter of this Lease; with respect to the bankruptcy or insolvency of Tenant; or, with respect to any other covenant or condition of this Lease, which breach cannot be cured, immediately upon being given notice thereof by City.

b) Upon failure to pay any rent or any other consideration required under this Lease to be paid by Tenant to City within 10 days following the date those obligations are due. City may, but is not required to, provide written notice to Tenant of Tenant's failure to pay rent when due.

c) Upon failure to provide written evidence of the insurance when due, within 14 days after being given notice thereof by City.

d) Upon the breach of any of Tenant's other duties and obligations under this Lease, which breach can be cured, if such breach is not cured within thirty days after being given written notice thereof by City.

17.14 **Remedies on Default.**

a) **City's Right to Terminate Lease.** Upon Tenant's default of this lease, City shall have the right, without further notice, to terminate this Lease as well as Tenant's rights in and to the leased Premises, to enter upon and retake possession of the leased Premises, including all improvements thereon and facilities appurtenant thereto, by legal proceedings or otherwise, and to recover from Tenant, at the time of such termination, the excess, if any, of the amount of rent to be paid by Tenant under this Lease for the balance of the lease term over the then reasonable rental value of the leased Premises for the same period. For the purposes of this section, City and Tenant agree that the "reasonable rental value" shall be the amount of rent which City can obtain as rent for the balance of the lease term.

b) **City's Right to Repossess, Operate, or Relet the Leased Premises for Tenant's Account.** Upon Tenant's default under this Lease, City shall also have the right, without further notice and

without terminating this Lease, to enter upon and retake possession of the leased Premises, including all improvements thereon and fixtures appurtenant thereto, by legal proceedings or otherwise, and to take, operate, or relet the same in whole or in part for the account of Tenant at such rental, on such conditions, and to such Tenant or Tenants as City, in good faith, may deem proper, for a term not exceeding the unexpired period of the full term of this Lease. City shall receive all proceeds from rent accruing from such operating or reletting of the leased Premises and shall apply the same first to the payment of all costs and expenses incurred by City in the operation or reletting of the leased Premises and any alterations or repairs reasonably necessary to enable City to operate or relet the leased Premises, and then to the payment of all such amounts as may be due or become due under the provisions of this Lease, and the balance remaining, if any, at the expiration of the full term of this Lease or on the sooner termination thereof, by written notice of termination given by City to Tenant, shall be paid over to Tenant. In the event proceeds from rentals received by City under the provisions of this section are insufficient to pay all costs and expenses and all amounts due and becoming due hereunder, Tenant shall pay to City, on demand by City, such deficiency as may from time-to-time occur or exist. Notwithstanding any such operation or reletting without terminating this Lease, City may, at any time thereafter, elect to terminate this lease in the event that Tenant remains in default hereunder at such time.

c) City's Right to Perform. Notwithstanding any provisions as to notice of default in this Lease to the contrary, if, in City's judgment, a continuance of any default by Tenant for the full period of the notice otherwise provided for will jeopardize the leased Premises, including any improvements thereon or facilities appurtenant thereto, or the rights of City, City may, without notice, elect to perform those acts in respect of which Tenant is in default at Tenant's expense and Tenant shall thereupon reimburse City, with interest at the rate of 10% per annum, upon thirty days' written notice by City to Tenant.

d) Other Remedies. All rights, options, and remedies of City contained in this Lease shall be construed and held to be cumulative and not one of them shall be exclusive of the other, and City shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided for by law, whether or not stated in this lease.

17.15 Waiver of Default. Any waiver by City of a default of this Lease arising out of the breach of any of the covenants, conditions, or restrictions of this Lease shall not be construed or held to be a waiver of any succeeding or preceding default arising out of a breach of the same or any other covenant, condition, or restriction of this lease.

17.16 City's Right of Entry. Tenant shall permit City and any agents and employees of City to enter in and upon the leased Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of posting notices of non-responsibility for improvements, alterations, additions, or repairs, without any rebate of rent and without any liability to Tenant for any loss of occupation or quiet enjoyment of the leased Premises thereby occasioned.

17.17 Notices. All notices required or permitted to be given under this Lease shall be in writing and shall be personally delivered or sent by facsimile or by United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City of Marina
City Hall
Attention: City Manager/Airport Manager
211 Hillcrest Avenue
Marina, California 93933
Fax Number: (831) 384-0425

Copy to: City Attorney
City of Marina
211 Hillcrest Avenue
Marina, California 93933
Fax Number: (831) 384-0425

To Tenant: Uninsured Skydive Monterey Bay, Inc.
Ms. Jacklyn Foust, President & CEO
721 Neeson Road Bldg. 533
Marina, CA 93933

or to such other address as either party may from time-to-time designate by notice to the other given in accordance with this section. Notice shall be deemed effective on the date personally served or sent by facsimile or, if mailed, three business days from the date such notice is deposited in the United States mail.

17.18 **Corporate Authority.** If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms. If Tenant is a corporation, Tenant shall, within 30 days after execution of this Lease, deliver to the City a certified copy of a resolution of the Board of Directors or said corporation authorizing or ratifying the execution of this Lease. If Tenant is, or at any time during the initial or any extended term of this lease becomes a limited liability company, Tenant shall provide City with a certified copy of Tenant's LLC-1 articles of organization together with a certificate of the status certified by the Secretary of State. If Tenant is a general partnership, Tenant shall provide the City with a copy of the recorded statement of partnership.

17.19 **Amendment or Modification.** This Lease may be amended, altered or modified only by a writing specifying such amendment, alteration or modification, executed by authorized representatives of both of the parties hereto. In the event that the FAA requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this Lease, Tenant agrees to consent in writing upon the request of the City to such reasonable amendments, modifications, revisions, supplements or deletions of any of the terms, conditions, or requirements of the Lease as may be reasonable required to enable City to obtain FAA funds, provided that in no event shall such changes materially impair the rights of Tenant hereunder. A failure by Tenant to so consent shall constitute a breach of this Lease.

17.20 **Construction of Lease**. Whenever the singular number is used in this Lease and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If there shall be more than one Tenant designated in or signatory to this Lease, the obligations hereunder imposed upon Tenant shall be joint and several; and the term "Tenant" as used herein shall refer to each and every of said signatory parties, severally as well as jointly.

17.21 **Covenant & Condition**. Each term and provision of this Lease performable by Tenant shall be construed to be both a covenant and a condition.

17.22 **Time**. Time is and shall be of the essence of each term and provision of this Lease.

17.23 **Material Breach**. Each and every term, condition, covenant and provision of this Lease is and shall be deemed to be a material part of the consideration for the City's entry into this Lease, and any breach hereof by Tenant shall be deemed to be a material breach.

17.24 **Heirs, Successors and Assigns**. All of the covenants, agreements, conditions and undertakings herein contained shall, subject to the provisions as to assignments, apply to and bind the representatives, heirs, executor, administrators, successors or assigns of all the parties hereto; and all the parties hereto shall be jointly and severally liable hereunder.

17.25 **Further Actions**. Each of the parties agree to execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this Lease.

17.26 **Interpretation**. This Lease has been negotiated by and between the representatives of both parties. Accordingly, any rule of law (including Civil Code §1654) or legal decision that would require interpretation of any ambiguities in this Lease against the party that has drafted it is not applicable and is waived. The provisions of this Lease shall be interpreted in a reasonable manner to affect the purpose of the parties and this Lease.

17.27 **Captions**. Titles or captions of articles and sections contained in this Lease are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Lease or the intent of any provision of it.

17.28 **Severability**. If any of the provisions of this Lease are determined to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this Lease and shall not cause the invalidity or unenforceability of the remainder of this Lease, unless this Lease without the severed provisions would frustrate a material purpose of either party in entering into this Lease.

17.29 **Waiver**. No waiver of any right or obligation of either party hereto shall be effective unless made in writing, specifying such waiver and executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Lease on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

17.30 **Counterparts.** This Lease may be executed in two counterparts, each of which shall be deemed an original, but both of which shall be deemed to constitute one and the same instrument.

17.31 **Exhibits Incorporated.** All exhibits reference in this Lease and attached to it are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this Lease and any of the terms of any exhibit to the lease, the terms of the Lease shall control the respective duties and liabilities of the parties.

17.32 **Entire Agreement.** This Lease constitutes the entire and complete agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to the subject matter.

IN WITNESS WHEREOF, this Lease has been executed by the duly authorized officers or representatives of each of the parties on the date first shown above.

CITY OF MARINA,
a municipal corporation

UNINSURED SKYDIVE MONTEREY BAY, INC.
a California corporation

By: _____
Layne Long, City Manager

By: _____
Ms. Jacklyn Foust, President & CEO

Dated: _____

Dated: _____

(Pursuant to Reso. 2022-____)

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBITS

EXHIBIT A

**PLAT SHOWING LOCATION OF BUILDING 533 AT THE AIRPORT
AND LOCATION FOR TENANT PARKING**

EXHIBIT B

**PLAT SHOWING INTERIOR SPACE/HANGAR BAY
UNDER LEASE**

EXHIBIT C

STANDARD INSURANCE REQUIREMENTS FOR AGREEMENTS

EXHIBIT D

ARMY CORPS OF ENGINEERS' ASBESTOS SURVEY FOR BUILDING 533

EXHIBIT E

**LIST/PHOTOS OF CITY EQUIPMENT, FURNISHINGS, ETC.
PRESENT ON THE PREMISES AT COMMENCEMENT OF LEASE**

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

STATE OF _____
COUNTY OF _____

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

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

WITNESS my hand and official seal.

Notary Public (Seal)

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

STATE OF _____
COUNTY OF _____

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

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

WITNESS my hand and official seal.

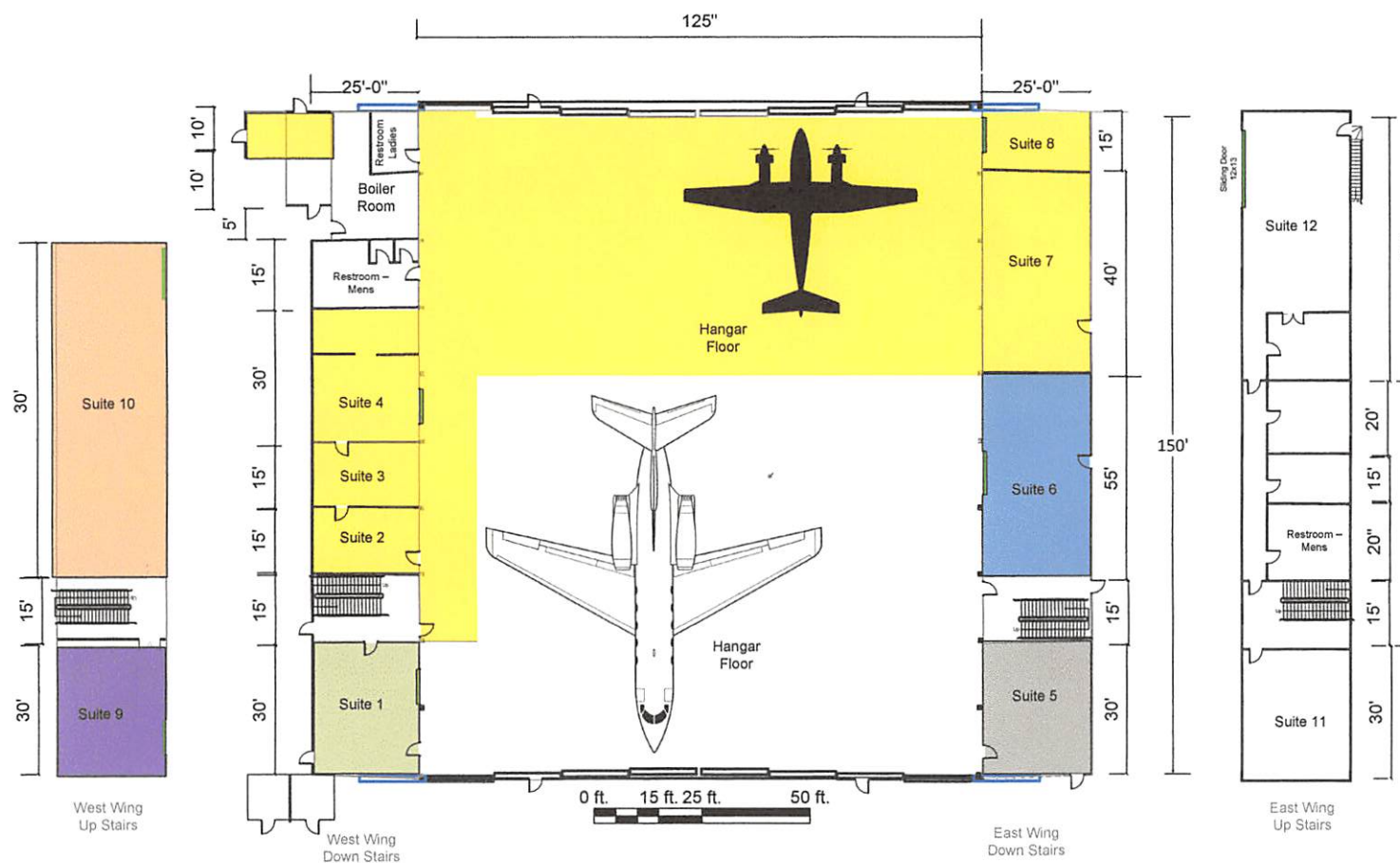
Notary Public (Seal)

Exhibit A to Lease



Flight Test Hangar – Building 533

721 Neesan Rd., Marina, CA. 93933

**Building Notes:**

1. Current Building Power 3Φ 208V 400A
2. 2nd floor is not ADA compliant
3. All Bathrooms except for #1 is not ADA compliant
4. Floor - broken asbestos tile glue and window putty
5. All window sealant will need to be replaced
6. No Heat in building

Exhibit C - Insurance

Contractor agrees to provide insurance in accordance with the requirements set forth herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the City before any work commences. The City reserves its right to require complete, certified copies of all required insurance policies at any time. The following coverage will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

Commercial General Liability (primary). Commercial general liability insurance covering Contractor's operations (and products where applicable) is required whenever the City is at risk of third party claims which may arise out of Contractor's work or presence on City premises. Contractual liability coverage is a required inclusion in this insurance.

Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or on an ISO or ACORD form providing coverage at least as broad as ISO form CG 00 01 10 01 and approved in advance by the City Attorney and Risk Manager. Total limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence for all coverages. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be two million dollars (\$2,000,000). Contractor must give written notice to the City of any pending claim, action or lawsuit which has or may diminish the aggregate. If any such claim or lawsuit exists, Contractor shall be required, prior to commencing work under this Agreement, to restore the impaired aggregate or prove it has replacement insurance protection to the satisfaction of the City Attorney and Risk Manager.

City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 or forms CG 20 10 10 01 and CG 20 37 10 01. Coverage shall apply on a primary, non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City. Coverage is not expected to respond to the claims which may arise from the acts or omissions of the City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

Umbrella Liability Insurance. Umbrella liability insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, contractual liability and completed operations at a minimum, and shall be in an amount of not less than two million dollars (\$2,000,000), and include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage.

Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policies limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies shall have starting and ending dates concurrent with the

underlying coverage.

Business Auto. Automobile liability insurance is required where vehicles are used in performing the work under this Agreement or where vehicles are driven off-road on City premises, it is not required for simple commuting unless City is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

If automobile insurance is required for work under this Agreement, primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or on an ISO or ACORD form providing coverage at least as broad as CA 00 01 10 01 approved by the City Attorney and Risk Manager. Coverage shall be endorsed to state that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible. Limits shall be no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

Workers' Compensation/Employers' Liability. Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under California law these coverages (or a copy of the State's Consent to Self-Insure) must be provided if Contractor has any employees at any time during the period of this Agreement. Policy(s) shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease and shall be scheduled under any umbrella policy described above. Unless otherwise agreed, policy(s) shall be endorsed to waive any right of subrogation as respects the City, its Council, boards and commissions, officers, employees, agents and volunteers.

Property Insurance. Property insurance, in a form and amount approved by the City Attorney and Risk Manager, is required for Contractors having exclusive use of premises or equipment owned or controlled by the City. City is to be named a Loss Payee As Its Interest May Appear in property insurance in which the City has an interest, e.g., as a lien holder. Fire damage legal liability is required for persons occupying a portion of City premises.

Errors and Omissions/Professional Liability. Errors and Omissions or professional liability coverage appropriate to Contractor's profession is required, in a form and amount approved by the City Attorney and Risk Manager. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) per claim and in annual aggregate. Contractor shall maintain such insurance in place for a period of five years following completion of work or services provided under this Agreement. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than commencement of the work or services under this Agreement.

Contractor and City further agree as follows:

a) This Exhibit supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

b) Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

d) Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

e) For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or toward performance of this Agreement.

f) All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, Contractor's employees, or agents from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.

g) Unless otherwise approved by City, Contractor's insurance shall be written by insurers authorized and admitted to do business in the State of California with a minimum "Best's" Insurance Guide Rating of "A:VII." Self-insurance will not be considered to comply with these insurance specifications.

h) In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

i) Contractor agrees to provide evidence of the insurance required herein, satisfactory to City Attorney and Risk Manager, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional endorsement to Contractor's general liability and umbrella liability policies using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City within ten days of City's request for said copies.

j) Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Contractor agrees to require all subcontractors or other parties hired for this Project to provide workers' compensation insurance as required herein and general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees

to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City, will be submitted to City for review. Contractor acknowledges that such contracts or agreements may require modification if the insurance requirements do not reflect the requirements herein. Failure of City to request copies of such agreements will not impose any liability on City, its Council, boards and commissions, officers, employees, agents and volunteers.

m) If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

n) Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

o) Coverage will not be limited to the specific location or individual entity designated as the address of the Project. Contractor agrees to have its coverage endorsed so that all coverage limits required pursuant to this requirement are available separately for each and every location at which Contractor conducts operations of any type on behalf of City. Except for policy limits applicable to Contractor's coverage for Errors and Omissions/ Professional Liability, Contractor warrants that these limits will not be reduced or exhausted except for losses attributable to those specific locations and not by losses attributable to any other operations of Contractor.

p) Contractor agrees not to attempt to avoid its defense and indemnity obligations to City, its Council, boards and commissions, officers, employees, agents and volunteers by using as a defense Contractor's statutory immunity under workers' compensation or similar statutes.

q) Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Contractor and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with City or its employees.

r) Contractor shall maintain commercial general liability, and if necessary, commercial umbrella liability insurance, with a limit of not less than two million dollars (\$2,000,000) each occurrence for at least three years following substantial completion of the work.

s) City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required herein by giving the Contractor ninety days advance written notice of such change. If such change should result in substantial additional cost to the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to the City.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

BUILDING SUMMARY

BUILDING P00533

Date(s) of Survey	6/22/92
Estimated Date of Construction	1963
Building Usage	Maintenance Hangar
Total Gross Square Footage	35,000 Sq. Ft.
Building Type	Metal
Number of Levels	1
Estimated Cost of Recommended Work Items for Asbestos-Containing Materials (CWE)	\$0
Total Estimated Cost Including Additive Items (CWE)	\$65,778
• Cost per Square Foot Including Additive Items (CWE)	\$1.88
Friable Asbestos-Containing Materials	Breeching Insulation, Pipe Fitting Insulation
Nonfriable Asbestos-Containing Materials	Breeching Lagging, Resilient Floor Tile, Floor Tile Mastic, Pipe Fitting Insulation Lagging, Window Putty, Roof Penetration Mastic

WORK ITEM INVENTORY

BLDG./ WORK ITEM	DEI RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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P00533	12	N/A	Pipe Fitting Insulation and Lagging	380 E	1st Fir Throughout Floor	Friable/Nonfriable	O&M	\$0
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FINDINGS: Asbestos-containing friable pipe fitting insulation and nonfriable lagging in most of the first floor rooms were in good condition. If these materials were to become damaged, asbestos fibers could be distributed to other areas of the building by natural air movement. These materials are accessible to maintenance personnel and building users who enter these areas frequently.
[Bulk Sample(s) 9-18]

RECOMMENDATIONS: Inspect these materials annually as part of the O&M. Prohibit any disturbance of these materials by maintenance personnel or other building users. Care should be taken to prevent any water leaks which may loosen the materials and cause them to delaminate from the substrate. Should these materials be removed, delete this work item from the O&M. Any replacement should be performed with asbestos-free materials.

Additive cost for optional removal and replacement of this material is \$17,670.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

WORK ITEM INVENTORY

BLDG./ WORK ITEM	DEI RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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P00533 2	12	N/A	Breeching Insulation and Lagging	20 LF	1st Flr Mechanical Room	Friable/Nonfriable	O&M	\$0
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FINDINGS: Asbestos-containing friable breeching insulation and nonfriable breeching lagging in the mechanical room were in generally good condition. If these materials were to become damaged, asbestos fibers could be distributed to other areas of the building by natural air movement. These materials are accessible to maintenance personnel who enter this area infrequently. [Bulk Sample(s) 20-23]

RECOMMENDATIONS: Inspect these materials annually as part of the O&M. Prohibit any disturbance of these materials by maintenance personnel or other building occupants. Care should be taken to prevent any water leaks which may loosen the materials and cause them to delaminate from the substrate. Should these materials be removed, delete this work item from the O&M. Any replacement should be performed with asbestos-free materials.

Additive cost for optional removal and replacement of this material is \$2,250.

P00533 3	13	N/A	Resilient Floor Tile and Mastic	410 SF	1st Flr Maintenance Offices	Nonfriable	O&M	\$0
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FINDINGS: Nonfriable asbestos-containing 9" x 9" green resilient floor tile and associated floor tile mastic in the maintenance offices were in good condition. The floor tile, which protects the mastic in all locations, is accessible to building users; however, these materials do not pose a risk of contamination as long as they do not become damaged or deteriorated in such a way that they could release asbestos fibers into the air. [Bulk Sample(s) 2-4]

RECOMMENDATIONS: Inspect these materials biannually as part of the O&M. Prohibit any disturbance to these materials including sanding, chipping or the use of corrosive cleaning chemicals which may cause the generation of airborne asbestos fibers. Should these materials be removed, delete this work item from the O&M. Any replacement should be performed with asbestos-free materials.

Additive cost for optional removal and replacement of this material is \$5,966.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

WORK ITEM INVENTORY

BLDG./ WORK ITEM	DEI RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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P00533 4	13	N/A	Window Putty	2,500 LF	1st Flr Exterior Wall	Nonfriable	O&M	\$0
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FINDINGS: Nonfriable asbestos-containing window putty was in good condition. This material is accessible to building users but does not pose a risk of contamination as long as it does not become damaged or deteriorated in such a way that it could release asbestos fibers into the air. [Bulk Sample(s) 7, 8]

RECOMMENDATIONS: Inspect this material biannually as part of the O&M. Prohibit disturbance to this material including sanding, chipping or the use of corrosive cleaning chemicals which may cause generation of airborne asbestos fibers. Should this material be removed, delete this work item from the O&M. Any replacement should be performed with asbestos-free materials.

Additive cost for optional removal and replacement of this material is \$23,625.

P00533 5	13	N/A	Roof Penetration Mastic	50 E	Roof	Nonfriable	O&M	\$0
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FINDINGS: Nonfriable asbestos-containing roof penetration mastic located on the roof in association with vents was in good condition. This material is accessible to maintenance personnel but does not pose a risk of contamination as long as it does not become damaged or deteriorated in such a way that it could release asbestos fibers into the air. [Bulk Sample(s) 27, 28]

RECOMMENDATIONS: Inspect this material biannually as part of the O&M. Prohibit any disturbance to this material which may cause the generation of airborne asbestos fibers. For any repair, removal or O&M activities, materials inseparable from the roof penetration mastic must be considered asbestos-contaminated. Should this material be removed, delete this work item from the O&M. Any replacement should be performed with asbestos-free materials.

Additive cost for optional removal and replacement of this material is \$825.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

WORK ITEM INVENTORY

BLDG./ WORK ITEM	DEI RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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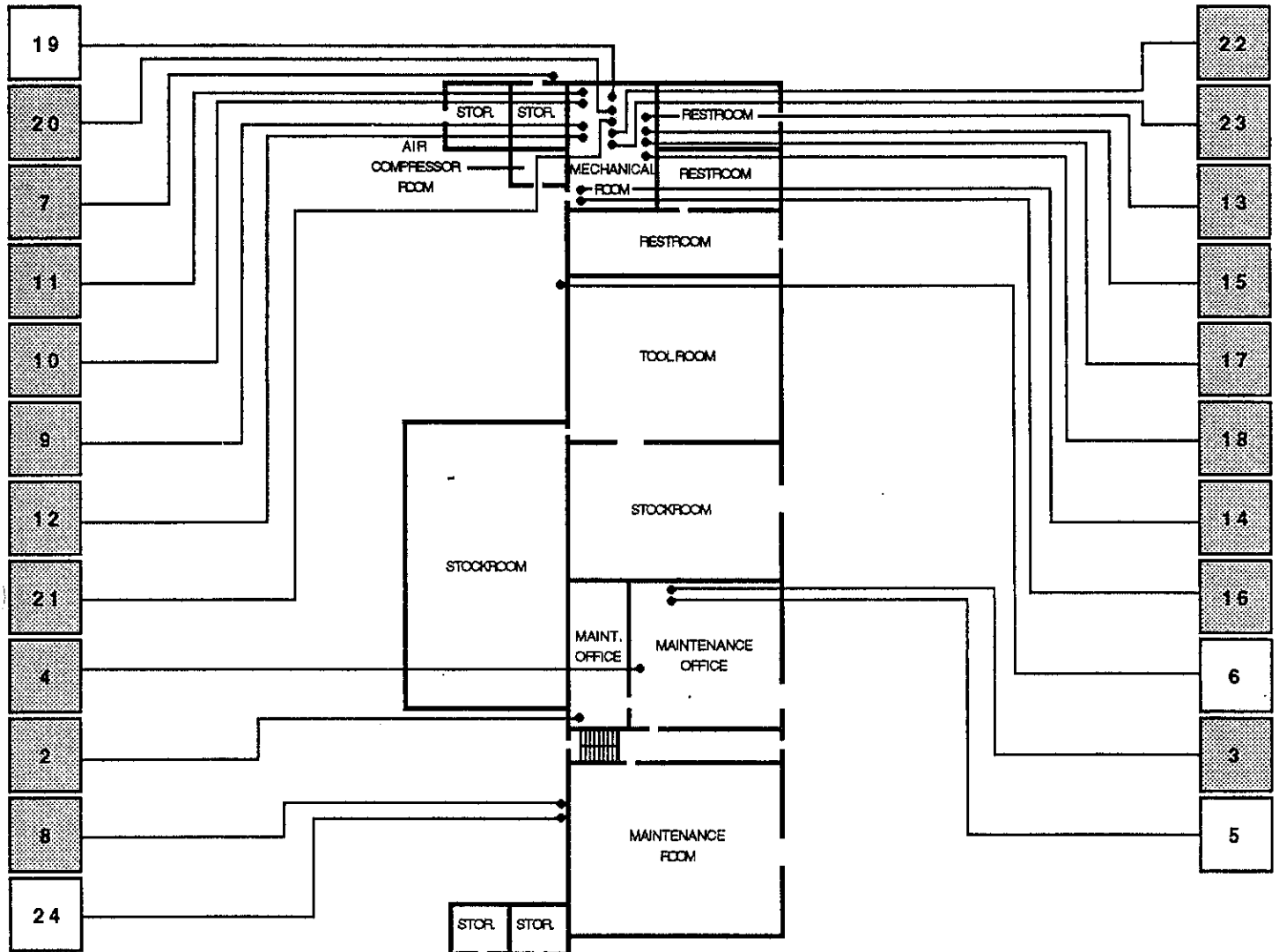
**WORK ITEM SUMMARY
BUILDING P00533**

The work items are listed below in numerical (and DEI Rating) order, and their estimated costs have been totaled.

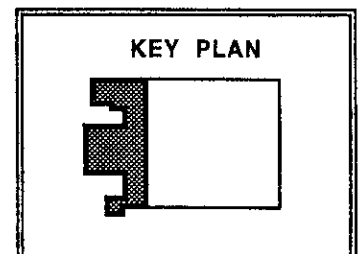
P 00533 1	12	N/A	Pipe Fitting Insulation and Lagging	380 E	1st Flr Throughout Floor	Friable/Nonfriable	O&M	\$0
P 00533 2	12	N/A	Breeching Insulation and Lagging	20 LF	1st Flr Mechanical Room	Friable/Nonfriable	O&M	\$0
P 00533 3	13	N/A	Resilient Floor Tile and Mastic	410 SF	1st Flr Maintenance Offices	Nonfriable	O&M	\$0
P 00533 4	13	N/A	Window Putty	2,500 LF	1st Flr Exterior Wall	Nonfriable	O&M	\$0
P 00533 5	13	N/A	Roof Penetration Mastic	50 E	Roof	Nonfriable	O&M	\$0

\$0

ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION

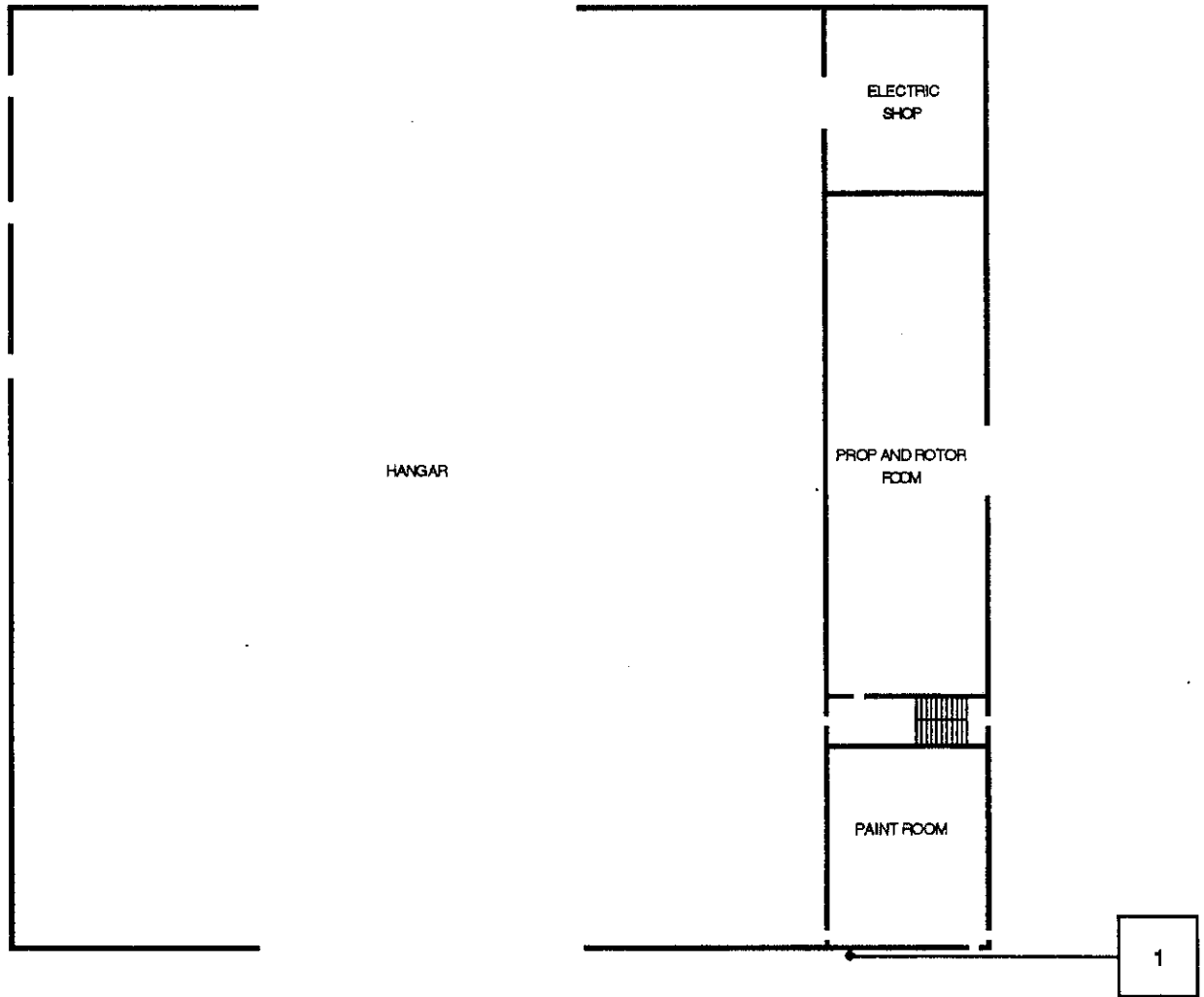


BUILDING P00533
FIRST FLOOR PLAN
SECTION A
NOT TO SCALE

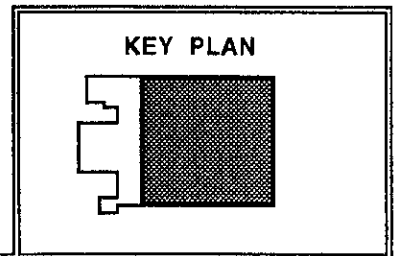


BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED

ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION



BUILDING P00533
FIRST FLOOR PLAN
SECTION B
NOT TO SCALE

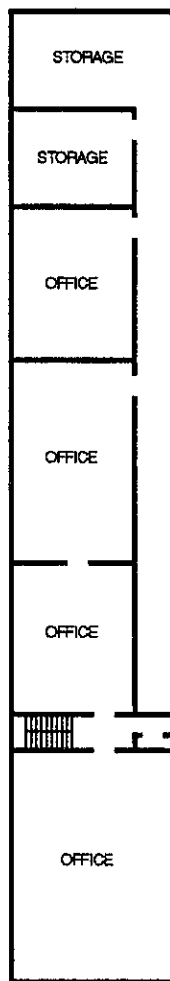


BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED

DIAGNOSTIC ENGINEERING INC.

PROJECT NO. 1A2141AB001

ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION

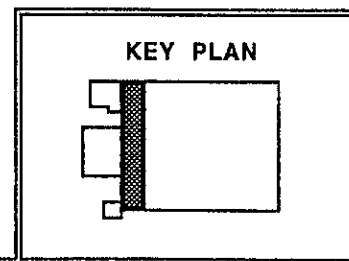


BUILDING P00533
MEZZANINE PLAN
SECTION A
NOT TO SCALE



NOTE: No Samples Taken

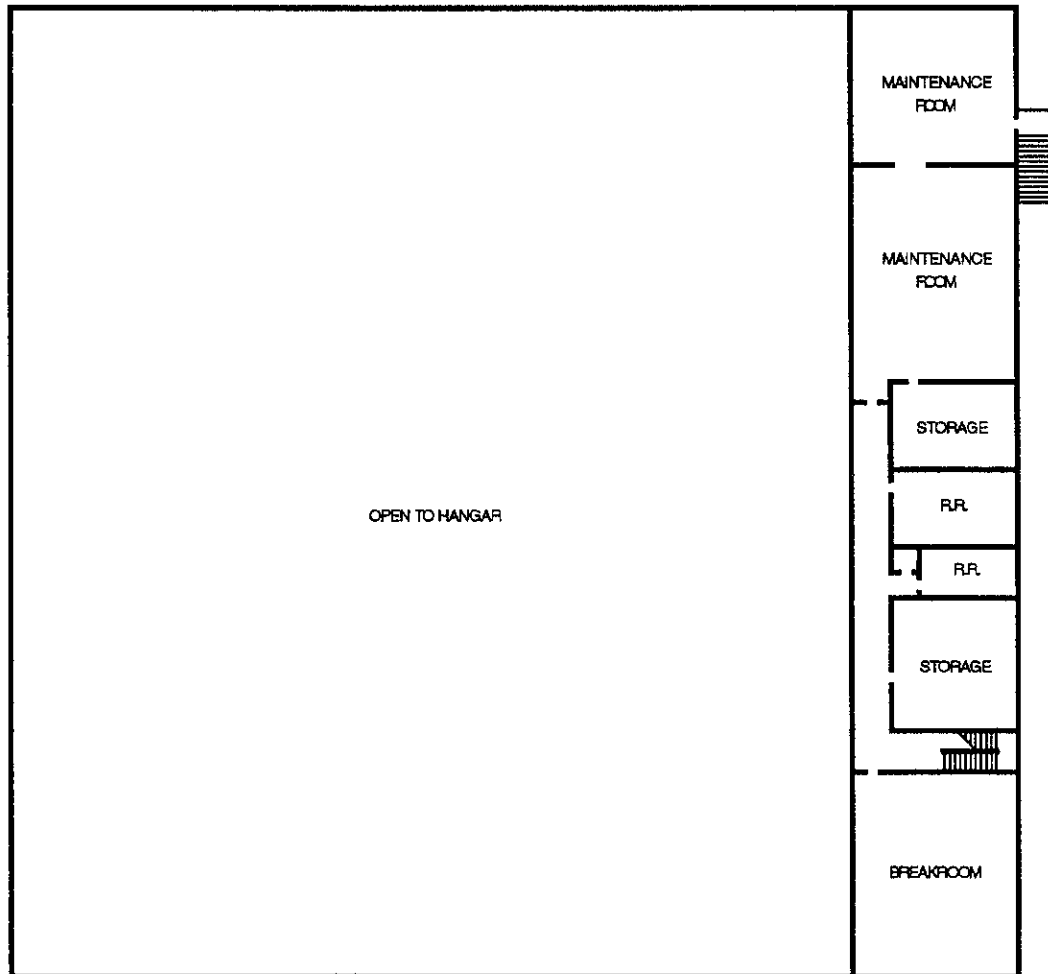
BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED



DIAGNOSTIC ENGINEERING INC.

PROJECT NO. 1A2141AB001

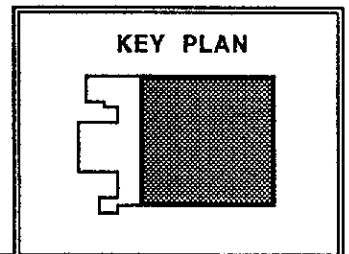
ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION



BUILDING P00533
MEZZANINE PLAN
SECTION B
NOT TO SCALE



NOTE: No Samples Taken

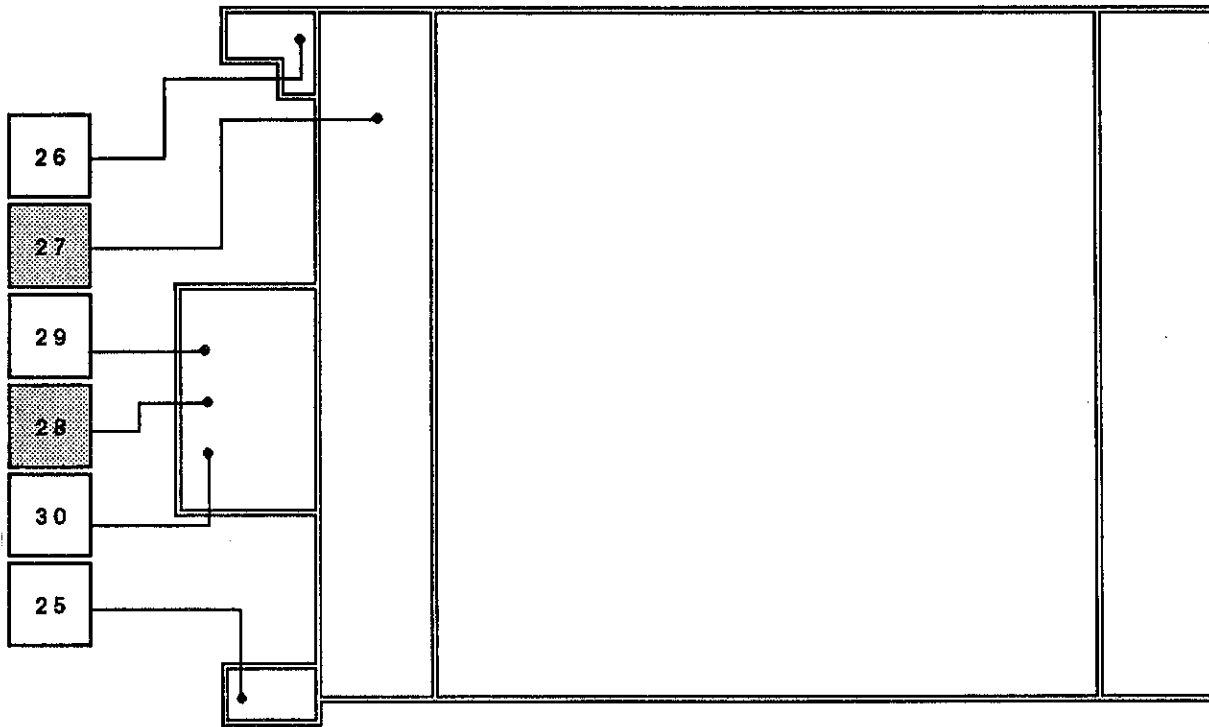


BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED

DIAGNOSTIC ENGINEERING INC.

PROJECT NO. 1A2141AB001

ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION



BUILDING P00533
ROOF PLAN
NOT TO SCALE



BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

BULK SAMPLE LOG

BUILDING NO.	SAMPLE NO.	TYPE OF MATERIAL	ESTIMATED QUANTITY	FLOOR/ LEVEL	SAMPLE LOCATION	POS./ NEG.	ASBESTOS TYPE	%	FRIABILITY	DAMAGE
P00533	1	Paint	33,000 SF	1	Exterior Wall	N		N/D		
P00533	2	Resilient Floor Tile (9" x 9") Green	410 SF	1	Office	P	Chrysotile	5	Nonfriable	None
P00533	3	Resilient Floor Tile (9" x 9") Green	(R2)	1	Office	P	Chrysotile	5	Nonfriable	None
P00533	4	Floor Tile Mastic	410 SF	1	Office	P	Chrysotile	2	Nonfriable	None
P00533	5	Floor Tile Mastic	(R4)	1	Office	N		N/D		
P00533	6	Paint	(R1)	1	Exterior Wall	N		N/D		
P00533	7	Window Putty	2,500 LF	1	Exterior Wall	P	Chrysotile	2	Nonfriable	None
P00533	8	Window Putty	(R7)	1	Exterior Wall	P	Chrysotile	2	Nonfriable	None
P00533	9	Pipe Fitting Insulation Lagging (4" O.D.)	280 E	1	Mechanical Room	P	Chrysotile	10	Nonfriable	None
P00533	10	Pipe Fitting Insulation Lagging (4" O.D.)	(R9)	1	Mechanical Room	P	Chrysotile	5	Nonfriable	None
P00533	11	Pipe Fitting Insulation (4" O.D.)	280 E	1	Mechanical Room	P	Chrysotile	7	Friable	None
P00533	12	Pipe Fitting Insulation (4" O.D.)	(R11)	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	13	Pipe Fitting Insulation (4" O.D.)	(R11)	1	Mechanical Room	P	Chrysotile	10	Friable	None

(R#) denotes that the estimated material quantity for the area has been included in referenced sample number.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

BULK SAMPLE LOG

BUILDING NO.	SAMPLE NO.	TYPE OF MATERIAL	ESTIMATED QUANTITY	FLOOR/ LEVEL	SAMPLE LOCATION	POS./ NEG.	ASBESTOS TYPE	%	FRIABILITY	DAMAGE
P00533	14	Pipe Fitting Insulation Lagging (6" O.D.)	100 E	1	Mechanical Room	P	Chrysotile	10	Nonfriable	None
P00533	15	Pipe Fitting Insulation Lagging (6" O.D.)	(R14)	1	Mechanical Room	P	Chrysotile	2	Nonfriable	None
P00533	16	Pipe Fitting Insulation (6" O.D.)	100 E	1	Mechanical Room	P	Chrysotile	5	Friable	None
P00533	17	Pipe Fitting Insulation (6" O.D.)	(R16)	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	18	Pipe Fitting Insulation (6" O.D.)	(R16)	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	19	Breeching Lagging (2' O.D.)	20 LF	1	Mechanical Room	N		N/D		
P00533	20	Breeching Lagging (2' O.D.)	(R19)	1	Mechanical Room	P	Chrysotile	2	Nonfriable	None
P00533	21	Breeching Insulation (2' O.D.)	20 LF	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	22	Breeching Insulation (2' O.D.)	(R21)	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	23	Breeching Insulation (2' O.D.)	(R21)	1	Mechanical Room	P	Chrysotile	10	Friable	None
P00533	24	Paint	(R1)	1	Exterior Wall	N		N/D		
P00533	25	Roofing Composite	34,000 SF	Roof	Lower Roof	N		N/D		
P00533	26	Roofing Composite	(R25)	Roof	Lower Roof	N		N/D		

(R#) denotes that the estimated material quantity for the area has been included in referenced sample number.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

BULK SAMPLE LOG

BUILDING NO.	SAMPLE NO.	TYPE OF MATERIAL	ESTIMATED QUANTITY	FLOOR/ LEVEL	SAMPLE LOCATION	POS./ NEG.	ASBESTOS TYPE	%	FRIABILITY	DAMAGE
P00533	27	Roof Penetration Mastic	50 E	Roof	Roof	P	Chrysotile	15	Nonfriable	None
P00533	28	Roof Penetration Mastic	(R27)	Roof	Roof	P	Chrysotile	20	Nonfriable	None
P00533	29	Roofing Cap Sheet	1,500 SF	Roof	Roof	N		N/D		
P00533	30	Roofing Cap Sheet	(R29)	Roof	Roof	N		N/D		

(R#) denotes that the estimated material quantity for the area has been included in referenced sample number.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

CURRENT WORKING ESTIMATE (CWE)

UNIT COST ESTIMATE SUMMARY

DATE PREPARED: 1/15/93

SHEET 1 OF 2

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ASBESTOS MATERIAL ABATEMENT/REPLACEMENT

LOCATION: FORT ORD, CALIFORNIA

ARCHITECT/

ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

- ☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	RECOMMENDED ACTION	ESTIMATED QUANTITY	UNIT	COST BREAKDOWN	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Pipe Fitting Insulation and Lagging	O&M	380	E	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	16.00	6,080
					ADDITIVE REPLACEMENT	15.00	5,700
W.I. 2	Breeching Insulation and Lagging	O&M	20	LF	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	25.00	500
					ADDITIVE REPLACEMENT	50.00	1,000
W.I. 3	Resilient Floor Tile and Mastic	O&M	410	SF	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	6.20	2,542
					ADDITIVE REPLACEMENT	3.50	1,435
W.I. 4	Window Putty	O&M	2,500	LF	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	3.30	8,250
					ADDITIVE REPLACEMENT	3.00	7,500
W.I. 5	Roof Penetration Mastic	O&M	50	E	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	5.00	250
					ADDITIVE REPLACEMENT	6.00	300

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

CURRENT WORKING ESTIMATE (CWE)

UNIT COST ESTIMATE SUMMARY

DATE PREPARED: 1/15/93

SHEET 2 OF 2

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ASBESTOS MATERIAL ABATEMENT/REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY):

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

COSTS FOR BUILDING P00533 : DIRECT COST		CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	CONTRACTOR COST	
ABATEMENT	\$0	\$0	\$0	
REPLACEMENT	\$0	\$0	\$0	\$0
ADDITIVE REMOVAL	\$17,622	\$8,811	\$26,433	
ADDITIVE REPLACEMENT	\$15,935	\$7,968	\$23,903	\$50,336

RECOMMENDED ITEMS:

Building P00533 Contractor Cost		\$0
INDEPENDENT MONITORING (CONTRACT)	10%	\$0
SITE & UTILITIES		\$0
Total Contract Cost		\$0
Contingencies During Construction	10%	\$0
Subtotal		\$0
Supervision & Administration	8%	\$0
Total Construction		\$0
SUB-ALLOTMENT		\$0
Total CWE Without Additives		\$0

ADDITIVE ITEMS:

Building P00533 Additive Contractor Cost		\$50,336
INDEPENDENT MONITORING (CONTRACT)	10%	\$5,034
Total Additive Contract Cost		\$55,369
Contingencies During Construction	10%	\$5,537
Subtotal		\$60,906
Supervision & Administration	8%	\$4,872
Total Additives CWE		\$65,778

Total CWE Including All Additives **\$65,778**

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

UNIT COST ESTIMATE

DATE PREPARED: 1/15/93

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ASBESTOS MATERIAL ABATEMENT

LOCATION: FORT ORD, CALIFORNIA

ARCHITECT/

ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

- ☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Pipe Fitting Insulation and Lagging	O&M	380	E	0.00	0
W.I. 2	Breeching Insulation and Lagging	O&M	20	LF	0.00	0
W.I. 3	Resilient Floor Tile and Mastic	O&M	410	SF	0.00	0
W.I. 4	Window Putty	O&M	2,500	LF	0.00	0
W.I. 5	Roof Penetration Mastic	O&M	50	E	0.00	0

DIRECT COST	\$0
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	\$0
CONTRACTOR COST - ABATEMENT	\$0

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

UNIT COST ESTIMATE

DATE PREPARED: 1/15/93

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ABATED MATERIAL REPLACEMENT

LOCATION: FORT ORD, CALIFORNIA

ARCHITECT/

ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY):

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Pipe Fitting Insulation and Lagging	Replacement	380	E	0.00	0
W.I. 2	Breeching Insulation and Lagging	Replacement	20	LF	0.00	0
W.I. 3	Resilient Floor Tile and Mastic	Replacement	410	SF	0.00	0
W.I. 4	Window Putty	Replacement	2,500	LF	0.00	0
W.I. 5	Roof Penetration Mastic	Replacement	50	E	0.00	0

DIRECT COST	\$0
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	\$0
CONTRACTOR COST - REPLACEMENT	\$0

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

UNIT COST ESTIMATE

DATE PREPARED: 1/15/93

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ADDITIVE ASBESTOS MATERIAL REMOVAL

LOCATION: FORT ORD, CALIFORNIA

ARCHITECT/

ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

- ☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Pipe Fitting Insulation and Lagging	Additive Removal	380	E	16.00	6,080
W.I. 2	Breeching Insulation and Lagging	Additive Removal	20	LF	25.00	500
W.I. 3	Resilient Floor Tile and Mastic	Additive Removal	410	SF	6.20	2,542
W.I. 4	Window Putty	Additive Removal	2,500	LF	3.30	8,250
W.I. 5	Roof Penetration Mastic	Additive Removal	50	E	5.00	250

DIRECT COST

\$17,622

CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)

\$8,811

CONTRACTOR COST - ADDITIVE REMOVAL

\$26,433

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P00533**

UNIT COST ESTIMATE

DATE PREPARED: 1/15/93

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 00533
ADDITIVE ABATED MATERIAL REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY):

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Pipe Fitting Insulation and Lagging	Additive Replacement	380	E	15.00	5,700
W.I. 2	Breeching Insulation and Lagging	Additive Replacement	20	LF	50.00	1,000
W.I. 3	Resilient Floor Tile and Mastic	Additive Replacement	410	SF	3.50	1,435
W.I. 4	Window Putty	Additive Replacement	2,500	LF	3.00	7,500
W.I. 5	Roof Penetration Mastic	Additive Replacement	50	E	6.00	300

DIRECT COST	\$15,935
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	\$7,968
CONTRACTOR COST - ADDITIVE REPLACEMENT	\$23,903

May 26, 2022

Item No: **8g(4)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-
AUTHORIZING STAFF TO SUBMIT A GRANT APPLICATION TO THE
CALIFORNIA COASTAL COMMISSION AND AUTHORIZE THE CITY
MANAGER TO EXECUTE THE APPLICATIONS, CONTRACTS,
AGREEMENTS, AND AMENDMENTS NECESSARY TO IMPLEMENT
THE GRANT APPLICATION PACKAGE**

REQUEST:

It is requested that City Council consider

1. Adopting Resolution No. 2022- authorizing staff to submit a grant application to the California Coastal Commission and authorize the City Manager to execute the applications, contacts, agreements, and amendments necessary to implement the grant application package.

BACKGROUND:

The City Council is asked to approve a non-competitive grant application to the California Coastal Commission (CCC). If awarded, the grant will be focused on updating and finalizing the technical coastal hazards work previously conducted, adding in a social vulnerability assessment and amending the City's Local Coastal Program (LCP) to address the coastal hazards work, update the City's mapping, including the preparation of all associated LCP amendments for adoption consideration.

The effort to update the City's LCP began in May 2017 when the City submitted an application requesting \$300,000 in funding from the California Coastal Commission Grant Program (Local Assistance Grant) to prepare a comprehensive LCP update.

In August 2017 the City obtained a grant from the Coastal Commission for \$85,685 to assist the City in its preparation of a *limited* update to the LCP, with a City match of \$25,000 from the City's general fund. While this amount was significantly less than the \$300,000 requested and the \$375,000 realistically estimated by the City to complete a comprehensive LCP update, it was enough to begin the necessary work. The City hired EMC Planning Group and Revell Coastal (now Integral Consulting) to do this work. This initial phase of work produced a vulnerability assessment and an adaptation report on approaches to manage the effects of sea-level rise on coastal resources along the shoreline of Marina.

Due to the level of effort and unforeseen number of meetings necessary to get support for the work, the budget was utilized. With the onset of the COVID pandemic in March 2020 and insufficient funds in the project budget, all policy work on the LUP and IP came to a halt.

With the new Coastal Commission non-competitive funding stream, staff seeks to take advantage of these funds to reinitiate and finalize the coastal hazards work and scope out the next phase of LCP amendment efforts. The complete scope of work is included in the grant application as Exhibit A to the draft Resolution.

To complete the update, the maximum \$100,000 is requested from this year's CCC non-competitive grant program. The City is under no obligation to provide matching funds in order to receive this grant.

ANALYSIS:

This application is necessary to complete the coastal hazards update to the LCP. As such, staff recommends approval of the grant application (“**EXHIBIT A**” to the Resolution).

FISCAL IMPACT:

It is estimated that the total cost to complete the coastal hazards work will be close to \$100,000. The grant application is requesting the maximum available funding to reengage EMC Planning Group to complete the coastal hazards work. Should full grant awards not be received by the Coastal Commission, staff will subsequently return to Council with a revised funding strategy and appropriation request.

ENVIRONMENTAL DETERMINATION

The City of Marina determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 (“CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

CONCLUSION:

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

Respectfully submitted,

Christy Hopper
Planning Services Manager
Community Development Department
City of Marina

REVIEWED/CONCUR:

Guido F. Persicone, AICP
Community Development Director
Community Development Department
City of Marina

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING STAFF TO SUBMIT A GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE APPLICATIONS, CONTRACTS, AGREEMENTS, AND AMENDMENTS NECESSARY TO IMPLEMENT THE GRANT APPLICATION PACKAGE

WHEREAS, the Budget Act of 2021 provides up to \$31 million to support the Coastal Commission's LCP Local Assistance Grant Program which awards grants to local governments to support coastal resiliency and updates to Local Coastal Programs (LCPs); and

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a non-competitive grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to promote coastal resiliency and address the effects of climate change; and

WHEREAS, grant proposals submitted under this grant program must complete Local Coastal Program (LCP) planning work with special emphasis on coastal resiliency and addressing the effects of climate change and sea-level rise; and

WHEREAS, the City of Marina, has an effectively certified LCP; and

WHEREAS, the City of Marina, desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to the in part; and

WHEREAS, the City of Marina commits to and agrees to fully support a planning effort intended to amend a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

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

1. Directs City of Marina staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$100,000 to fund the project more particularly described in the grant application package ("**EXHIBIT A**").
2. Authorizes the City Manager to execute, in the name of the City of Marina, all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June, 2022, 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

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
 SAN FRANCISCO, CA 94105-2421
 VOICE (415) 904-5200
 FAX (415) 904-5400



CALIFORNIA COASTAL COMMISSION

LCP LOCAL ASSISTANCE GRANT PROGRAM

NON-COMPETITIVE GRANT APPLICATION FORM

The California Coastal Commission is pleased to announce the availability of rolling grant funding to support local government coastal resiliency efforts. Funding is provided by the Budget Act of 2021, which appropriates \$31 million to the Coastal Commission to support its LCP Local Assistance Grant Program. The grant program is intended to provide assistance to local governments responsible for developing and amending Local Coastal Programs. Funds may be used for projects that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise, and which contain an LCP planning component.

As part of the recently adopted grant program updates, the Coastal Commission developed a non-competitive, rolling application process that is separate from the Commission's competitive grant rounds. **This rolling application process is designed for targeted projects up to \$100,000** which have a high likelihood of success over a shorter grant term, such as a single feasibility study with targeted LCP changes. The application form and additional details are provided below. More information on eligible grantees and projects, program priorities, and evaluation criteria can be found in the recently adopted [LCP Grant Program Updates](#).

Coastal Commission staff is available to assist during the application process. Applicants are encouraged to reach out to the LCP Grant team with any questions as they develop their applications. Contact information is provided below.

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APPLICATION FORM

APPLICANT INFORMATION

Applicant name (agency): City of Marina	
Address: 211 Hillcrest Avenue, Marina, CA 93933	
Primary Contact name: Christy Hopper	Title: Planning Services Manager
Telephone: 831-884-1238	Fax: 831-384-0425
Email: chopper@cityofmarina.org	
Federal Tax ID#: 94-2321991	

Person authorized to sign grant agreement, amendments, and Request for Funds:	
Name: Layne Long	Title: City Manager
Telephone: 831-884-1224	Email: llong@cityofmarina.org

PROJECT INFORMATION

Project Title: Coastal Hazard LCP Updates for Marina	
LCP/LCP Segment: City of Marina (City Segment)	
Project Location	
City/Geographic area: City of Marina	
County: Monterey	
Project Timeline	
Start date: 06/15/2022	End date: 06/15/2023

Signature: _____

Date:

**Project Description.**

The City of Marina's LCP was first certified by the California Coastal Commission (Coastal Commission) in 1982 and last amended in 2009. Since 2009, existing land uses in Marina have changed or are in the process of change, and statewide attention has focused on sea level rise and climate change considerations for local jurisdictions.

The effort to update the City's LCP began in May 2017 when the City submitted an application requesting \$300,000 in funding from the California Coastal Commission Grant Program (Local Assistance Grant) to prepare a comprehensive LCP update. The City offered \$25,000 in general fund money and \$50,000 in in-kind services for staff time and materials for project management and outreach. The City realistically estimated that the total cost of the update would be \$375,000. The work identified in the grant application would include updates to both the Land Use Plan and the Implementation Plan to address sustainable development, increased opportunities for coastal access and public recreation, vulnerability to climate change and sea-level rise, coastal erosion, and conservation of coastal resources consistent with the Coastal Commission's priorities and the City's General Plan.

In August 2017 the City obtained a grant from the Coastal Commission for \$85,685 to assist the City in its preparation of an update to the LCP, with a City match of \$25,000 from the City's general fund. While this amount was significantly less than the \$300,000 requested and the \$375,000 realistically estimated by the City to complete a comprehensive LCP update, it was enough to begin the necessary work. The City hired EMC Planning Group and Revell Coastal (now Integral Consulting) to do this work. This initial phase of work produced a vulnerability assessment and an adaptation report on approaches to manage the effects of sea-level rise on coastal resources along the shoreline of Marina.

The final public LCP update workshop was held in January of 2020, just before COVID. Due to the level of effort and unforeseen number of meetings necessary to get support for the work, the budget was utilized. The City then requested a cost estimate for completion of LCP work, which the team provided to the City on February 27, 2020¹. However, with the onset of the pandemic in March 2020 and insufficient funds, all policy work on the LUP and IP came to a halt.

With the new Coastal Commission non-competitive funding stream, the City would like to reinstitute the coastal hazards work and scope out the next phase of LCP amendment efforts. This grant proposal is focused on updating and finalizing the technical coastal hazards work previously conducted, adding in a social vulnerability assessment and amending the LCP to address the coastal hazards work, update the City's mapping c, including the preparation of all associated LCP amendments for adoption consideration.

The Marina City Manager, Community Development Director, Planning Services Manager, and city council are interested in completing these tasks expeditiously to ensure that environmental justice and coastal hazards are fully addressed in the LCP, and that is consistent with the City's vision. The scope of work and identified tasks are below.

¹ <https://www.latimes.com/california/story/2020-02-24/marina-sea-level-rise>



Task Descriptions and Schedule.

Project Management

This task includes contract negotiation and execution, insurance compliance, administration, preparation and execution of subconsultant contracts, monthly invoices and progress memos, etc. This task also covers general communications and coordination among the EMC Planning Group team, the City, and all other involved agencies and interests throughout the LCP preparation process outside of the regularly scheduled meetings identified in the tasks below.

Deliverables: Monthly invoices identifying staff, hours, rates, and amount for each task, and accompanying progress memo identifying work performed to date.

Task 1 – Project Restart

Significant time has lapsed since the City and its consulting team last worked on this project; therefore, this task would allow the City and team to reconvene with a kickoff meeting and develop a detailed work plan to align with this scope.

Task 1 Deliverables: One (1) kickoff meeting. Detailed workplan and time line.

Task 2–Outreach and Engagement

An initial step in this phase of the LCP amendment will be to recommence the outreach process, including communication with stakeholders that was central to the earlier efforts.

- Participate in a project re-start meeting with City and Coastal Commission staff to discuss the LCP amendment including scope and schedule.
 - Initial meeting topics will include the City’s coastal zone resources, local issues, data sources, document format, public outreach, meeting schedule, and other issues that are important at early stages of the project. The intent of the meeting will be to obtain Coastal Commission staff’s early review and acceptance of the scope and have a clear understanding of Coastal Commission priorities to ensure an efficient process;
- Participate in a LCP review meeting with Coastal Commission staff.;
- Update the email notification lists, and the identification of key links to community cross sections and community engagement outreach formats or focus groups, to facilitate information flow and participation. This task will also help to identify community priorities and representation, and inform a social vulnerability assessment; and
- Provide input for updates to the City’s web page throughout the LCP amendment process to obtain public input and update the public about upcoming meetings, draft documents, and the project’s overall schedule and progress.

Deliverables: One (1) restart and one (1) LCP review meeting with Coastal Commission staff. Outreach protocol and email notification list.. The consulting team will provide updates for City staff to post on the website throughout the process.



Note: The scope does not include maintenance of the City's website.

Task 3 – Social Vulnerability Analysis and Finalize the Coastal Hazards Report

Following the completion of the project restart and reinitiating the outreach effort, the City and consultant team will complete the work necessary to amend the City's LCP to incorporate the coastal hazards and sea level rise work while also addressing environmental justice concerns to ensure equity in the planning process.

Finalize the Coastal Hazards and Sea Level Rise Report Draft LCP (incorporate comments from Workshop #4 and Coastal Commission staff comments that came in after the contract had expired). The revised document will include:

- Incorporation of environmental justice and meaningful community engagement into consideration of coastal hazards and climate change impacts and production of a social vulnerability analysis based on 2020 census augmented with additional City data;
- Edits to the technical report from outreach and the last city council hearing (Feb. 2020); and
- Update coastal zone mapping and hazards for inclusion into the City's GIS database

Task 3 Deliverables: An electronic version of the final Coastal Hazards and Sea Level Rise Report suitable for upload to the City's website by City staff.

Task 4 – LCP Amendments

Task 4 will be focused on establishing policies, programs, and implementation and making other necessary amendments to the LCP based on work completed in the previous tasks.

This task will include working with the Coastal Commission staff to revise the policies and zoning around the coastal hazards and social vulnerability findings such that future uses are consistent with the City's LCP policies. Amendments to the Implementation Plan (IP) will be done concurrently with the amendments to the Land Use Plan (LUP), as necessary. Task 4 includes the following:

Review policies and implementation;

- Identify necessary amendments/updates to the City's LCP Land Use Plan to ensure consistency with Coastal Act provisions and the Coastal Hazards and Sea Level Rise Draft LCP documents. Updates will be identified in track changes within the Land Use Plan document;
- Identify necessary amendments to implement to ensure consistency with the City's LCP Land Use Plan amendments;
- Preparation of an Administrative and Draft version of the LCP;
- Submit draft LCP amendments for Coastal Commission staff review;
- Meet with Coastal Commission staff;
- Present draft LCP amendments at a public workshop for input and discussion;
- Develop revised draft LCP amendments that addresses feedback received to date;



- Prepare the Final Coastal Hazards and Sea Level Rise Draft LCP documents (and any associated LCP amendments);
- Attend and present at the Planning Commission Hearing (LCP Coastal Hazards and LCP Amendments adoption);
- Attend and present at the City Council Hearing (LCP Coastal Hazards LCP and Amendments adoption); and
- Attend the Coastal Commission LCP Amendments (Coastal Hazards LCP and Amendments) Certification hearing and assist the City with response to questions, if needed.

Task 4 Deliverables: Administrative draft LCP amendment(s) for City and Coastal Commission staff review. Draft LCP amendment(s) for public review. Revised draft LCP amendments for adoption consideration. Final Coastal Hazards and Sea Level Rise Draft LCP documents (adoption package). Up to four (4) meetings with City and Coastal Commission staff to discuss amendments. One (1) public workshop to consider draft LCP amendments. One (1) Planning Commission Hearing. One (1) City Council Hearing. One (1) Coastal Commission Hearing.

Note: All documents will be produced as electronic format files (Word and Adobe pdf).

Task 5 - Contingency

Based on the City's experiences there is benefit to maintaining a contingency budget to accommodate changes in required scope as the project unfolds. In addition, the City is trying to update their mapping and geospatial accuracy and there are benefits to having this be consistent with the suite of GIS data that has been generated during the Coastal Hazard Assessment.

- Revisit any outstanding issues raised during public comment;
- Identify any outstanding gaps or internal inconsistencies related to work/updates done outside of this scope; and
- Support the City in fundraising (grant proposal preparation) for a full Comprehensive LCP amendment.



Schedule.

Proposed Start/End Dates:

Task 1. Project Restart	Projected start/end dates: 6/15/22-7/31/2022
1.1 One (1) Kickoff Meeting	
1.2 Develop Workplan and Timeline	
Outcome/Deliverables: a. Detailed Workplan and Project Timeline	a. 7/31/22
Task 2. Public Outreach and Engagement	Projected start/end dates: 8/1/22 – 9/15/22
2.1 Confirm Stakeholder, Solicit Input	
2.2 City and Coastal Commission Meeting	
2.3 Re-establish Outreach Protocol	
2.4 Provide LCP Updates for Webpage	
Outcome/Deliverables a. Stakeholder Input Summary b. One (1) Meeting with Coastal Commission c. Outreach Protocol and Email Notification List d. Webpage Updates	a. 9/15/22
Task 3. Finalize Coastal Hazards Report	Projected start/end dates: 8/1/22 – 10/15/22
3.1 Conduct a Social Vulnerability Analysis	
3.2 Final Edits to the Coastal Hazards Report	
a. Outcome/Deliverables Submission of Second Public Review Draft LCP	10/15/22
Task 4. LCP Amendments	Projected start/end dates: 11/01/22 – 3/31/23 (up to 6/01/23)
4.1 City, Coastal Commission, and Public Review of Amendments	
4.2 Revisions and Preparation of Final Draft for Adoption Consideration	
4.3 Up to Four (4) Meetings with Coastal Commission Staff to Discuss Amendments	



4.4 One (1) Public Workshop to Discuss Amendments	
4.5 One (1) Planning Commission Meeting to Discuss Amendments	
4.6 One (1) City Council Hearing to Discuss Amendments	
4.7 One (1) Coastal Commission Hearing to Discuss Amendments	
Outcome/Deliverables a. Final Draft of LCP Amendment Documents (Adoption Package)	Completion date: 3/31/23 (may run until 6/01/23 depending upon public hearing schedule)
Task 5. Contingency	

Benchmark Schedule:

ACTIVITY	COMPLETION DATE
Kickoff Meeting	7/31/22
Public Outreach and Engagement Meetings	9/15/22
Final Coastal Hazards Report	10/15/22
LCP Amendments Certification	Between 3/31/23 and 6/01/23



Application Budget Information

Funding Request: \$100,000

Total Project Cost: \$100,000

<i>Jurisdiction Name</i>	<i>Coastal Commission Grant Total</i>	<i>Match/Other Funds</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
LABOR COSTS²			
County/City Staff Labor			
Task 1 – Project Restart			
Task 2 – Public Outreach and Engagement			
Task 3 – Finalize Coastal Hazards Report			
Task 4 – LCP Amendments			
Task 5 - Contingency			
Total Labor Costs			
DIRECT COSTS			
County/City Staff Project Supplies			
A			
B, etc.			
Total			
County/City Staff Travel In State³			
Mileage			
Hotel, etc.			
Total			
Consultants⁴/Partners			
EMC Planning/Integral			
Project Management	12,000		12,000
Task 1 – Project Restart	5,000		5,000
Task 2 – Public Outreach and Engagement	8,000		8,000
Task 3 - Finalize Coastal Hazards Report	30,000		30,000
Task 4 - LCP Amendments	43,000		43,000
Task 5 - Contingency	2,000		2,000
Consultants Total	\$100,000		\$100,000
Total Direct Costs			

² Amount requested should include total for salary and benefits.

³ Travel reimbursement rates are the same as similarly situated state employees.

⁴ All consultants must be selected pursuant to a bidding and procurement process that complies with all applicable laws.



<i>Jurisdiction Name</i>	<i>Coastal Commission Grant Total</i>	<i>Match/Other Funds</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
OVERHEAD/INDIRECT COSTS⁵			
Total County/City Staff Overhead/Indirect Costs			
TOTAL PROJECT COST			\$100,000

1. **Supplementary Information** (optional). Additional photos, maps and/or other information may be included as attachments if such materials will help illustrate or support the proposed project. This may include maps or other information identifying disadvantaged and low-income communities within the planning area; maps, photos, or other information regarding project areas identified to be significantly impacted by climate change or sea level rise; brief descriptions or links to previously completed studies or other work upon which the proposed project will build; or letters of support from relevant stakeholders.

Please note: All photos, maps, and additional information submitted is subject to the unqualified and unconditional right of the State of California to use, reproduce, publish, or display it, free of charge. All items submitted will be considered a public record upon submittal and will be treated in accordance with Public Records Act requirements. Please indicate if credit is requested for any photos and/or maps or documents.

2. **Resolution from the Applicant's Governing Body.** Please submit a resolution that contains the following authorizations: 1) authority to submit the proposal, 2) authority to enter into a grant agreement with the California Coastal Commission if the grant is awarded, and 3) designation of the applicant's authorized representative (name and title). A sample resolution is provided as [Attachment A](#). Resolutions should also contain clear statements of commitment to full completion of the intended grant process, including submission of applicable LCP products (LCP submittal or amendment) to the Commission for review.

SUBMISSION INSTRUCTIONS

Please submit the completed application form, including all attachments, via email to LCPGrantProgram@coastal.ca.gov. Submit all application materials combined in a single PDF file, AND submit the Project Proposal (including project description, task descriptions, schedule, and budget) as a Word document. See Attachment B for an application checklist.⁶

⁵ Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Labor."

⁶ Please note: all information that is submitted is subject to the unqualified and unconditional right of the State of California to use, reproduce, publish, or display it, free of charge. All documents submitted will be considered a public record upon submittal and will be treated in accordance with Public Records Act requirements. Please indicate if credit is requested for any photos and/or maps.



If you are unable to submit via email, you may mail a CD and hard copy to the Coastal Commission at the address below. Please coordinate with Kelsey Ducklow via email prior to mailing hard copy application materials.

Kelsey Ducklow
California Coastal Commission
455 Market St., Suite 300
San Francisco, CA 94105
kelsey.ducklow@coastal.ca.gov

Once an application has been submitted, Commission staff will confirm it has been received, and may follow up for clarifications, additional details, or to recommend that an amended application be submitted. The Executive Director will make a final determination on grant awards within 30 days of submittal of a complete grant application. Applicants will be notified of the decision, and staff will provide an update to the Coastal Commission on awarded projects. Projects not awarded funding through the non-competitive program will still be eligible for future competitive grant rounds.

CONTACT INFORMATION

Coastal Commission staff are pleased to assist local governments during preparation of LCP grant applications. Contact information for the LCP Grant Program Team is included below. **Please note that due to the COVID-19 Pandemic, many staff members continue to work from home, so email may be the best way to contact them at this time.**

For questions on the overall grant application process, including project eligibility and funding requirements, please contact Kelsey Ducklow at: kelsey.ducklow@coastal.ca.gov or (415) 904-2335.

Questions regarding specific project proposals should be directed to the LCP grant coordinator for the respective County:

- For Northern California counties (Del Norte through San Luis Obispo), please contact Brittney Cozzolino at: brittney.cozzolino@coastal.ca.gov, or call (415) 904-5271.
- For Santa Barbara, Ventura, and Orange Counties, please contact Karen Vu at: karen.vu@coastal.ca.gov, or call (415) 904-5268.
- For Los Angeles and San Diego Counties, please contact Mary Matella at: mary.matella@coastal.ca.gov, or call (415) 904-6093

For District-specific questions, contact information for each district office is listed below.



North Coast (Del Norte, Humboldt, Mendocino Counties)

- Kate Huckelbridge, Deputy Director: kate.huckelbridge@coastal.ca.gov, (415) 396-9708
- Melissa Kraemer, District Manager: melissa.kraemer@coastal.ca.gov, (707) 826-8950

North Central Coast (Sonoma, Marin, San Francisco, San Mateo Counties)

- Dan Carl, Deputy Director: Dan.Carl@coastal.ca.gov, (831) 427-4863
- Stephanie Rexing, District Manager: stephanie.rexing@coastal.ca.gov, (415) 904-5260

Central Coast (Santa Cruz, Monterey, San Luis Obispo Counties)

- Dan Carl, Deputy Director: Dan.Carl@coastal.ca.gov, (831) 427-4863
- Kevin Kahn, District Manager: kevin.kahn@coastal.ca.gov, (831) 427-4863

South Central Coast (Santa Barbara and Ventura Counties, and the Malibu portion of Los Angeles County)

- Steve Hudson, Deputy Director: Steve.Hudson@coastal.ca.gov, (805) 585-1800
- Barbara Carey, District Manager: Barbara.Carey@coastal.ca.gov, (805) 585-1800

South Coast (Los Angeles (except Malibu) and Orange Counties)

- Karl Schwing, Deputy Director, Orange County: Karl.Schwing@coastal.ca.gov, (562) 590-5071
- Steve Hudson, Deputy Director, Los Angeles County: Steve.Hudson@coastal.ca.gov, (562) 590-5071
- Amber Dobson, District Manager: Amber.Dobson@coastal.ca.gov, (562) 590-5071
- Shannon Vaughn, District Manager: shannon.vaughn@coastal.ca.gov, (562) 590-5071

San Diego (San Diego County)

- Karl Schwing, Deputy Director: Karl.Schwing@coastal.ca.gov, (619) 767-2370
- Diana Lilly, District Manager: diana.lilly@coastal.ca.gov, (619) 767-2370
- Kanani Leslie, District Manager: kanani.leslie@coastal.ca.gov, (619) 767-2370



Attachment A: Marina City Council Resolution

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING STAFF TO SUBMIT A GRANT APPLICATION TO THE CALIFORNIA COASTAL COMMISSION AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE APPLICATIONS, CONTRACTS, AGREEMENTS, AND AMENDMENTS NECESSARY TO IMPLEMENT THE GRANT APPLICATION PACKAGE

WHEREAS, the Budget Act of 2021 provides up to \$31 million to support the Coastal Commission's LCP Local Assistance Grant Program which awards grants to local governments to support coastal resiliency and updates to Local Coastal Programs (LCPs); and

WHEREAS, the California Coastal Commission, under the authority of the California Coastal Act, may provide financial assistance to support coastal planning and has approved a non-competitive grant program to provide such financial assistance for LCP planning; and

WHEREAS, the goal of the grant program is to develop new or updated LCPs in conformance with the California Coastal Act and to promote coastal resiliency and address the effects of climate change; and

WHEREAS, grant proposals submitted under this grant program must complete Local Coastal Program (LCP) planning work with special emphasis on coastal resiliency and addressing the effects of climate change and sea-level rise; and

WHEREAS, the City of Marina, has an effectively certified LCP; and

WHEREAS, the City of Marina, desires to pursue a project that would result in the completion and submittal for certification by the California Coastal Commission of an Amendment to the in part; and

WHEREAS, the City of Marina commits to and agrees to fully support a planning effort intended to amend a certified LCP pursuant to the provisions of the California Coastal Act, with full public participation and coordination with the Coastal Commission staff.

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

1. Directs City of Marina staff to submit the grant application package attached hereto as Attachment 1 to the California Coastal Commission to provide financial and planning assistance, under authority of the California Coastal Act, in the amount of \$100,000 to fund the project more particularly described in the grant application package ("**EXHIBIT A**").
2. Authorizes the City Manager to execute, in the name of the City of Marina, all necessary applications, contracts and agreements and amendments thereto to implement and carry out the grant application package attached hereto and any project approved through approval of the grant application.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June, 2022, 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



Attachment B: Application Checklist

A complete Grant Application Packet includes the following components. Please submit all documents in a single PDF file as well as a Word Document of the Project Proposal details, as noted below. **It is very important to receive the PDF file and a Word document for efficiency in preparing grant agreement documents.** Thank you for your attention to these important components of the application.

- ☐ Signed LCP Grant Application Form (.pdf)
- ☐ Project Proposal (.docx)
 - Project Description, Task Descriptions, Schedule, Budget, and Supplemental Information
- ☐ Signed Resolution (.pdf)
- ☐ All documents combined into a single PDF file (.pdf)



Attachment C: Program Priorities and Evaluation Criteria

Applications for LCP local assistance planning grants will be evaluated for their ability to complete the proposed planning work. Projects selected for funding will be those that best meet the Commission's adopted program priorities and evaluation criteria, which were updated at the October 2021 hearing to reflect current planning needs.⁷

Eligible Grantees and Projects

These grants are intended to provide assistance to local governments responsible for developing and amending Local Coastal Programs, and such local governments must be the primary applicant and grantee. Coastal jurisdictions may also partner together in support of regional planning efforts and/or grant funds may be used to support relevant stakeholder groups to achieve specific project goals. Local governments are eligible to apply for projects that were not previously funded.

Eligible projects are those that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise, and which contain an LCP planning component. Grant funds may be used for technical, economic, policy, and other analyses, feasibility studies, vulnerability assessments, adaptation plans, outreach and coordination efforts, and activities related to LCP adoption and submittal. LCP planning components may include development of a new LCP, a comprehensive LCP update, an LCP amendment (*e.g.*, updates to coastal hazards policies; incorporation of new sea level rise related policies or programs), targeted LCP changes (*e.g.*, changes to LCP policies/zoning to allow for implementation of identified sea level rise adaptation strategies or climate resiliency projects; updates to previously adopted SLR policies in response to continued planning), or similar activities undertaken through a Public Works Plan (PWP) process.

More information on eligible project types is provided in the program priorities and evaluation criteria sections below. Additional details, including project examples, may be provided in forthcoming grant application announcements.

Program Priorities

Applications will be evaluated for their ability to advance coastal resiliency efforts in the context of LCP planning. This may include:

- Completion of technical, economic, policy, or other analyses meant to assist in understanding, planning for, and adapting to climate change and sea level rise, and increasing coastal resiliency, including but not limited to general vulnerability assessments, studies to evaluate impacts based on evolving science (*e.g.*, extreme sea level rise, groundwater change), feasibility and design studies for nature-based adaptation or other specific strategies, and development of monitoring programs

⁷ See: [Recommended Updates to the LCP Local Assistance Grant Program](#), adopted October 15, 2021.



- Planning work and/or related studies to support development of regional, neighborhood, site, or asset specific adaptation approaches, including phased adaptation/adaptation pathways, such as for a Shoreline Management Plan, a Coastal Hazards Response Plan as required by a Coastal Development Permit, or similar
- Planning work and/or focused outreach efforts to increase public awareness and participation in climate change and sea level rise planning activities, particularly among vulnerable communities
- Planning work to address environmental justice concerns, particularly related to climate change and sea level rise planning activities, and to ensure equitable protection of coastal resources and provision of public coastal access and lower-cost recreation for everyone, regardless of race, ethnicity, socio-economic status, or place of residence
- Completion of land use plan and/or zoning work to achieve certification of a new Local Coastal Program (or an Area of Deferred Certification) or planning and/or zoning work to significantly update certified LCPs (or LCP segments) in whole or in part to provide for coastal resiliency, or to reflect changed conditions, new information and scientific knowledge, new programs and policies, or other significant changed circumstances

Evaluation Criteria

Staff will evaluate grant applications against the following selection criteria. The criteria will be considered as a whole, not weighted.

Public Benefit/Significance

The Commission will consider the extent to which the proposed project will address issues of statewide significance and maximize public benefits of the coast. These can include reducing greenhouse gases and addressing the impacts of climate change and sea level rise; preserving and enhancing coastal habitat; protecting, providing and enhancing public access; protecting priority land uses such as agriculture, coastal dependent development, or recreation; protecting and providing lower cost visitor and recreational opportunities. The Commission will consider the extent to which priority Coastal Act resources are addressed and the public benefits maximized.

Environmental Justice

In 2016, the Legislature passed AB 2616 giving the Coastal Commission explicit authority to consider environmental justice, defined in California Government Code Section 65040.12(e), as updated in 2020, as: *“The fair treatment and meaningful engagement of people of all races, cultures, incomes, and national origins with respect to the development, adoption, implementation and enforcement of environmental laws, regulations, and policies.”* Low-income communities, indigenous communities, communities of color, and other marginalized communities often bear a disproportionate burden of pollution or other environmental harms, while suffering from a lack of environmental services, such as clean drinking water, clean air, and access to parks and open space. Addressing these types of disparities and barriers to



meaningful involvement is critical for ensuring that Coastal Act goals of protecting coastal resources for all are equitably fulfilled, particularly as climate change results in evolving risks, without creating new or continuing to exacerbate existing environmental burdens in environmental justice communities. The Coastal Commission will consider the extent to which environmental justice issues are addressed when evaluating grant proposals.

Addressing the Effects of Climate Change

Climate change is one of the most significant policy areas to emerge since many of the LCPs have been certified. The Commission is seeking LCP updates and amendments that address the effects of climate change, including land use, housing, transportation, and habitat restoration and conservation policies that facilitate reductions in greenhouse gases and vehicle miles traveled, as well as the planning and implementation of strategies to adapt to sea level rise and other issue areas affected by climate change, such as changes in habitats and fire hazards.

Relative Need for LCP Update

Related to the public benefits of a proposal, the Commission will consider the relative need for an LCP update, considering the length of time since an LCP or LCP segment has been updated and the significance of the issues proposed to be updated. For example, many jurisdictions seek to assess vulnerability and develop adaptation solutions to address sea level rise, fire, or other climate change impacts to critical infrastructure, residential areas, recreational amenities and open space, or significant wetland and habitat areas. Others have identified needs to reduce vehicle miles traveled, encourage smart growth, increase climate-resilient housing supply, improve public transit, and enhance pedestrian and bicycle options, particularly to and along the coast. A proposal to complete technical studies, economic analyses, mapping, public outreach, and development of LCP policies in support of these options may be important.

Likelihood of Success/Effectiveness

Overall, the success of the Commission's grant program will be measured by the progress made toward development and implementation of climate resilience strategies, including through LCP certification, update, or amendment. The Commission will consider the likelihood of success of each proposal, including evaluating the practicality, feasibility, and effectiveness of a proposed work program that may lead to successful implementation. Proposals must address the need for coordination with the public and the Commission, and provide for practicable benchmarks for development and review of studies, plans, LCP policies, and other project-specific deliverables.

Other evidence in support of this criteria may include resolutions of intent and endorsement for the proposed work from the jurisdiction and other organizations, matching funds, or other complementary efforts (see below), or other factors that may affect the likelihood that an LCP amendment will be successfully completed. Applicants will be asked to describe any LCP planning work that has been initiated or is already underway at the local level and how this grant program is needed to substantially further that effort. A resolution from the applicant



committing to completing an LCP Amendment submittal to the Commission will be required as part of the application.

For new LCP development, the local government should demonstrate its willingness and capacity to assume local coastal development permit processing. Relatedly, some areas of the coastal zone remain uncertified because the Commission and local government have been unable to reach agreement on the resolution of issues or the issue is particularly intractable. The Commission will consider the likelihood that such areas and specific policy questions can be successfully addressed, leading to certification of the area.

Project Integration/Leverage/Matching Funds

The Commission will consider the relationship of the LCP work program to other planning work being undertaken by the jurisdiction. There are several statewide grant programs underway which may positively integrate with this LCP Planning Grant program. Applicants will be asked to describe any other related grant awards (such as through past Coastal Commission grant rounds, or from the Ocean Protection Council, Coastal Conservancy, Caltrans, or the Strategic Growth Council) that may support the LCP planning work. The Commission will consider the ability to integrate and leverage any additional program funds available that could help support LCP certification, update, or amendment.

City Council consider adopting Resolution No. 2022-, receive and file the City's Annual Audit for the period ending June 30, 2021; and receive and file the City of Marina Auditor Governance Letter (SAS 114) and Management Letter (SAS 115) for the fiscal year ending June 30, 2021.

**This staff report will be provided on:
Monday, June 6, 2022**

May 12, 2022

Item No. **11a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-
AMENDING THE RATE ADJUSTMENT CALCULATION OF THE
FRANCHISE AGREEMENT WITH GREEN WASTE RECOVERY
UTILIZING A SECTOR SPECIFIC UNIFORM PERCENTAGE
ADJUSTMENT AND APPROVING MAXIMUM RATES TO BE
CHARGED BY GREENWASTE RECOVERY EFFECTIVE JULY 1, 2022
FOR COLLECTION OF FRANCHISED SOLID WASTE, RECYCLING,
AND ORGANICS.**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2022- amending the rate adjustment calculation of the franchise agreement with Green Waste Recovery utilizing a sector specific uniform percentage adjustment and approving maximum rates to be charged by Green Waste Recovery effective July 1, 2022 for collection of franchised solid waste, recycling, and organics.

BACKGROUND:

On August 19, 2014, the City Council adopted Resolution No. 2014-98, and entered into a new exclusive 15-year Franchise Agreement with Green Waste Recovery (GRW) to provide solid waste, recycling, and organics collection services for the City of Marina. The Agreement provides for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology.

On November 2, 2021, the City Council adopted Resolution No. 2021-114, approving an amendment to the Franchise Agreement with Green Waste Recovery (GRW) to incorporate changes required by Senate Bill 1383 (SB 1383) to divert organic waste from landfills. The amended Agreement retained provisions for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology.

Cost-based Rate Adjustment Methodology

The cost-based adjustment involves an extensive and detailed review of GWR's actual cost of operations, changes in inflation, the number of customers, and the service level provided and comparing this to actual gross receipts collected to determine GWR's compensation for the current rate period and to forecast the future rates. The cost to perform this review is estimated at \$50,000 - \$100,000 (which cost would be passed onto the rate payer). A cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GreenWaste compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7. As a result of the surpluses, rates for marina customers have been fixed at the rates set in 2018.

Multi-index Rate Adjustment Methodology

Each service level rate in the Franchise Agreement rate schedule is comprised of an operating component, disposal/processing component and a fee component. The annual rate adjustment consists of adjusting each of the rate components as follows:

Operating Component Factor:

- Labor Component: Labor costs from the prior year are adjusted by the annual percentage change in the Employment Cost Index (ECI)
- Fuel Component: Fuel costs from the prior year are adjusted by the actual volume of fuel purchased in the prior year and the annual percentage change in the Fuel Index
- Other Component: Non labor/fuel related costs from the prior year are adjusted by the annual percentage change of the Consumer Price Index (CPI)

Disposal/Processing Component: This component is automatically adjusted as a direct pass-through based on MRWMD fees and the City's prior year's tonnages by material type. The disposal and processing component(s) are based on the difference between the City's actual tonnage by material type and what was proposed by GWR in their initial proposal to the City. The disposal and processing components also consider the tipping fee charged by the Monterey Regional Waste Management District (MRWMD). At their meeting on May 18th, 2018, the MRWMD Board of Directors considered a 7% increase on tipping fees. The public hearing on rate increases is likely to be held at the June 17th, 2022 MRWMD Board of Directors meeting. The proposed tipping fee increase has been factored into the proposed fee increase for GWR customers. MRWMD rationale for the increased tipping fees is to cover the increased cost due to SB 1383, supply chain and labor cost increases over the past 2 years.

Fee Component: This component is a direct pass through of Franchise fees, calculated as a percent of the total rate by service level.

The rate adjustment for the 2022/2023 fiscal year was conducted using a variation of the multi-index methodology which was distributed across sectors by weighted averages in accordance with the methodology agreed upon in 2016. The changes implemented in 2016 allow for a uniform percentage increase for services.

The Franchise Agreement stipulates that the City of Marina shall make a good faith effort to approve the accuracy of the calculated rates by June 1 of each year, and such rates shall be effective on each subsequent July 1. This allows noticing all customers of rate increases. If rates are not effective by July 1 due to a delay caused solely by the City of Marina, GWR may retroactively bill customers for the amount of the rate increase.

ANALYSIS:

GWR provided the City, by way of HF&H Consultants (who represents the City), with the annual rate adjustment calculation ("**EXHIBIT B**"). "**EXHIBIT A**" is an executive summary from HF&H reporting the finding that the application for the annual rate adjustment by GWR is consistent with the methodology approved in the prior year.

At the September 15th, 2020 meeting, City Council asked staff to analyze an equitable method of returning the surplus from rate periods 5 and 6 to the rate-payers that paid into the surplus. Staff requested a proposal from HF&H to analyze historical customer data which has been provided by GWR. Approval of an agreement with HF&H to perform this work is an item on tonight's City Council agenda. If approved, the analysis will be performed over the next few weeks and staff will return with recommendations. This process is not tied to the rate increase deadline of July 1st.

Subsequently, a surplus of \$175,891 was generated in rate period 7. Given the increases due to SB 1383, staff is recommending that the rate period 7 surplus be used to offset rate increases over the next two years. Applying \$89,227 of the surplus reduces the rate period 8 rate increase from 5.82% to 3.10%.

Staff is recommending the sector-based adjustment be used for calculating rates for 2022/2023 in keeping with the methodology approved in 2016.

At the November 2nd, 2021 meeting, City Council expressed an interest in a senior rate structure that is not income qualified. City staff requested that HF&H estimate the impact of creating a discounted rate for senior citizens with 32-gallon waste container service. HF&H modeled the effects of the discount at either a 20% rate reduction, aligning with the CARE program, or a 50% rate reduction. To provide the discounted rate, the other classes would have an additional rate increase above the index rate adjustment to subsidize the loss of revenue from the migration to discounted service.

HF&H pulled population data from the United States Census Bureau for the City of Marina to estimate the percentage of the population eligible for the senior discount (+65 years old) of 13.8%. Using the City's quarterly reports, HF&H applied the senior population percentage across the residential cart subscription levels to estimate the maximum number of customers that could migrate from standard to discounted service. By calculating the difference from the standard to the discounted rates, multiplied by the number of eligible customers, HF&H was able to estimate the additional revenue required for the subsidy of these discounted rates.

For a 20% senior discount, an additional \$52,311 (a 1.35% additional rate increase) would need to be subsidized by the other rate classes. For a 50% senior discount, an additional \$92,145 (a 2.39% additional rate increase) would be subsidized by the other rate classes.

FISCAL IMPACT:

The FY2022/2023 proposed rate adjustment would have no effect on City expenses, as this is a cost to the rate payers. The Franchise Agreement has a 15% franchise fee of gross receipts. Any rate increase provides a corresponding increase in franchise fee revenue to the City.

CONCLUSION:

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

Respectfully submitted,

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

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

RESOLUTION NO. 2022-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDING THE
RATE ADJUSTMENT CALCULATION OF THE FRANCHISE AGREEMENT WITH
GREEN WASTE RECOVERY UTILIZING A SECTOR SPECIFIC UNIFORM
PERCENTAGE ADJUSTMENT AND APPROVING MAXIMUM RATES TO BE CHARGED
BY GREENWASTE RECOVERY EFFECTIVE JULY 1, 2022, FOR COLLECTION OF
FRANCHISED SOLID WASTE, RECYCLING, AND ORGANICS.

WHEREAS, the City of Marina entered into a franchise agreement with GreenWaste Recovery (GWR) on August 19, 2014 for solid waste, recycling, and organics collection services for the period of August 1, 2015 through July 31, 2030, and;

WHEREAS, Section 8.2 of the Franchise Agreement describes the process for an automatic annual adjustment to maximum customer rates on July 1 of each year, based on agreed upon cost indices, changes in tipping fees as the Monterey Regional Waste Management District, and the actual tonnage for materials collected by GWR, and;

WHEREAS, on November 2, 2021, the City Council adopted Resolution No. 2021-114, approving an amendment to the Franchise Agreement with Green Waste Recovery (GRW) to incorporate changes required by Senate Bill 1383 (SB 1383) to divert organic waste from landfills. The amended Agreement retained provisions for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology, and;

WHEREAS, a cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GreenWaste compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7. As a result of the surpluses, rates for marina customers have been fixed at the rates set in 2018.

WHEREAS, City staff and third party consultant, HF&H, have reviewed GWR's calculation of the rate adjustments for FY 2022/2023 and finds the calculations to be accurate and consistent with the methodology and requirements of the franchise agreement, and;

WHEREAS, given the increases due to SB 1383, staff is recommending that the rate period 7 surplus be used to offset rate increases over the next two years. Applying \$89,227 of the surplus reduces the rate period 8 rate increase from 5.82% to 3.10%.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina hereby resolves to approve the rates in **Exhibit B** that incorporate a 3.1% increase to all single family residential maximum rates authorized to be charged by GWR under the Franchise Agreement, effective July 1, 2022.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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



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Robert D. Hilton, Emeritus
John W. Farnkopf, PE
Laith B. Ezzet, CMC
Richard J. Simonson, CMC
Marva M. Sheehan, CPA
Robert C. Hilton

May 12, 2022

Mr. Brian McMinn
Public Works Director
City of Marina

Sent via E-mail

Subject: Review of GreenWaste Recovery's 2022/23 Rate Request – Final Report

Reference Number: S5065

Dear Mr. McMinn:

HF&H Consultants, LLC (HF&H) was retained by the Monterey Regional Waste Management District (District) to assist with a review of GreenWaste Recovery's (GWR) request for an adjustment to customer rates, effective July 1, 2022, submitted to the City of Marina (City) on April 1, 2022. This report presents our findings and recommendations.

EXECUTIVE SUMMARY

HF&H's review of GWR's Rate Period 8 (RP8) rate request to the City and subsequent negotiations with GWR resulted in the following outcomes:

1. A 5.82% increase (the result of a \$224,827 shortfall) to rates as calculated for RP8. City Staff has recommended using half of the RP7 surplus to smooth rates from a 5.82% increase to a 3.10%. Refer to **Figure 1** for the impact to sample residential rates.

Figure 1 – Example Rate Impact of Adjustment

Marina Rate Adjustment		
	Current Rates (RP7)	RP8
Adjustment	N/A	3.10%
Residential 32- gallon rate	\$ 16.54	\$ 17.05
Residential 64- gallon rate	\$ 20.74	\$ 21.38

BACKGROUND

In 2012, the City, participating with other members of the District, issued a competitive request for proposals for collection services and entered into the new Agreement with GWR effective July 1, 2015. The Agreement provides for the following, related to the adjustment of rates:

Mr. Brian McMinn

May 12, 2022

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- Rates are annually adjusted throughout the term of the Agreement, using various inflationary indices, actual tonnage, and changes in the tipping fees at the District, unless either the City or GWR request a Cost Based Rate Adjustment (CBRA).
- The City and GWR may mutually agree upon alternative approaches to structuring rates without amendment to the Agreement (Section 8.2.D).
- During the CBRA review in RP5, a number of issues surrounding the process for setting rates and the resulting rate relationships amongst sectors and materials was identified. As such the City and GWR have negotiated an amendment to the prescribed methodology for the CBRA and index adjustments so as to not alter rate relationships between service sectors and material types.
- Through negotiations of the amendment and as a result of the desire to maintain current rate relationships between sectors and service levels, the City and GWR have prescribed a uniform rate adjustment to be applied to all sectors.

RATE CALCULATION REVIEW

HF&H Scope of Work

HF&H performed this review of the rate request in accordance with Exhibit E1 (for the index based rate adjustment). These procedures included:

1. Review of the rate request for completeness and compliance with the procedures contained in Exhibit E1 of the Agreement.
2. Review for mathematical accuracy and logical consistency to determine that the rate request is mathematically correct, that the rows and columns of numbers add down and across as intended, and that the stated assumptions were, in fact, used. Also, to determine that the rate request is internally consistent and that any summary schedules agree to the supporting schedules and worksheets.
3. Verification of the inclusion of the franchise fee calculation in the adjustment.
4. Verification of contract compliance with regard to:
 - A. The indices used in the adjustment.
 - B. The tip fees reported for the disposal/processing components of the rates.
 - C. The use of quarterly-reported tonnage data and allocations among agencies. A detailed audit of tonnage and allocations of tonnage reported by GWR was not a part of this scope of work. HF&H discussed GWR's allocation methodology with them and the methodology appears reasonable and consistent with standard practices within the industry.
 - D. Any changes in governmental fees on the fee component of the rates; and, the accurate application of the resultant percentage changes in the various rate components to the rate schedule approved by the City through the Agreement.
 - E. The addition of anticipated costs related to identified program changes resulting from SB 1383.

Mr. Brian McMinn

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Review of Rate Request

Rate Period 8 Application

HF&H reviewed the rate application for RP8. The results of the calculation of RP8 per methodology of Exhibit E1 of the amendment can be seen in **Figure 1** below.

Figure 1 – City of Marina Application of Index Based Adjustments to RP8

	Rate Period Seven	SB 1383 Costs	Revised Rate Period Seven	Adjustment Factor	Rate Period Eight
Annual Cost of Operations					
Labor-Related Costs	\$ 456,715	\$ 105,562	\$ 562,277	1.032	\$ 580,270
Vehicle-Related Costs	\$ 119,695	\$ 3,475	\$ 123,170	1.034	\$ 127,358
Fuel Costs	\$ 92,126	\$ 13,032	\$ 105,158	1.00	\$ 105,158
Other Costs	\$ 325,694	\$ 15,164	\$ 340,858	1.034	\$ 352,447
Direct Depreciation	\$ 193,751	\$ 27,851	\$ 221,602	N.A.	\$ 221,602
Total Allocated Costs - Labor, Vehicle, Fuel & Other	\$ 669,720	\$ -	\$ 669,720	1.034	\$ 692,490
Total Allocated Costs - Depreciation & Start-Up	\$ 48,832	\$ -	\$ 48,832	N.A.	\$ 48,832
Total Annual Cost of Operations	\$ 1,906,531	\$ 165,084	\$ 2,071,615		\$ 2,128,156
Profit	\$ 228,442	\$ 19,781	\$ 248,223	OR=89.3	\$ 254,997
Pass-Through Costs					
Disposal Costs	\$ 646,035	\$ -	\$ 646,035	Tons*Tip Fee	\$ 692,258
Curbside Supplemental	\$ (6,198)	\$ -	\$ (6,198)	1.00	\$ (6,198)
Recycling Processing Costs	\$ 106,968	\$ -	\$ 106,968	Tons*Tip Fee	\$ 114,363
Residue Processing Costs	\$ 30,419	\$ -	\$ 30,419	Tons*Tip Fee	\$ 37,234
Yard Trimmings Processing Costs	\$ 63,067	\$ -	\$ 63,067	Tons*Tip Fee	\$ 56,111
Food Waste Processing Costs	\$ 11,080	\$ -	\$ 11,080	Tons*Tip Fee	\$ 16,512
C&D Processing Costs	\$ -	\$ -	\$ -	Tons*Tip Fee	\$ 742
Interest Expense	\$ 61,322	\$ 4,190	\$ 65,512	N.A.	\$ 65,512
Direct Lease Costs	\$ -	\$ -	\$ -	N.A.	\$ -
Total Allocated Costs - Lease	\$ 50,221	\$ -	\$ 50,221	N.A.	\$ 50,221
Total Pass-Through Costs	\$ 962,914	\$ 4,190	\$ 967,104	N.A.	\$ 1,026,756
Total Costs before Agency Fees	\$ 3,097,888	\$ 189,055	\$ 3,286,942	N.A.	\$ 3,409,909
Agency Fees/Payments					
Franchise Fee	\$ 368,285	\$ 22,242	\$ 390,527	10.00%	\$ 395,125
AB 939 Fee	\$ -	\$ -	\$ -	N.A.	\$ -
Vehicle Impact Fee	\$ 184,142	\$ 11,121	\$ 195,263	5.00%	\$ 197,562
Rate Application Review Costs	\$ 33,343	\$ -	\$ 33,343	Actual	\$ 37,880
Other Adjustments (as needed from time to time)					
Use of Reserves				N.A.	\$ (89,227)
Surplus Credit Review				N.A.	\$ 29,910
Adjustment from MRWMD Tip Fee Estimates	\$ (808)				
Total Calculated Costs	\$ 3,682,850	\$ 222,417	\$ 3,905,267		\$ 3,981,158
Prior Year Revenue					\$ 3,861,304
Surplus/(Shortfall)					\$ (119,854)
Increase/Decrease					3.10%

Mr. Brian McMinn
May 12, 2022
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Review of GWR Costs

There are four major components to GWR's rate application: 1) calculation and application of the inflationary indexes as prescribed in the Agreement; 2) the disposal and/or processing component; 3) the Agency Fees; and, 4) other one-time adjustments.

There are three indexes used in the index adjustment; CPI, fuel index, and labor index. The annual percent change in each of the indices is used to calculate the coming years projected cost for the line items to which these indexes are applied.

HF&H has reviewed and GWR has confirmed the accuracy of each of these indexes, and notes that the fuel index remains unchanged, as reported by management staff at the District.

Review of Disposal/Processing Component

Calendar Year 2021 collected tons were used for the RP8 review in accordance with the amendment. The disposal and processing components also consider the tipping fees charged by the District in order to project anticipated disposal and processing costs at the District. The following table describes the changes in the City's disposal and processing costs for each material type based on the tip fees at the District which have been incorporated into our RP8 review.

Figure 2 - Impact of District Tip Fee Changes

Material	2021 Tons	Current Per Ton Tip Fee	Rate Period 8 Costs
	A	B	A x B
Solid Waste	9,889	\$ 70.00	\$ 692,258
Recycling	2,660	\$ 43.00	\$ 114,363
Yard Trimmings	1,247	\$ 45.00	\$ 56,111
Food Waste	271	\$ 61.00	\$ 16,512
C&D*	11	\$ 70.00	\$ 742

**The C&D per ton tip fee reflects an average weighted cost for multiple types of C&D materials.*

Review of Fee Component

HF&H ensured that the fee component of each rate matches the contractual percentage of 10% for franchise fees, and 5% for vehicle impact fees, remitted to the City by GWR.

Additionally, rate application review costs and other identified District costs totaling \$37,880 were added as a one-time adjustment to cover the rate review, franchise management, and other identified District costs such as staff time and public education and outreach.

Mr. Brian McMinn
May 12, 2022
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Review of Other One-Time Adjustments

There was no change in actual tip fee from RP6 to RP7. Therefore, no reconciliation of actual tip fee amounts is required in RP8.

City staff is in the process of reviewing a potential refund of its customers from the surplus revenue generated in RP5 and RP6. To perform this analysis, the City has contracted HF&H to review customer subscription data from GWR to calculate the appropriate credit to customers. The cost of this review, \$29,910 will be funded through the rates and is included in RP8 rate setting.

Rate Changes

Rate Smoothing

Upon completion of the review of the index-based rate adjustment, HF&H identified the surplus from prior years could be used to offset or smooth rates. As such HF&H discussed with City staff how best to use the funds in RP8. Ultimately it was recommended to use half of the RP7 surplus of \$178,454 to smooth rates in RP8. With this direction, \$89,227 of reserves was used to reduce the RP8 rate increase of 5.82% to 3.10%.

Senior Discount Rates

In prior years, City Council has requested that analysis be performed to determine what the impact of rates may be should the "Senior Rate" class be expanded. This year, at the direction of City staff, HF&H estimated the impact of a discounted rate for all senior citizens, age 65 and older. Per previous discussions with GWR, the discounted rate would only be provided for 32-gallon container service. Our analysis modeled the effects of the discount at either a 20% rate reduction, aligning with the CARE program, or a 50% rate reduction. To provide the discounted rate, the other classes would have an additional rate increase above the index rate adjustment to subsidize the loss of revenue from the migration to discounted service.

HF&H pulled population data from the United States Census Bureau for the City of Marina to estimate the percentage of the population eligible for the senior discount (+65 years old) of 13.8%. Using the City's quarterly reports provided by GWR, HF&H applied the senior population percentage across the residential cart subscription levels to estimate the maximum number of customers that could migrate from standard to discounted service. By calculating the difference from the standard to the discounted rates, multiplied by the number of eligible customers, HF&H was able to estimate the additional revenue required for the subsidy of these discounted rates.

For a 20% senior discount, an additional \$52,311 (a 1.35% additional rate increase) would need to be subsidized by the other rate classes. For a 50% senior discount, an additional \$92,145 (a 2.39% additional rate increase) would be subsidized by the other rate classes. Refer to Figure 3 below for a comparison of both methodologies for consideration by City staff.

Mr. Brian McMinn

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Figure 3 – Estimated Impact of Senior Discount Rates

Rate Class	Customer Migration Count*	Current Rate	Proposed Discounted Rate CARE - 20% of 32 Gallon	Revenue Shortfall	Proposed Discounted Rate 50% of 32 Gallon	Revenue Shortfall
32 Gallon	249	\$ 16.54	\$ 13.23	\$ (9,884)	\$ 8.27	\$ (24,711)
65 Gallon	284	\$ 20.74	\$ 13.23	\$ (25,587)	\$ 8.27	\$ (42,498)
95 Gallon	136	\$ 23.55	\$ 13.23	\$ (16,839)	\$ 8.27	\$ (24,937)
				\$ (52,311)		\$ (92,145)
Prior Year Revenue				\$ 3,861,304		\$ 3,861,304
Rate Increase Required Above Index Increase (5.82%)				1.35%		2.39%

*Based on United State Census Bureau estimate of +65 years old population in City of Marina of 13.8% multiplied by current subscription levels per the City of Marina's quarterly report.

* * * * *

We would like to express our appreciation to GWR staff for their assistance and cooperation in this process. Should you have any questions, please call me at 925/977-6959 or rchilton@hfh-consultants.com.

Very truly yours,
HF&H CONSULTANTS, LLC



Rob Hilton
President

Attachment B
City of Marina Rates Effective July 2022

Residential Solid Waste Collection Rates			
Service Level	Solid Waste	Recycling	Organics
Curbside 32 Gallon	\$17.05	Included	Included
Curbside 64 Gallon	\$21.38	Included	Included
Curbside 96 Gallon	\$24.29	Included	Included
Low Income	\$14.62	Included	Included
Senior	\$8.61	Included	Included
Notes: See Exhibit B1 for specific service availability			

Commercial/Multi-Family Solid Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gallon Cart	\$18.39	\$37.51	\$56.28	\$75.03	\$93.79	\$112.54
64-Gallon Cart	\$35.27	\$71.94	\$107.91	\$143.88	\$179.86	\$215.82
96-Gallon Cart	\$45.46	\$92.73	\$139.09	\$185.45	\$231.82	\$278.18
1-Cubic Yard Bin	\$98.58	\$201.11	\$301.67	\$402.22	\$502.78	\$603.32
2-Cubic Yard Bin	\$196.14	\$400.12	\$600.18	\$807.61	\$1,000.31	\$1,200.37
3-Cubic Yard Bin	\$294.62	\$601.02	\$901.54	\$1,202.04	\$1,502.56	\$1,803.07
4-Cubic Yard Bin	\$392.72	\$801.16	\$1,201.75	\$1,602.33	\$2,002.91	\$2,403.49
6-Cubic Yard Bin	\$463.95	\$946.46	\$1,419.69	\$1,892.92	\$2,366.15	\$2,839.37
8-Cubic Yard Bin	\$618.62	\$1,261.99	\$1,892.99	\$2,524.00	\$3,155.00	\$3,785.99
2-Cubic Yard Compactor	\$239.17	\$486.17	\$729.26	n/a	n/a	n/a
3-Cubic Yard Compactor	\$359.15	\$730.10	\$1,095.15	n/a	n/a	n/a
4-Cubic Yard Compactor	\$478.78	\$973.27	\$1,459.89	n/a	n/a	n/a

Commercial/Multi-Family Recycling Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
64-Gallon Cart	\$5.29	\$6.82	\$13.91	\$20.87	\$27.81	\$32.37
96-Gallon Cart	\$6.82	\$13.91	\$20.87	\$27.81	\$34.77	\$41.72
1-Cubic Yard Bin	\$14.78	\$30.16	\$45.25	\$60.34	\$75.41	\$90.50
2-Cubic Yard Bin	\$29.42	\$60.02	\$90.03	\$121.14	\$150.04	\$180.05
3-Cubic Yard Bin	\$44.19	\$90.15	\$135.24	\$180.31	\$225.38	\$270.46
4-Cubic Yard Bin	\$58.91	\$120.17	\$180.26	\$240.35	\$300.43	\$360.53
6-Cubic Yard Bin	\$69.60	\$141.97	\$212.95	\$283.94	\$354.92	\$425.91
8-Cubic Yard Bin	\$92.79	\$189.30	\$283.95	\$378.60	\$473.25	\$567.90
2-Cubic Yard Compactor	\$23.81	\$48.81	\$73.21	n/a	n/a	n/a
3-Cubic Yard Compactor	\$35.78	\$73.33	\$110.00	n/a	n/a	n/a
4-Cubic Yard Compactor	\$47.69	\$97.74	\$146.62	n/a	n/a	n/a

Commercial/Multi-Family Food Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
64-Gallon Cart	\$26.45	\$53.95	\$80.94	\$107.91	\$134.89	\$161.86
96-Gallon Cart	\$34.09	\$69.55	\$104.32	\$139.09	\$173.87	\$208.63
1-Cubic Yard Bin	\$73.93	\$150.83	\$226.25	\$301.67	\$377.08	\$452.49
2-Cubic Yard Bin	\$147.10	\$300.10	\$450.14	\$605.70	\$750.23	\$900.28

Attachment B
City of Marina Rates Effective July 2022

Commercial/Multi-Family Yard Trimmings Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
64-Gallon Cart	\$26.45	\$53.95	\$80.94	\$107.91	\$134.89	\$161.86
96-Gallon Cart	\$34.09	\$69.55	\$104.32	\$139.09	\$173.87	\$208.63
1-Cubic Yard Bin	\$73.93	\$150.83	\$226.25	\$301.67	\$377.08	\$452.49
2-Cubic Yard Bin	\$147.10	\$300.10	\$450.14	\$605.70	\$750.23	\$900.28
3-Cubic Yard Bin	\$220.96	\$450.77	\$676.15	\$901.53	\$1,126.92	\$1,352.31
4-Cubic Yard Bin	\$294.54	\$600.87	\$901.31	\$1,201.75	\$1,502.19	\$1,802.62
6-Cubic Yard Bin	\$347.96	\$709.85	\$1,064.77	\$1,419.69	\$1,774.61	\$2,129.53
8-Cubic Yard Bin	\$463.97	\$946.50	\$1,419.74	\$1,893.00	\$2,366.25	\$2,839.50

Roll-Off Collection Rates (Per Pull)					
	Material				
Service Level	MSW	REC	FW	YT	C&D
10 YD	\$295.86	\$221.61	\$221.61	\$221.61	\$295.86
20 YD	\$426.29	\$221.61	\$221.61	\$221.61	\$426.29
30 YD	\$556.73	\$221.61	\$221.61	\$221.61	\$556.73
40 YD	\$687.17	\$221.61	\$221.61	\$221.61	\$687.17
Per Ton	\$77.78	\$47.78	\$67.78	\$50.00	\$77.78

Additional Service Rates		
Service	Sector	Charge Per Event
Cart Rental - All Sizes	RES	\$3.38
Cart Replacement	RES	\$67.53
Re-Delivery or Re-Start	RES	\$28.14
Cart Cleaning	RES	\$28.14
Non-Scheduled Collection	RES	\$21.39
Difficult to Service Cart	COM	\$1.13
Difficult to Service Bin	COM	\$3.38
Locking Bin	COM	\$56.28
Cart Replacement	COM	\$67.53
Cart Cleaning	COM	\$28.14
Bin Swap- Cleaning or Repainting	COM	\$84.42
Bulky - Recyclable	RES/COM	\$22.51
Bulky - Non Recyclable	RES/COM	\$28.14
Bulky - Event	RES/MFD	\$33.77
Covered Box	RO	\$84.42
Driver Time per Hour	RO	\$123.81
Dry Run or Relocation	RO	\$84.42
Extra Days	RO	\$28.14

*Note: All rates charged monthly unless stated otherwise

May 12, 2022

Item No. **11b**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-, APPROVING A CONSULTING SERVICES AGREEMENT BETWEEN HF&H CONSULTANTS, LLC AND THE CITY OF MARINA TO PERFORM AN ANALYSIS OF AN EQUITABLE METHOD OF CREDITING SURPLUS SOLID WASTE COLLECTION FEES BACK TO RATE PAYERS FOR A FEE NOT TO EXCEED \$29,910; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY; AND AUTHORIZING THE FINANCE DIRECTOR TO MAKE THE NECESSARY BUDGETARY AND ACCOUNTING ENTRIES.

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2022- approving a Consulting Services Agreement between HF&H Consultants, LLC (HF&H) and the City of Marina to perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers for a fee not to exceed \$29,910, and;
2. Authorizing the City Manager to execute the agreement (**EXHIBIT A**) on behalf of the City subject to final review and approval by the City Attorney, and;
3. Authorizing the Finance Director to make the necessary budgetary and accounting entries.

BACKGROUND:

On August 19, 2014, the City Council adopted Resolution No. 2014-98, and entered into a new exclusive 15 year Franchise Agreement with Green Waste Recovery (GRW) to provide solid waste, recycling, and organics collection services for the City of Marina. The Agreement provides for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology.

The cost-based adjustment involves an extensive and detailed review of GWR's actual cost of operations, changes in inflation, the number of customers, and the service level provided and comparing this to actual gross receipts collected to determine GWR's compensation for the current rate period and to forecast the future rates. A cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GWR compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7. As a result of the surpluses, rates for marina customers have been fixed at the rates set in 2018.

ANALYSIS:

At the September 15th, 2020 meeting, City Council asked staff to analyze an equitable method of returning the surplus from rate periods 5 and 6 to the rate-payers that paid into the surplus. Staff requested a proposal from HF&H (**EXHIBIT B**) to analyze historical customer data which has been provided by GWR. If approved, the analysis will be performed over the next few weeks and staff will return to City Council with recommendations.

FISCAL IMPACT:

The cost of performing an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers will be reimbursed by rate payers through the annual rate setting process established by the franchise agreement.

CONCLUSION:

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

Respectfully submitted,

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

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

RESOLUTION NO. 2022-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING A CONSULTING SERVICES AGREEMENT BETWEEN HF&H CONSULTANTS, LLC AND THE CITY OF MARINA TO PERFORM AN ANALYSIS OF AN EQUITABLE METHOD OF CREDITING SURPLUS SOLID WASTE COLLECTION FEES BACK TO RATE PAYERS FOR A FEE NOT TO EXCEED \$29,910; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY; AND AUTHORIZING THE FINANCE DIRECTOR TO MAKE THE NECESSARY BUDGETARY AND ACCOUNTING ENTRIES.

WHEREAS, the City of Marina entered into a franchise agreement with GreenWaste Recovery, Inc. (GWR) on August 19, 2014 for solid waste, recycling, and organics collection services for the period of August 1, 2015 through July 31, 2030, and;

WHEREAS, Section 8.2 of the Franchise Agreement provides for automatic annual rate adjustments for GWR's services calculated following either a multi-index rate adjustment methodology or a cost-based rate adjustment methodology, and;

WHEREAS, a cost-based rate adjustment was performed for rate period 5 in 2019. Adjustments to the GWR compensation resulted in rate-payer surpluses of \$540,298 in rate period 5, \$258,203 in rate period 6, and \$175,891 in rate period 7, and;

WHEREAS, At the September 15th, 2020 meeting, City Council asked staff to analyze an equitable method of returning the surplus from rate periods 5 and 6 to the rate-payers that paid into the surplus. Staff requested a proposal from HF&H (**Exhibit B**) to analyze historical customer data which has been provided by GWR, and;

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

1. Approves a Consulting Services Agreement (**Exhibit A**) between HF&H Consultants, LLC and the City of Marina to perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers for a fee not to exceed \$29,910, and;
2. Authorizes the City Manager to execute the agreement on behalf of the City subject to final review and approval by the City Attorney, and;
3. Authorizes the Finance Director to make the necessary budgetary and accounting entries.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June 2022, 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

**CITY OF MARINA
AGREEMENT FOR PROFESSIONAL SERVICES FOR THE ANALYSIS OF AN
EQUITABLE METHOD OF CREDITING SURPLUS SOLID WASTE
COLLECTION FEES BACK TO RATE PAYERS**

THIS AGREEMENT is made and entered into on May ____, 2022, by and between the City of Marina, a California charter city, hereinafter referred to as the "City," and HF&H Consultants, LLC, a California corporation, hereinafter referred to as the "Contractor." City and Contractor are sometimes individually referred to as "party" and collectively as "parties" in this Agreement.

Recitals

- A. City desires to retain Contractor for perform an analysis of an equitable method of crediting surplus solid waste collection fees back to rate payers for rate periods 5 and 6 of the existing franchise agreement between the City of Marina and Green Waste Recovery, Inc. – Contractor shall provide services pertaining to the City study and shall perform support services for City as determined by the Public Works Director.
- B. Contractor represents and warrants that it has the qualifications, experience and personnel necessary to properly perform the services as set forth herein.
- C. City desires to retain Contractor to provide such services.

Terms and Conditions

For of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises contained herein, City and Contractor agree to the following terms and conditions:

1. Scope of Work.

(a) Contractor is hereby hired and retained by the City to work in a cooperative manner with the City to fully and adequately perform those services set forth in Exhibit “A” attached hereto (“Scope of Work”) and by this reference made a part hereof. With prior written notice to Contractor, City may elect to delete certain tasks of the Scope of Work at its sole discretion.

(b) Contractor shall perform all such work with skill and diligence and pursuant to generally accepted standards of practice in effect at the time of performance. Contractor shall provide corrective services without charge to the City for work which fails to meet these standards and which is reported to Contractor in writing within sixty days of discovery. Should Contractor fail or refuse to perform promptly its obligations under this Agreement, the City may render or undertake the performance thereof and the Contractor shall be liable for any expenses thereby incurred.

(c) If services under this Agreement are to be performed by a design professional, as that term is defined in California Civil Code §2782.8(b)(2), design professional certifies that all design professional services shall be provided by a person or persons duly licensed by the State of California to provide the type of services described in Section 1(a). By delivery of completed

work, design professional certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws, and the professional standard of care in California.

(d) Contractor is responsible for making an independent evaluation and judgment of all relevant conditions affecting performance of the work, including without limitation site conditions, existing facilities, seismic, geologic, soils, hydrologic, geographic, climatic conditions, applicable federal, state and local laws and regulations and all other contingencies or considerations.

(e) City shall cooperate with Contractor and will furnish all information data, records and reports existing and available to City to enable Contractor to carry out work outlined in Exhibit "A." Contractor shall be entitled to reasonably rely on information, data, records and reports furnished by the City, however, the City makes no warranty as to the accuracy or completeness of any such information, data, records or reports available to it and provided to Contractor which were furnished to the City by a third party. Contractor shall have a duty to bring to the City's attention any deficiency or error it may discover in any information provided to the Contractor by the City or a third party.

2. Term of Agreement & Commencement of Work.

(a) Unless otherwise provided, the term of this Agreement shall begin on the date of its full execution and shall expire on December 31, 2022, unless extended by amendment or terminated earlier as provided herein. The date of full execution is defined as the date when all of the following events have occurred:

(i) This Agreement has been approved by the City's Council or by the board, officer or employee authorized to give such approval, and;

(ii) The office of the City Attorney has indicated in writing its approval of this Agreement as to form, and;

(iii) This Agreement has been signed on behalf of Contractor by the person or persons authorized to bind the Contractor hereto, and;

(iv) This Agreement has been signed on behalf of the City by the person designated to so sign by the City's Council or by the officer or employee authorized to enter into this Contract and is attested to by the Marina City Clerk.

(b) Contractor shall commence work on the Project on or by June 1, 2022. This Agreement may be extended upon written agreement of both parties. Contractor may be required to prepare a written schedule for the work to be performed, which schedule shall be approved by the City and made a part of Exhibit A, and to perform the work in accordance with the approved schedule.

3. Compensation.

(a) City liability for compensation to Contractor under this Agreement shall only be to the extent of the present appropriation to fund this Agreement. For services to be provided under this Agreement City shall compensate Contractor in an amount not to exceed twenty-nine thousand nine hundred and ten dollars (\$29,910) in accordance with the provisions of this Section and the Cost Estimate attached hereto as Exhibit B and incorporated herein by this reference

(b) Invoice(s) in a format and on a schedule acceptable to the City shall be submitted to and be reviewed and verified by the Project Administrator (see Section 5(a)) and forwarded to the City's Finance Department for payment. City shall notify Contractor of exceptions or disputed items and their dollar value within fifteen days of receipt. Payment of the undisputed amount of the invoice will typically be made approximately thirty days after the invoice is submitted to the Finance Department.

(c) Contractor will maintain clearly identifiable, complete and accurate records with respect to all costs incurred under this Agreement on an industry recognized accounting basis. Contractor shall make available to the representative of City all such books and records related to this Agreement, and the right to examine, copy and audit the same during regular business hours upon 24-hour's notice for a period of four years from the date of final payment under this Agreement.

(d) Contractor shall not receive any compensation for Extra Work without the prior written authorization of City. As used herein, "Extra Work" means any work that is determined by the City to be necessary for the proper completion of the Project but which is not included within the Scope of Work and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement.

(e) Expenses not otherwise addressed in the Scope of Services or the Fee Schedule incurred by Contractor in performing services under this Agreement shall be reviewed and approved in advance by the Project Administrator (Section 5(a)) and reimbursed to Contractor.

4. Termination or Suspension.

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten days written notice of intent to terminate, and (2) provided an opportunity for consultation with the terminating party prior to termination.

(b) If termination for default is effected by the City, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the Contractor at the time of termination may be adjusted to cover any additional costs to the City because of the Contractor's default. If after the termination for failure of Contractor to fulfill its contractual obligations, it is determined that the Contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the City.

(c) The City may terminate or suspend this Agreement at any time for its convenience upon not less than thirty days prior written notice to Contractor. Not later than the effective date of such termination or suspension, Contractor shall discontinue all affected work and deliver all work product and other documents, whether completed or in progress, to the City.

(d) If termination for default is effected by the Contractor or if termination for convenience is effected by the City, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in

addition to termination settlement costs reasonably incurred by Contractor relating to written commitments that were executed prior to the termination.

5. Project Administrator, Project Manager & Key Personnel.

(a) City designates as its Project Administrator Public Works Director Mr. Brian McMinn who shall have the authority to act for the City under this Agreement. The Project Administrator or his/her authorized representative shall represent the City in all matters pertaining to the work to be performed pursuant to this Agreement.

(b) Contractor designates _____, as its Project Manager who shall coordinate all phases of the Project. The Project manager shall be available to City at all reasonable times during the Agreement term.

(c) Contractor warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement. Contractor, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of services upon written request of City. Contractor has represented to City that certain key personnel will perform and coordinate the work under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of the City. In the event that City and Contractor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: _____

6. Delegation of Work.

(a) If Contractor utilizes any subcontractors, consultants, persons, employees or firms having applicable expertise to assist Contractor in performing the services under this Agreement, Contractor shall obtain City's prior written approval to such employment. Contractor's contract with any subcontractor shall contain a provision making the subcontract subject to all provisions of this Agreement. Contractor will be fully responsible and liable for the administration, completion, presentation and quality of all work performed. City reserves its right to employ other contractors in connection with this Project.

(b) If the work hereunder is performed by a design professional, design professional shall be directly involved with performing the work or shall work through his, her or its employees. The design professional's responsibilities under this Agreement shall not be delegated. The design professional shall be responsible to the City for acts, errors or omissions of his, her or its subcontractors. Negligence of subcontractors or agents retained by the design professional is conclusively deemed to be the negligence of the design professional if not adequately corrected by the design professional. Use of the term subcontractor in any other provision of this Agreement shall not be construed to imply authorization for a design professional to use subcontractors for performance of any professional service under this Agreement.

(c) The City is an intended beneficiary of any work performed by a subcontractor for purposes of establishing a duty of care between the subcontractor and the City.

7. Skill of Employees. Contractor shall ensure that any employees or agents providing services under this Agreement possess the requisite skill, training and experience to properly perform such services.

8. Confidential and Proprietary Information. In the course of performing services under this Agreement Contractor may obtain, receive, and review confidential or proprietary documents, information or materials that are and shall remain the exclusive property of the City. Should Contractor undertake the work on behalf of other agencies, entities, firms or persons relating to the matters described in the Scope of Work, it is expressly agreed by Contractor that any such confidential or proprietary information or materials shall not be provided or disclosed in any manner to any of Contractor's other clients, or to any other third party, without the City's prior express written consent.

9. Ownership of Data. Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by Contractor, or any subcontractor of any tier, under this Agreement shall be and remain the property of the City for its use in any manner it deems appropriate. Contractor agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City. Contractor shall provide two (2) sets of reproducible of the above-cited items, except for the computer data files which shall consist of one (1) set. Contractor shall use all reasonable efforts to ensure that any electronic files provided to the City will be compatible with the City's computer hardware and software. Contractor makes no representation as to long-term compatibility, usability or readability of the format resulting from the use of software application packages, operating systems or computer hardware differing from those in use by the City at the commencement of this Agreement. Contractor shall be permitted to maintain copies of all such data for its files. City acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work and, should City use these products or data in connection with additions to the work required under this Agreement or for new work without consultation with and without additional compensation to Contractor, Contractor makes no representation as to the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Work and shall have no liability or responsibility whatsoever in connection with such use which shall be at the City's sole risk. Any and all liability arising out of changes made by the City to Contractor's deliverables is waived against Contractor unless City has given Contractor prior written notice of the changes and has received Contractor's written consent to such changes.

10. Conflict of Interest.

(a) Contractor covenants that neither it, nor any officer or principal of its firm has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of the City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of the City in the performance of this Agreement. Contractor shall represent the interest of the City in any discussion or negotiation.

(b) City understands and acknowledges that Contractor may be, as of the date of commencement of services under this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Contractor is unaware of any stated position of the City relative to such projects. Any future position of the City on such projects may result in a conflict of interest for purposes of this section.

(c) No official or employee of the City who is authorized in such capacity on behalf of the City to negotiate, make, accept, or approve, or take part in negotiating, making accepting or approving this Agreement, during the term of his or her tenure or service with City and for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof or obtain any present or anticipated material benefit arising there from.

11. Disclosure. Contractor may be subject to the appropriate disclosure requirements of the California Fair Political Practices Act, as determined by the City Manager.

12. Non-Discrimination.

(a) During the performance of this Agreement the Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California and the City. In performing this Agreement, Contractor shall not discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (including cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. Contractor shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

(b) Contractor shall include the nondiscrimination and compliance provisions of this Section in all subcontracts.

13. Indemnification & Hold Harmless.

(a) Other than in the performance of professional services by a design professional, which shall be solely as addressed by subsection (b) below, and to the full extent permitted by law, Contractor shall indemnify, defend (with independent counsel reasonably acceptable to the City) and hold harmless City, its Council, boards, commissions, employees, officials and agents ("Indemnified Parties" or in the singular "Indemnified Party") from and against any claims, losses, damages, penalties, fines and judgments, associated investigation and administrative expenses, and defense costs including but not limited to reasonable attorney's fees, court costs, expert witness fees and costs of alternate dispute resolution (collectively "Liabilities"), where same arise out of the performance of this Agreement by Contractor, its officers, employees, agents and sub-contractors. The Contractor's obligation to indemnify applies unless it is adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

(b) To the fullest extent permitted by law (including without limitation California Civil Code Sections 2782.8), when the services to be provided under this Agreement are design professional services to be performed by a design professional, as that term is defined under said section 2782.8, Contractor shall indemnify, protect, defend (with independent counsel reasonably acceptable to the City) and hold harmless City and any Indemnified Party for all Liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of design professional, or the acts or omissions of an officer, employee, agent or subcontractor of the design professional. The design professional's obligation to indemnify applies unless it is adjudicated that the liability was caused by the sole active

negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability was caused by the comparative active negligence or willful misconduct of an indemnified party the design professional's indemnification obligation shall be reduced in proportion to the established comparative liability.

(c) All obligations under this section are to be paid by Contractor as incurred by City. The provisions of this Section are not limited by the provisions of sections relating to insurance including provisions of any worker's compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub tier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

(d) If any action or proceeding is brought against any Indemnified Party by reason of any of the matters against which the Contractor has agreed to defend the Indemnified Party, as provided above, Contractor, upon notice from the City, shall defend any Indemnified Party at Contractor's expense by counsel reasonably acceptable to the City. An Indemnified Party need not have first paid for any of the matters to which it is entitled to indemnification in order to be so defended. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the City for reimbursement of reasonable attorney's fees and defense costs.

(e) This obligation to indemnify and defend City, as set forth herein, is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this Section.

14. Insurance.

(a) As a condition precedent to the effectiveness of this Agreement and without limiting Contractor's indemnification of the City, Contractor agrees to obtain and maintain in full force and effect at its own expense the insurance policies set forth in Exhibit "C" "Insurance" attached hereto and made a part hereof. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf, along with copies of all required endorsements. All certificates and endorsements must be received and approved by the City before any work commences. All insurance policies shall be subject to approval by the City Attorney and Risk Manager as to form and content. Specifically, such insurance shall: (1) protect City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium; and (3) be primary with respect to City's insurance program. Contractor's insurance is not expected to respond to claims that may arise from the acts or omissions of the City.

(b) City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required herein by giving Contractor ninety days advance written notice of such change. If such change should result in substantial additional cost of the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to City.

(c) All required insurance must be submitted and approved the City Attorney and Risk Manager prior to the inception of any operations by Contractor.

(d) The required coverage and limits are subject to availability on the open market at reasonable cost as determined by the City. Non availability or non affordability must be documented by a letter from Contractor's insurance broker or agency indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each. Within the foregoing constraints, Contractor's failure to procure or maintain required insurance during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premium in connection therewith and recover all monies so paid from Contractor.

(e) By signing this Agreement, Contractor hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract. Unless otherwise agreed, a waiver of subrogation in favor of the City is required.

15. Independent Contractor. The parties agree that Contractor, its officers, employees and agents, if any, shall be independent contractors with regard to the providing of services under this Agreement, and that Contractor's employees or agents shall not be considered to be employees or agents of the City for any purpose and will not be entitled to any of the benefits City provides for its employees. City shall make no deductions for payroll taxes or Social Security from amounts due Contractor for work or services provided under this Agreement.

16. Claims for Labor and Materials. Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

17. Discounts. Contractor agrees to offer the City any discount terms that are offered to its best customers for the goods and services to be provided herein, and apply such discounts to payment made under this Agreement which meet the discount terms.

18. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

20. Compliance With Laws.

(b) If the Project is a "public work," or prevailing wages are otherwise required, Contractor shall comply with all provision of California Labor Code section 1720 *et seq.*, as applicable, and laws dealing with prevailing wages, apprentices and hours of work.

21. Assignment or Transfer. This Agreement or any interest herein may not be assigned, hypothecated or transferred, either directly or by operation of law, without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

To City: City Manager
City of Marina City Hall
211 Hillcrest Avenue
Marina, California 93933
Fax: (831) 384-9148

To Contractor:

Fax (____) ____ - ____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three days after deposit in the custody of the U.S. Postal Service. A copy of any notice sent as provided herein shall also be delivered to the Project Administrator and Project Manager.

23. **Amendments, Changes or Modifications.** This Agreement is not subject to amendment, change or modification except by a writing signed by the authorized representatives of City and Contractor.

24. **Force Majeure.** Notwithstanding any other provisions hereof, neither Contractor nor City shall be held responsible or liable for failure to meet their respective obligations under this Agreement if such failure shall be due to causes beyond Contractor's or the City's control. Such causes include but are not limited to: strike, fire, flood, civil disorder, act of God or of the public enemy, act of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemic, quarantine restriction, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

25. **Attorney's Fees.** In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

26. **Successors and Assigns.** All of the terms, conditions and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this paragraph is intended to affect the limitation on assignment.

27. **Authority to Enter Agreement.** Contractor has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.

28. **Waiver.** A waiver of a default of any term of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

29. **Severability.** Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

30. **Construction, References, Captions.** Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not workdays. The captions of the various sections are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement.

31. **Advice of Counsel.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of this Agreement.

32. **Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

33. **Time.** Time is of the essence in this contract.

34. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters as set forth in this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid. . The exhibits attached hereto are incorporated into this Agreement. In the event of a conflict between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

IN WITNESS WHEREOF, Contractor and the City by their duly authorized representatives, have executed this Agreement, on the date first set forth above, at Marina, California.

CITY OF MARINA

CONTRACTOR

By: _____
Name: Layne P. Long
Its: City Manager
Date: _____

By: _____
Name: _____
Its: _____
Date: _____

Approved as to form:

By: _____
City Attorney

EXHIBIT A

SCOPE OF SERVICES

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Exhibit C - Insurance

Contractor agrees to provide insurance in accordance with the requirements set forth herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the City before any work commences. The City reserves its right to require complete, certified copies of all required insurance policies at any time. The following coverage will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

Commercial General Liability (primary). Commercial general liability insurance covering Contractor's operations (and products where applicable) is required whenever the City is at risk of third party claims which may arise out of Contractor's work or presence on City premises. Contractual liability coverage is a required inclusion in this insurance.

Primary insurance shall be provided on ISO-CGL form No. CG 00 01 11 85 or 88 or on an ISO or ACORD form providing coverage at least as broad as ISO form CG 00 01 10 01 and approved in advance by the City Attorney and Risk Manager. Total limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence for all coverages. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be two million dollars (\$2,000,000). Contractor must give written notice to the City of any pending claim, action or lawsuit which has or may diminish the aggregate. If any such claim or lawsuit exists, Contractor shall be required, prior to commencing work under this Agreement, to restore the impaired aggregate or prove it has replacement insurance protection to the satisfaction of the City Attorney and Risk Manager.

City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds using ISO additional insured endorsement form CG 20 10 11 85 or forms CG 20 10 10 01 and CG 20 37 10 01. Coverage shall apply on a primary, non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City. Coverage is not expected to respond to the claims which may arise from the acts or omissions of the City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

Umbrella Liability Insurance. Umbrella liability insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage.

Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policies limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies shall have starting and ending dates concurrent with the underlying coverage.

Business Auto. Automobile liability insurance is required where vehicles are used in performing the work under this Agreement or where vehicles are driven off-road on City premises, it is not required for simple commuting unless City is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

If automobile insurance is required for work under this Agreement, primary coverage shall be written on ISO Business Auto Coverage form CA 00 01 06 92 including symbol 1 (Any Auto) or on an ISO or ACORD form providing coverage at least as broad as CA 00 01 10 01 approved by the City Attorney and Risk Manager. Coverage shall be endorsed to stated that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible. Limits shall be no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

Workers’ Compensation/Employers’ Liability. Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under California law these coverages (or a copy of the State's Consent to Self-Insure) must be provided if Contractor has any employees at any time during the period of this Agreement. Policy(s) shall be written on a policy form providing workers’ compensation statutory benefits as required by law. Employers’ liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease and shall be scheduled under any umbrella policy described above. Unless otherwise agreed, policy(s) shall be endorsed to waive any right of subrogation as respects the City, its Council, boards and commissions, officers, employees, agents and volunteers.

Property Insurance. Property insurance, in a form and amount approved by the City Attorney and Risk Manager, is required for Contractors having exclusive use of premises or equipment owned or controlled by the City. City is to be named a Loss Payee As Its Interest May Appear in property insurance in which the City has an interest, e.g., as a lien holder. Fire damage legal liability is required for persons occupying a portion of City premises.

C-2

Errors and Omissions/Professional Liability. Errors and Omissions or professional liability coverage appropriate to Contractor's profession, in a form and amount approved by the City Attorney and Risk Manager, will be specified on a project-by-project basis if Contractor is working as a licensed professional. Contractor shall maintain such insurance for a period of five years following completion of the project. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) per claim and in annual aggregate. Design professionals shall maintain such insurance in place until the expiration of the warranty period of the Project.

Contractor and City further agree as follows:

a) This Exhibit supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

b) Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

d) Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

e) For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or toward performance of this Agreement.

f) All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, Contractor's employees, or agents from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.

g) Unless otherwise approved by City, Contractor's insurance shall be written by insurers authorized and admitted to do business in the State of California with a minimum "Best's" Insurance Guide Rating of "A:VII." Self-insurance will not be considered to comply with these insurance specifications.

h) In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

i) Contractor agrees to provide evidence of the insurance required herein, satisfactory to City Attorney and Risk Manager, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional endorsement to Contractor's general liability and umbrella liability policies using ISO form CG 20 10 11 85. Certificate(s) are to reflect that the insurer will provide at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City within ten days of City's request for said copies.

j) Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Contractor agrees to require all subcontractors or other parties hired for this Project to provide workers' compensation insurance as required herein and general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City, will be submitted to City for review. Contractor acknowledges that such contracts or agreements may require modification if the insurance requirements do not reflect the requirements herein. Failure of City to request copies of such agreements will not impose any liability on City, its Council, boards and commissions, officers, employees, agents and volunteers.

m) If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

n) Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

o) Coverage will not be limited to the specific location or individual entity designated as the address of the Project. Contractor agrees to have its coverage endorsed so that all coverage limits required pursuant to this requirement are available separately for each and every location at which Contractor conducts operations of any type on behalf of City. Contractor warrants that these limits will not be reduced or exhausted except for losses attributable to those specific locations and not by losses attributable to any other operations of Contractor.

p) Contractor agrees not to attempt to avoid its defense and indemnity obligations to City, its Council, boards and commissions, officers, employees, agents and volunteers by using as a defense Contractor's statutory immunity under workers' compensation or similar statutes.

r) Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Contractor and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with City or its employees.

s) Contractor shall maintain commercial general liability, and if necessary, commercial umbrella liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence for at least three years following substantial completion of the work.

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HF&H CONSULTANTS, LLC

Managing Tomorrow's Resources Today

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 Fax: 925/977-6955
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Robert D. Hilton, Emeritus
 John W. Farnkopf, PE
 Laith B. Ezzet, CMC
 Richard J. Simonson, CMC
 Marva M. Sheehan, CPA
 Robert C. Hilton

April 8, 2022

Mr. Brian McMinn, P.E., P.L.S.
 Public Works Director
 211 Hillcrest Ave.
 Marina, CA 93933

Subject: Rate Study of GreenWaste Recovery's Rate Application for Rate Period 8

Dear Mr. McMinn,

HF&H Consultants, LLC (HF&H) is pleased to provide you with this proposal to assist the City of Marina (City) with the analysis and evaluation of potential rate scenarios to be implemented along with new collection rates effective July 1, 2022. This proposal letter provides you with our proposed scope of services and fees.

SCOPE OF SERVICES

HF&H has prepared this scope of services based on the objective of assisting the City in the review of several aspects of the established collection rates and compensation methodology between the City and GreenWaste Recovery (GWR). In particular, HF&H would perform the following tasks.

Task 1 – Review Contractor's Annual Rate Adjustment Application

Starting with the rate application due April 1, 2022 to be effective July 1, 2022, HF&H will receive, review, and report to the City on the accuracy and compliance of the rate application. This task will include verifying contract compliance with regard to: 1) the indices used in the adjustment; 2) the weighting of those indices; 3) the tonnage and tip fees reported for the disposal and processing components of the rates; 4) any changes in governmental fees on the fee component of the rates; and 5) the accurate application of the resultant percentage changes in the various rate components to the rate schedules approved by the City through the franchise agreement. HF&H was involved in negotiating the SB 1383 revisions to costs and services to the franchise agreement and will verify the rate application has included the negotiated costs for services provided by GWR. This will also include any benchmarking and verification of additional SB 1383 costs to verify eligibility of inclusion into the collection rates.

HF&H's effort on this task is reliant on the accurate and complete submittal of the rate application to the agencies. If HF&H determines that the submittal is inaccurate or incomplete, HF&H will stop work, notify GWR and the City of the deficiencies, and will not proceed with work until the deficiencies are remedied. The scope of this task is specific to the use of the index-based adjustment methodology in the agreements

Mr. Brian McMinn
April 8, 2022
Page 2 of 4

and inclusion of negotiated SB 1383 costs. In the event that either the City or GWR requests a cost-based rate adjustment, that effort would be outside the scope of this task.

This task will be completed as part of the contract management services HF&H provides to the City through the MRWMD and is not included in costs within this scope. While this task is not included in the costs of this scope it will serve as the foundation for the calculations performed in Tasks 2–4 presented herein and will need to be completed before work on Tasks 2-4 can begin.

Task 2 – Analysis of Rate Impacts of Creation of New Customer Class

The City has requested that analysis be performed to understand the overall rate impacts from the potential creation of a new senior residential customer class. This new senior class would potentially offer services at a lower rate than its equivalent service offering to customers not within this class. In doing so the City's rates and rate structure would need to be reevaluated to ensure that the overall revenue requirement due to GWR would be generated, should this new customer class be established.

HF&H will develop a model that uses the City's current subscription and projected annual revenues to evaluate the baseline revenue that needs to be generated to compensate GWR for their services per the franchise agreement. This model will also allow for customers to be transitioned from the current residential class into the senior customer class to review the impact of desired new rate classes on the overall revenue requirement. This will enable HF&H and the City to assess the impact to all customers based on the desired rate at which the new customer class will be charged.

Task 3 – Gather Data and Identify Eligible Customers for Analysis of Credit Disbursement

As a result of the Cost Based Rate Adjustment performed in Rate Period 5, HF&H found that the City's customers had been generating revenue at a greater level than GWR's allowed costs to provide service. At that time the City had elected to create a reserve fund to stabilize future increases in cost as was anticipated by then pending legislation, namely SB 1383. Last year HF&H and the City concluded negotiations regarding additional costs for GWR to provide service to meet compliance with SB 1383, and found that the City still had a balance remaining in this reserve account.

At this time the City has requested analysis be performed to understand how to equitably distribute the remaining surplus that has been accrued over Rate Period 5 and Rate Period 6. In order to do so, we will need account information of GWR's customers during these time periods, along with their service levels and monthly and annual billings for the time period reviewed. This account and billing information will need to be gathered and reviewed for accuracy to ensure that all customers that would be eligible for a potential credit against future bills are accounted for and that the credit amount can be properly calculated.

Mr. Brian McMinn
April 8, 2022
Page 3 of 4

The costs for this task in our fee estimate are reflected as Task 3A, if the City is able to provide this data assuming only minor review and verification will be required, or Task 3B should HF&H need to work with (GWR) to gather and verify the accuracy of this data.

Task 4 –Analysis of Credit Disbursement to Eligible Customers

Based on the information gathered in Task 3, HF&H will establish three separate classes of customers: 1) customers billed only during Rate Period 5; 2) customers billed only during Rate Period 6; and 3) customers billed in both periods. Each of these customer classes will have a different credit amount attributed to them, which will be assessed as a percentage, based on the surplus amount that was generated in Rate Periods 5 and 6. HF&H will plan to identify the amounts these customers are due based on their customer class and subscription levels in July of each Rate Period in order to assess the solid waste service level subscription by customer during each rate period. This analysis does not anticipate reviewing changes to subscription levels for each of the months during these rate periods but instead uses a year over year subscription approach to perform our analysis. Tracking each customer's total subscription service and billings over a 24-month period would require a far more substantial amount of time and cost to gain what would likely be only a minor change to the results of the approach HF&H proposes within this scope.

Task 5 –Presentation of Findings

HF&H will document the results of Tasks 2 and 4 in a report to the City. Prior to preparing the report, we will discuss and seek agreement with the City on the format, level of detail, and an overall outline for the content to be presented. HF&H will then prepare a draft report documenting the process and results of the scope listed above. The draft report will be submitted to the City for review and comment. If needed, we will meet with City staff to discuss the report and receive comments and questions. Based on the City's input, HF&H will produce a revised draft report. The revised draft will be submitted to GWR for review and comment. HF&H and the City will discuss the feedback received by GWR and agree upon any changes to the final report based on this input.

This task includes preparation of materials for a virtual presentation to City Council to discuss the results of Tasks 2 and 4. Should attendance at additional Council meetings be requested, or in person attendance be required, HF&H will provide an additional scope for that support.

LIMITATION TO SCOPE

The purpose of this study is to develop a proposed alternative rate structure and to analyze the drawdown amount of the City's collected service to be potentially distributed as customer credits. We will be using data provided by the City and GWR and will rely on this data as the basis of our analysis. The work performed in this study is different in scope than performing an audit of the GWR or City-provided data.

Mr. Brian McMinn
April 8, 2022
Page 4 of 4

FEE ESTIMATE

Due to the nature of this engagement, we propose to bill the City on a time-and-materials basis at our standard billing rates provided in Attachment A. Our estimated fees for performing this project, as described above, are \$24,835 if Task 3A is selected or \$29,910 if Task 3B is selected. If additional fees are necessary, we will inform the City before proceeding. Also, it is possible that our level of effort may be less than anticipated. If so, we will only bill the City the lesser amount for actual hours spent on the project.

		Executive \$315	PM \$285	Associate \$210	Assistant \$145	Administrative \$120	Total Hours	Proposed Cost
Task 1	Review Rate Application	2	8	12	12	2	36	No Additional
Task 2	Analysis of Rate Impacts	2	4	6	12	0	24	\$ 4,770
Task 3A	Identification of Eligible Customers	1	2	6	6	0	15	\$ 3,015
Task 3B	Identification of Eligible Customers	4	8	12	14	0	38	\$ 8,090
Task 4	Analysis of Credit Amounts	4	16	20	12	0	52	\$ 11,760
Task 5	Presentation of Findings	2	6	6	10	2	26	\$ 5,290
Total Labor - With Task 3A		11	36	50	52	4	153	\$ 24,835
Total Labor - With Task 3B		14	42	56	60	4	176	\$ 29,910

* * * * *

We sincerely appreciate the continued confidence you have expressed in HF&H, and we are committed to do our best to fulfill the City's objectives. If you have any questions or concerns about this proposal, please do not hesitate to contact me directly at (925) 977-6959 or rchilton@hfh-consultants.com.

Very truly yours,
HF&H CONSULTANTS, LLC



Rob Hilton
President

Attachment A: Standard Billing Arrangements and Hourly Rates

ATTACHMENT A: STANDARD HOURLY RATES AND BILLING ARRANGEMENTS

(Effective January 1, 2022)¹

Professional Fees

Hourly rates for professional and administrative personnel are as follows:

<u>Position</u>	<u>Rate</u>
Executive	\$300 - \$315
Senior Project Manager	\$285 - \$295
Project Manager	\$240 - \$250
Senior Associate	\$210 - \$225
Associate Analyst	\$160 - \$170
Assistant Analyst	\$135 - \$150
Administrative Staff	\$110 - \$120

Direct Expenses

Standard charges for common direct expenses are as follows:

Automobile Travel	Prevailing IRS mileage rate
Airfare and Public Transit	Actual Cost

Billing Policies

Our policy is to bill for our services based on the standard hourly rates of the staff member assigned, multiplied by the time required to perform the client-related tasks, plus the direct expenses as described above. In implementing this policy we adhere to the following practices:

- It is our standard practice to e-mail invoices to our clients, although hard copies of invoices can be sent to clients on request.
- We round to the nearest one-quarter hour (e.g., if two hours and 55 minutes are spent on a task, it is recorded as three hours, if two hours and 5 minutes are spent on a task, it is recorded as two hours). A minimum charge of one-quarter hour is charged for any client work performed in a day.
- We do not markup out-of-pocket expenses, however, we may charge administrative or professional time related to the provision of the goods and services associated with these charges.
- If subcontractors are used, HF&H reserves the right to charge a 5% markup should the subcontractor's services require cumbersome administrative oversight (e.g., multiple subcontractors; engagement turns out to solely require services of subcontractor, but HF&H as the prime must prepare billings).

¹ Litigation Support and Expert Witness Services are not covered by this schedule of fees and expenses.

ATTACHMENT A: STANDARD HOURLY RATES AND BILLING ARRANGEMENTS

- Mileage fees are based on the round-trip distance from the point of origin.
- If a client's change to a previously scheduled meeting results in penalties being assessed by a third party (e.g., airline cancellation fee), then the client will bear the cost of these penalties.

While no minimum fee for a consulting engagement has been established, it is unlikely (given the nature of our services) that we can gain an understanding of a client's particular requirement, identify alternatives, and recommend a solution in less than twenty-four consulting hours.

Insurance

We maintain the following policies of insurance with carriers doing business in California:

- Comprehensive General Liability Insurance (\$2,000,000 Occurrence/\$4,000,000 Aggregate)
- Workers' Compensation (\$1,000,000)
- Professional Liability Insurance (\$2,000,000 Occurrence/\$2,000,000 Aggregate)
- Hired and Non-Owned Auto Liability² (\$2,000,000)
- Umbrella Liability (\$3,000,000 Occurrence/\$3,000,000 Aggregate)

All costs incurred in complying with additional coverages or limits (excluding additional insured and waiver of subrogation endorsements) become the responsibility of the client and are not included in the fees for services or direct charges but are billed in addition to the contract at cost, plus any professional or administrative fees.

Invoices and Payment for Services

Our time reporting and billing system has certain standard formats that are designed to provide our clients with a detailed invoice of the time and charges associated with their engagement. (We typically discuss these with our clients at our kick-off meeting.) We are also pleased to provide our clients with a custom invoice format but we will have to bill the client for time spent conforming our invoices to their unique requirements.

Billings for professional services and charges are submitted every month, in order that our clients can more closely monitor our services.

² HF&H Consultants does not own any company automobiles.

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

**THE CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-
AUTHORIZING PURSUIT OF A LEASE AGREEMENT WITH THE
TRANSPORTATION AGENCY OF MONTEREY COUNTY TO LEASE A
PORTION OF THE MONTEREY BRANCH LINE TO BE USED FOR
RECREATIONAL PURPOSES, SELECTING AN OPERATOR FOR THE
MONTEREY BRANCH LINE, AND DETERMINING THE TERM OF
LEASE FOR THE OPERATOR.**

RECOMMENDATION: City Council consider

- (1) Authorizing pursuit of a lease agreement with the Transportation Agency of Monterey County (TAMC) to lease a portion of the Monterey Branch Line to be used for recreational purposes; and,
- (2) Selecting an operator for the Monterey Branch Line and determining the term of lease for the operator.

SUMMARY:

Provides an overview of two unsolicited proposals for temporary recreational use of a portion of the Monterey Branch Line, including a section within Marina City limits.

BACKGROUND:

The Transportation Agency of Monterey County (TAMC) received two unsolicited proposals for temporary use of a portion of the TAMC-owned Monterey Branch Line, including a section within Marina City limits. The TAMC Board of Supervisors directed their staff to pursue leasing a portion of the Monterey Branch Line to the City of Marina, which would ultimately be responsible for performing CEQA analysis for the project and issuing permits to the winning proposal. A lease agreement between TAMC, the City of Marina, and the winning proposal would formalize operation requirements and conditions of approval.

The City Council may reject both proposals or decide to pursue a lease agreement with one of the operators. Due to the nature of each operation and the linear arrangement of the Monterey Branch Line, both operations cannot use the right-of-way in tandem. The staging area for either operation would be located in the City of Marina near the intersection of Del Monte Boulevard and Palm Avenue, and the City will take the lead in determining what conditions of approval should apply to a permitted temporary use.

Planning staff have analyzed proposals from the Museum of Handcar Technology (received April 12, 2022) and Mendocino Railway (received April 20, 2022) for completeness, intensity of proposed uses, types of improvements proposed at the staging area, and impacts to surrounding land uses, including residential uses. Either use presents challenges, and a design review committee (DRC) was assembled to review and provide input on each proposal. DRC comments are included in **EXHIBIT A**. An analysis of each proposal is included below.

Museum of Handcar Technology

The proposal consists of human-powered push handcars operating on a 4-mile segment of rail between Marina and a point near the southern edge of Fort Ord Dunes State Park. The operator would serve about 1,300 customers per month, primarily on Saturdays and Sundays with some trips on Fridays and holidays. The operator seeks to provide trips year-round but is amenable to seasonal operations if the City will not sanction year-round use of the staging area. Hours of operation would be 9 a.m. to 5 p.m. (8 p.m. during the summer).

The operator proposes to surface a portion of the TAMC and City right-of-way with compacted road base to accommodate 25 parking spaces and one paved ADA-compliant space. Access to the parking area would be via Marina Drive. A split-rail fence would be installed around the parking and staging area. The operator also proposes to install an at-grade crossing where the railway intersects with the Monterey Bay Coastal Recreation Trail, approximately one-third mile south of the staging area.

The operator has prior experience working in Marina and utilized the same staging area and a similar stretch of railway for operations last year. Additional changes to this year's proposal include storage containers for overnight storage of handcars (as opposed to metal security fencing), a portable audio system for safety briefings oriented toward Del Monte Boulevard (as opposed to residences on Marina Drive), and a loading area consisting of a platform of stone pavers (as opposed to an unimproved surface). The operator is requesting to be assigned an address and requires 200-amp electrical service.

Mendocino Railway

The proposal consists of human- and battery-powered railbikes operating on a 4-mile segment of rail between Marina and a point near the southern edge of Fort Ord Dunes State Park. The operator would serve 8,000 customers in the first year of operations and more than 20,000 customers in subsequent years. The operator seeks to provide trips year-round. Hours of operation would be 8 a.m. to 9 p.m., with seasonal adjustments as necessary.

The operator has no prior experience working in Marina. The proposal includes a storage container within the staging area where bikes would be stored and charged overnight. Electrical power would be provided by a solar array on the roof of the storage container or via a connection from a nearby PG&E line. The project would require 6-10 employees.

DISCUSSION:

The DRC reviewed both proposals and provided comments, included in **EXHIBIT A**. Concerns center primarily on providing adequate access to and from the site, providing appropriate facilities on site, making improvements to accommodate operations, and mitigating potential impacts to adjacent uses, including multifamily residences near the staging area. Specific points of concern include the lack of restroom facilities in each proposal, the need to move storage containers out of an emergency access road parallel to Marina Drive, insufficient information about proposed facilities, and questions about how trash, noise, and traffic impacts will be addressed.

The City Council has discretion to determine which proposal, if any, may operate within the TAMC right-of-way. If the City Council selects a proposal, the operator will be required to obtain an encroachment permit from the Public Works Department and sign a lease agreement with the city. City staff will attach relevant findings and conditions of approval to the encroachment permit and/or lease agreement.

Attached is the draft lease agreement from TAMC (**“EXHIBIT B”**). Key provisions of the agreement are:

- The initial term of the agreement will be up to two (2) years
- The city will be the lead agency under the California Environmental Quality Act (CEQA).
- The lease is \$4,248 for Area 1 then \$3,035 for Area 2 (if needed) and Area 3 \$1175 for the parking and storage area.
- The TAMC lease will only allow for recreational uses within the project area.

FISCAL IMPACT:

Planning staff would develop a fee agreement with the selected proposal and require the applicant to cover all costs associated with staff review and analysis prior to issuing any permits. There would be no direct impact to the budget.

ENVIRONMENTAL REVIEW:

After a proposal is selected by the City Council, staff will determine what level of CEQA analysis is required prior to issuing permits. As the lead agency, City staff will coordinate CEQA analysis with Monterey County and TAMC. Currently we are expecting a Notice of Exemption with detailed background material to cost the selected vendor between \$5,000-\$10,000 as the railway already has detailed habitat and plant species documented for the project area.

CONCLUSION:

This request is submitted for City Council consideration and comment.

Respectfully submitted,

Alec Barton, AICP
Contract Planner
City of Marina

REVIEWED/CONCUR:

Guido F. Persicone, AICP
Community Development Director
City of Marina

Layne Long
City Manager
City of Marina

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
AUTHORIZING PURSUIT OF A LEASE AGREEMENT WITH THE
TRANSPORTATION AGENCY OF MONTEREY COUNTY TO LEASE A
PORTION OF THE MONTEREY BRANCH LINE TO BE USED FOR
RECREATIONAL PURPOSES, SELECTING AN OPERATOR FOR THE
MONTEREY BRANCH LINE, AND DETERMINING THE TERM OF LEASE
FOR THE OPERATOR.

WHEREAS, the City of Marina received two unsolicited proposals for temporary recreational use of a portion of the Monterey Branch Line; and

WHEREAS, the City Council can reject both proposals or select one to operate within the Monterey Branch Line right-of-way on a temporary basis; and

WHEREAS, the decision of the City Council authorizes City staff to formalize a lease agreement with the selected operator, perform any required CEQA analysis, and issue any required permits prior to use of the Monterey Branch Line.

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

- (1) Select (Mendocino Railway / Museum of Handcar Technology) to operate within the Monterey Branch Line right-of-way on a temporary basis, subject to the conditions of approval in a valid lease agreement and any required permits; and
- (2) Direct staff to formalize a lease agreement with (Mendocino Railway / Museum of Handcar Technology), perform any required CEQA analysis, and issue any required permits prior to use of the Monterey Branch Line.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 7th day of June, 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

Building

Parking, restroom facilities, path of travel from parking to the designated loading area

Fire

1. Fire is requiring an Emergency Response Plan to be approved by the Fire Department prior to operation that includes Seaside Fire (This project falls within both the Marina and Seaside Fire Departments' response area)
2. All adopted Marina City Fire Code ordinances are followed
3. The final plot plan to be approved by the Fire Department. The Fire Department will check for access and hydrants

Engineering**Museum of Handcar Technology**

1. Any improvements or staging within the City right-of-way will require an Encroachment Permit. Review the attached permit application form for standard conditions and submittal requirements.
2. The following additional information and clarifications will be required for your permit application:
 - a. Provide a structural section for the parking lot road base. Show grades (directional % grades and spot elevations) for the general parking lot area.
 - b. For the ADA parking space, a site-specific detail will be required showing compliance to current parking standards.
 - c. Since your proposed operational window is year-round, provide a plan sheet for how stormwater best management practices will be implemented on your project site.
 - d. Provide details for installation of the proposed wooden fencing. Will this require concrete foundations for your posts?
 - e. Will the ticket booth and handcar shed require a concrete foundation?
 - f. Will any grading take place (e.g. moving dirt to level the site)? Moving more than 2,500 sq ft or 50 cubic yards of soil will require a grading permit.
 - g. Will there be any trimming or other impacts to local trees? Please see City Municipal Code Chapter 17.62 and coordinate directly with the Planning Division should any trees be impacted in the vicinity of your project site.
3. The location proposed for the storage containers is not approved as it blocks an emergency access road that traverses parallel to Marina Drive. Relocate your storage containers off of the access road.
4. Any addressing for the site will require a New Address application through the Public Works Department.

Mendocino Railway

1. Any improvements or staging within the City right-of-way will require an Encroachment Permit. Review the attached permit application form for standard conditions and submittal requirements.
2. Submit a preliminary site plan showing the locations of:
 - a. Storage container(s)
 - b. Staging area
 - c. Turntables
 - d. Charging stations
 - e. Parking area

DRAFT - LEASE

This LEASE AGREEMENT, hereinafter called “LEASE” is made between the TRANSPORTATION AGENCY FOR MONTEREY COUNTY, hereinafter called “LESSOR” and the CITY OF MARINA, hereinafter called “LESSEE” as of the last date opposite the respective signatures below as follows:

1. DESCRIPTION OF PREMISES

The LESSOR hereby leases to LESSEE, and TENANT hires from LESSOR, on the terms and conditions hereinafter set forth, in a nonexclusive grant lease, those certain premises (Premises) known as the property (hereafter referred to as the “Property”).

- a. Exhibit A depicts three sub-components of the Property, identified as Area 1, Area 2 and Area 3.
- b. The Property includes an encroachment into the LESSOR’s railroad right of way, located in the County of Monterey, for an approximate length of three and a half (3.5) miles from the Palm Avenue and Marina Drive intersection in Marina, under the Highway 1 overcrossing and over the bike path, to the balloon spur tracks in the Fort Ord Dunes State Park (Area 1), with a possible additional two and a half (2.5) miles towards Sand City (Area 2). There is also an area of fifty (50) by two hundred and twenty-five (225) feet for a fenced in storage area along the railroad tracks in the City of Marina near Marina Drive and Palm Avenue (Area 3). Besides the railroad track, there are no buildings or permanent structures on the Premises.
- c. The LESSEE is directly overseeing recreational uses outlined in the SUBLESSEE’s proof of concept for the Project (Project).
- d. LESSEE agrees to prohibit entry to the Property to anyone not participating in the leased activities.

2. TERM

The initial term shall be two (2) years and the term of this Lease shall begin on **xx date** (“Lease Commencement Date”) and will continue until **xx date** terminated sooner as provided for hereinafter in **Section 16**. Upon completion of the initial lease term, the LESSOR and LESSEE may renew the Lease for **xx additional term**. During initial or renewed lease term, LESSOR reserves the right to end lease term. LESSEE shall give LESSOR written notice of its intent to renew sixty (60) days prior to expiration of initial lease term. Said

advance notice period of sixty (60) days may be altered by mutual consent. LESSOR shall give LESSEE advance written notice of its intent to end lease term thirty (30) days prior to end of lease term.

3. TERMINATION BY LESSOR

- a. LESSEE understands and agrees that the LESSOR has future plans for the Property, such as the SURF! Busway and Bus Rapid Transit Project, and other transportation uses. Thus, LESSEE agrees to vacate the Property during the term of the Agreement or any renewal or extension of the Lease, without liability to the LESSOR.
- b. LESSOR may terminate this LEASE if there is a default by the LESSEE with respect to any of the provisions of this LEASE or LESSEE's obligations under it, including the payment of the Rent, after giving LESSEE notice of default and failure by LESSEE to cure the default within thirty (30) days. This provision, however, shall not be deemed to extend the term of the LEASE by any cure period.

4. DESIGNATION OF LEAD AGENCY

The California Environmental Quality Act ("CEQA") provides that where a proposed project is to be carried out or approved by more than one public agency, an agency is to be determined to be the Lead Agency under CEQA, and such Lead Agency is to be responsible for preparing the appropriate environmental documentation. Section 15051(d) of CEQA Guidelines (14 CCR § 15051) also provides that where more than one public agency meets the criteria for being a Lead Agency, the public agencies may designate a Lead Agency by agreement. The Parties agree that the CITY OF MARINA, the LESSEE, shall be designated as the Lead Agency for the purpose of environmental review, or any other review or oversight process such as environmental compliance and site inspections before or during the LEASE period.

The CITY OF MARINA, as Lead Agency, shall be responsible for the costs of conducting any said environmental review, up to and including possible approval of the environmental document, and litigation (if any) related to such approval.

5. PAYMENT FOR COST RECOVERY

LESSEE agrees to pay LESSOR a non-refundable payment of Twenty Thousand Dollars (\$20,000) upon execution of the LEASE as a not-to-exceed amount for LESSOR staff and legal counsel for certain reasonable and necessary costs for the timely review, processing,

and administration time to oversee and verify compliance with this LEASE, such as environmental compliance and site inspections before, during, and after the TERM period.

6. RENT

LESSOR AND LESSEE agree that the monthly rent for the term of this Lease shall be structured based on the cost of 4.6 cents per square foot per month for Areas 1 and 2 and 14 cents per square foot per month for Area 3.

- a. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of Four Thousand, Two Hundred and Forty-Eight Dollars (\$4,248) for Area 1.
- b. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of Three Thousand and Thirty-Five Dollars (\$3,035) for Area 2 if and only if LESSEE agrees to the use of Area 2.
- c. LESSEE agrees to pay LESSOR non-refundable monthly rent in the amount of One Thousand, Five Hundred Seventy-Five Dollars (\$1,575) for the use of Area 3.

7. USE/FACILITIES COVERED

The use of the facilities is to be limited to the rail line area noted in the description of premises. Use of the rail line is limited to recreational uses as described **Section 8**. The use of surrounding property for storage is limited to Area 3. Any irreversible changes to the Property must first be proposed to LESSOR and approved by LESSOR. Additionally, any irreversible changes are to be within any safety standards pursuant to the type of changes proposed and it is the LESSEE'S duty to be knowledgeable about and compliant with all legal requirements, including but not limited to, federal, state, and local statutory and regulatory obligations.

8. PERMITTED USES OF ACTIVITY USE AREAS

LESSEE shall be entitled to use or SUBLEASE the Premises for recreational activities including recreational vehicles along Route, vegetation and debris clearing along Route, storage of recreational materials in designated areas, and for giving trainings and guided tours along Route. LESSOR shall be able to use the property to access any areas including, but not limited to, areas relevant to current or future studies, transportation, utilities and engineering projects and other official uses of the Property or Route.

9. MAINTENANCE AND REPAIR

LESSOR makes no representations as to the condition of the Property. LESSEE takes occupancy of this Property in an “as is” condition. LESSEE acknowledges that the Property and all improvements thereon are in good order and condition, and LESSEE hereby covenants and agrees to keep the same in good order and condition during the term of this Lease, and upon the expiration of this Lease and any renewal term to surrender the Property and improvements to LESSOR in as good condition as when received, except for loss or damage by fire, natural disaster, act of God, and reasonable use and wear. LESSOR will not repair or maintain nor contribute funding toward the repair or maintenance of the Property during the term of this LEASE.

10. MODIFICATIONS AND ALTERATIONS

All and any modifications and alterations made by LESSEE or SUBLESSEE shall be approved by the LESSOR as well as any relevant local or state agencies. Any permanent modifications or alterations by the LESSEE or SUBLESSEE to the tracks or railroad ties of the PROPERTY shall be within specifications that have been proposed to LESSOR reviewed by LESSOR and approved by LESSOR. Non-permanent modifications, including but not limited to tenting, portable restrooms, storage units, fencing, signage, waste receptacles and other items utilized during the terms of the Lease will be removed and Area 3 shall be cleaned and restored to its pre-Lease condition once the Lease term has ended. Any issues or complaints related to non-permanent modifications shall be the responsibility of LESSEE to address and, if appropriate, correct.

If the LESSOR approves of a proposed permanent modification, the LESSOR may also require that the LESSEE return the property to its original or improved condition prior to the termination of the LEASE. If LESSOR does in fact require this, the LESSEE will give the LESSOR the opportunity to review the final condition of the property to ensure that the property has in fact been returned to its original or improved condition.

11. DESTRUCTION OF PREMISES

LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, and to keep the premises clean and clear of use or storage of hazardous materials as defined by local, state, and federal laws, rules, or regulations, and clear of any refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to LESSOR. If the leased premises shall be damaged by LESSEE or SUBLESSEE which damage puts the premises into a condition which is not decent, safe, healthy, and sanitary, LESSEE agrees to make or cause to be made full repair of said damage caused by

LESSEE or SUBLESSEE and to restore the premises to the condition which existed prior to said damage, or LESSEE agrees to clear and remove from the leased premises all debris and contaminants resulting from said damage caused by LESSEE or SUBLESSEE and rebuild or restore the premises to the condition which existed prior to such damage. LESSEE agrees to use any insurance proceeds which may become available from any such damage to first pay for the cost of any repairs and restorations.

12. MUTUAL INDEMNIFICATION AND INSURANCE

a. INDEMNIFICATION

- i. In consideration for use of the Property, LESSEE agrees to indemnify, defend, and save harmless LESSOR and its officers, agents, and employees, from and against any and all claims, liabilities, or losses whatsoever arising out of or in any way related to LESSEE'S use of the Property under this LEASE, including but not limited to claims for Property damage, personal injury, death, injuries to reputation, economic losses, and emotional distress, and any legal expenses (such as attorney's fees, court costs, investigation costs, and expert fees) incurred by the LESSOR in connection with such claims. "LESSEE'S use" includes LESSEE'S or SUBLESSEE'S action or inaction and the action or inaction of its officers, employees, and agents, including but not limited to SUBLESSEE'S customers. The obligation of LESSEE to indemnify does not extend to claims or losses arising out of the sole negligence or willful misconduct of the LESSOR or LESSOR'S directors, officers, agents, or employees.
- ii. LESSEE agrees to indemnify, defend, and save harmless LESSOR and its directors, officers, agents, and employees from and against any equipment or bodily injury damages sustained by any party using the Property.

b. INSURANCE

- i. Commercial general liability insurance including but not limited to premises, personal injuries, products, operations and completed operations, to protect against loss from liability imposed by law for damages occurring on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of LESSOR or LESSEE, its SUBLESSEE or any person acting for LESSOR or LESSEE or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts or activities of LESSOR or LESSEE, or its SUBLESSEE, or

any person acting for LESSOR or LESSEE, or under its control or direction. Such insurance shall also provide for and protect LESSOR against incurring any legal cost in defending claims for alleged loss. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in the amount of not less than \$1,000,000 combined single limit per occurrence and \$2,000,000 in the aggregate. Coverage shall be at least as broad as ISO Commercial General Liability Occurrence Form CG0001.

- ii. Workers' Compensation Insurance. If LESSEE or SUBLESSEE employs others in the performance of this contract, LESSEE or SUBLESSEE shall procure and maintain during the entire term of this Lease a Workers' Compensation Insurance Policy in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence for employer's liability.
- iii. All insurance required by this LEASE shall be with a company acceptable to LESSOR and authorized by law to transact insurance business in the State of California. All such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of two years following termination of this LEASE. Each liability policy shall provide that LESSOR shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation or intended non-renewal thereof.
- iv. Liability policies shall provide an endorsement naming LESSOR, their directors, officers, agents, and employees, as Additional Insureds and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the LESSOR and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by LESSEE'S insurance.
- v. Prior to execution of this LEASE by LESSOR, LESSEE shall file certificates of insurance with LESSOR, showing that the LESSEE has in effect the insurance required by this LEASE. LESSEE shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy that would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. LESSEE agrees that the provisions of this section as to insurance shall not be construed as limiting in any way the extent to which the LESSEE may be held responsible for the payment of damages to

persons or property resulting from LESSEE's activities, the activities of its SUBLESSEE or the activities of any person or persons for which Tenant is otherwise responsible.

- vi. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by LESSOR. At the option of the LESSOR either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the LESSOR, its officers, officials, employees and volunteers; or LESSEE shall provide a financial guarantee satisfactory to LESSOR guaranteeing payment of losses and related investigations, claim administration and defense expenses.

13. LIENS

LESSEE agrees to keep the Property free from liens of every character, and in the event that any liens for labor or materials should arise during the term hereof on account of any act or omission by LESSEE arising from LESSEE's use of the Property, LESSEE agrees to discharge and pay the same.

14. NO GIFT OF PUBLIC FUNDS

This LEASE prohibits the giving or lending of public funds to any person or entity, public or private. Prohibition includes aid, making of gift, pledging of credit or payment of liabilities and encompasses the giving of monetary funds and any "thing of value".

15. COMPLIANCE WITH LAWS

LESSEE shall not do, or permit to be done, or keep, or permit to be kept, in or about the Property, anything which shall be a nuisance, or which shall be in violation of any law, ordinance, rule or regulation of any governmental authority, or of any rule or regulation of the, relating to the Property, or which shall increase, or tend to increase, the existing rates of insurance of the Property.

16. TERMINATION

This lease may be terminated by either party as of the last day of any calendar month by giving sixty (60) days prior written notice thereof to the other party. Termination of this lease shall not terminate either party's obligation to defend, indemnify and hold harmless the other, as provided in this Lease, nor shall terminate either party's obligation to maintain sufficient insurance, as provided in this Lease.

17. DEFAULT

- a. The occurrence of any of the following, to the extent of the LESSEE's use, shall constitute a default by the LESSEE: Abandonment and vacation of the Property for thirty (30) days.
- b. Failure to perform any other provision of this LEASE if the failure to perform is not cured within thirty (30) days after notice has been given to LESSEE. If the default cannot be reasonably cured within thirty (30), LESSEE shall not be in default of this LEASE if LESSEE commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.
- a. Upon default, LESSOR shall have the right to terminate this LEASE and take possession of the Property. Said remedy is not exclusive and is cumulative in addition to other remedies now or later allowed by law.

18. CONDITIONS TO LEASE

LESSOR reserves the right to grant access to people including, but not limited to, TAMC employees, contractors, and TAMC project affiliates. This LEASE certifies that LESSEE and any SUBLESSEES must accommodate the other users of the Route and Property.

19. ASSIGNMENT AND SUBLETTING

LESSEE may not assign this LEASE, or any interest herein, or underlet the Property, or any part thereof, without the prior written consent of the LESSOR which shall not be unreasonably withheld. LESSEE agrees that any SUBLEASE entered cannot conflict with the terms of the LEASE.

20. COORDINATION:

The parties to this LEASE agree that, unless otherwise indicated in writing, the following persons have primary responsibility for liaison and coordination of activities required to carry out this LEASE:

for LESSOR: TAMC

for LESSEE: City of Marina

Todd Muck, Executive Director

Layne Long, City Manager

todd@tamcmonterey.org

llong@cityofmarina.org

21. INSPECTION

LESSOR has the right to inspection of the property within twenty-four (24) hours of a written or verbal notification to the LESSEE.

22. NONDISCRIMINATION:

The LESSEE herein covenants by and for itself, administrators and assigns, and all persons claiming under or through them, and this LEASE is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color creed, disability, religion, sex, marital status, national origin, ancestry, or sexual preference in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the land herein leased, nor shall the LESSEE itself or any person claiming under or through LESSEE establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of lessees, sublessees, or vendees on the Property herein leased.

23. NOTICE

Any notices that either party desires to or is required to give to the other party or any other person shall be sent by email. Such notices shall be addressed to the other party at the address set forth above. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within seventy-two (72) hours from the date of emailing, if emailed as provided in this paragraph. LESSEE shall not assign out rights to any other party.

24. SUCCESSORS AND RESTRICTION ON ASSIGNMENT

LESSEE shall not assign its rights under this agreement. This LEASE, and all terms, covenants, and conditions hereof, shall be binding upon and shall inure to the benefit of the heirs, legal representatives, and successors of the respective parties hereto.

25. OWNERSHIP

The LESSOR is the owner of the Property and all site improvements on the Property on the effective date of this LEASE. All right, title, and interest in and to the Property and those site improvements shall belong to the LESSOR, including improvements made by LESSEE as described in Paragraph 10.

26. POSSESSORY INTEREST AND PROPERTY TAXES

Pursuant to California Revenue and Taxation Code section 107.6, notice is hereby given that LESSEE is responsible for any possessory interest, utility or Property taxes that may be imposed as a result of, or related to, this LEASE. Additionally, any fines imposed on the Property during the LEASE period that are a result of LESSEE's actions, or the actions of the use permitted by LESSEE on the property, shall be the sole responsibility of LESSEE.

IN WITNESS WHEREOF the parties hereto have executed this LEASE this ____ day of _____, 2022.

CITY OF MARINA, LESSEE:

BY: _____

Layne Long, City Manager

Approved as to form:

City Attorney

TRANSPORTATION AGENCY FOR MONTEREY COUNTY, LESSOR

BY: _____

Todd Muck, Executive Director

Approved as to form:

TAMC Counsel

Exhibit A



Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 7, 2022

CITY COUNCIL CONSIDER RECEIVING A PRESENTATION REGARDING THE LONG-TERM VISION AND FISCAL SUSTANABILITY OF THE MARINA MUNICIPAL AIRPORT, EFFORTS TO PROVIDE QUALITY GENERAL AVIATION FACILITIES TO MEET DEMANDS, AND POTENTIAL SUPPORT FROM THE MILITARY ASSISTANCE PROGRAM (MAP) TO FUND INVESTMENTS IN INFRASTRUCTURE TO SUPPORT HANGAR DEVELOPMENT AND FACILITATE REVENUE SUPPORTING LAND USES

REQUEST:

It is requested that the City Council consider:

1. Receiving a presentation on the long-term vision and fiscal sustainability, hangar and infrastructure needs and solutions, and potential financial support from the Military Assistance Program for the Marina Municipal Airport.

BACKGROUND

The Marina Municipal Airport is the newest general aviation airport on the Monterey Peninsula, residing on 845 acres of former Fort Ord property, with over 400 acres dedicated to aviation. The City of Marina owns and operates the airport. The airport provides support to commercial, military, and private aircraft. Services and facilities currently available include hangar storage, tie-downs, minor aircraft maintenance, skydiving, and fueling. The airport has been open for public use since 1995.

The airport is included in the FAA's National Plan of Integrated Airport Systems (NPIAS). As such, the Airport is eligible for federal development grants. The airfield layout consists of a single runway, measuring 3,483 feet in length and 75 feet in width. Airport facilities currently include five large hangar buildings (approximately 30,000 sq.ft. each), 24 T-hangars, 20 box hangars, 170 tie downs, an airport administration building and six ancillary buildings for non-aviation tenants.

There are estimated to be 50 based aircraft (including 42 single engine piston aircraft, three turboprops, 1 business jet) and 30,000 annual operations. Key tenants today include the U.S. Navy Center for Interdisciplinary Remotely Piloted Aircraft Study (CIRPAS), Skydive Monterey Bay, Light & Motion and most recently Joby Aviation, a leader in the vertical Take-off and Landing (eVTOL) industry, employing hundreds at the Marina Airport with expansion plans for a new large aeronautical manufacturing facility.

The Marina Municipal Airport is committed to supporting the aviation, economic, environmental, and recreational needs of the airport and the Marina community. Key strategies of this vision are:

- Expanding aviation related business by partnering with existing businesses or attracting new businesses.
- Phasing in the expansion of aviation needs

- Identifying revenue generating possibilities and partnering with the community for economic development
- Identifying highest and best use of airport land area
- Making the airport financially self-sustaining

To operate the airport at a bare minimum costs about \$900,000 annually. This includes salaries for two full-time staff, professional services, and minimum maintenance and repair to keep the airport operating. Revenues generated by box hangers, cell towers, aviation use hangers, and fuel sales total about \$550,000 annually. Joby Aviation leases bring in about \$1,000,000 annually in revenues to the airport. Attracting new aviation and non-aviation businesses to the airport are critical to the fiscal sustainability of the airport.

DISCUSSION:

Staff and representatives of the Federal Aviation Administration (FAA) have been in close communication for the last couple of years to support growth at the Marina Municipal Airport and tenants such as Joby Aviation. These talks have resulted in the FAA's greater understanding and attention to the needs and challenges of the airport.

The airport was deeded to the City directly from the federal government following the closure of Fort Ord. The former helicopter airport contained large hangar buildings in need of a great deal of maintenance. While it was documented in the Airport Master Plan that an estimated 43 private small planes could be stored in the 5 large conventional hangars, utilizing these large buildings in this way is not the highest and best use as it is not efficient, is not the highest and best use, and does not provide for fiscal sustainability of the Airport. In comparison, leasing the entire building to single tenant generates much greater revenue for the airport that is used to reinvest in the maintenance and upkeep of the buildings. Below is an example using a large hanger building to compare the rents generated by several small tenants in contrast to one single tenant.

Large Hangar	Individual Tenants	Singe Tenant
Lease Rates	Max capacity of 9 aircraft @ \$250 mo. each = \$2,250 Office space 5,000 s.f. x \$.50 p/s.f. = \$2,500 Total = 4,750 mo.	35,000 sf x .36 p/s.f. = \$12,600 mo.

At current rates the difference between individual tenants versus one tenant is approximately \$7,850 a month or \$94,250 annually. The total annual revenue under these two scenarios are summarized below.

Large Hangar	Individual Tenants	Singe Tenant
Lease Rates	4,750 mo. / \$57,000 annually	\$12,600 mo. / \$151,200 annually

As part of staff's recent analysis of airport fiscal sustainability included long range maintenance costs required to preserve the 50–70-year-old structures constructed by the Army. The engineer's analysis of the needed capital reserve costs over the next 30-years and ongoing annual maintenance costs to preserve each large hanger building requires an approximate total of \$200,000 annually. In addition to the capital and maintenance costs, there are also ongoing operations costs.

After reviewing the financial data presented above the FAA staff agreed that tenants such as Joby Aviation are critical to the long-term sustainability of the airport and the continued quality facilities for the general aviation community. This education for the FAA staff has fortunately opened discussions of the airport participating in the highly selective Military Assistance Program. Nationwide, there are only a few general aviation airports that are selected to participate in MAP at one time. And the funding can be significant (up to \$35 million) over the 5-year funding cycles.

While the FAA staff is supportive of helping our airport to be financially sustainable, they are also concerned that we continue to provide a quality general aviation airport for pilots while also fostering Joby's expansion. In this effort, staff has worked with the Tartaglia Engineering to develop hangar complex plans on the airport that can be phased in over 30-years to meet the demands of the general aviation users of the airport. Also provided were engineering estimates of the costs to develop these complexes.

The presentation attached was presented the FAA staff on May 6, 2022 and was received well. This presentation includes the vision for Airport and how the future expansion of tenants such as Joby Aviation will work in concert with expansion of hangar space to service the general aviation community and provide for revenue supporting land uses to be developed in the future further adding to the financial sustainability of the Airport.

The conclusion of the meeting with the FAA staff was that the City will continue to develop its phasing plan for the Airport and how we propose to use MAP funding towards meeting the vision and financial sustainable future. Staff has met with Tartaglia Engineers to discuss including estimates for infrastructure development to support the Airport Business Park and revenue support area on the north side of the Airport property. The FAA staff also encouraged City staff to meet with Airport tenants and share future vision and hangar plans. This meeting is being planned for evening of June 8th and will be reported back to the FAA at our next meeting.

In addition to these efforts to provide for the Airport's future, staff also continues to try and gain the approval of the FAA for the Joby future factory building on the South Tarmac area. These discussions and meetings are critical to that effort as well and we look forward to having the FAA approval this summer.

Respectfully submitted,

Matt Mogensen
Assistant City Manager
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina

MARINA MUNICIPAL AIRPORT



Vision and efforts to meet current and future aviation demands

May 6, 2022



VISION FOR THE MARINA MUNICIPAL AIRPORT

- Airport Master Plan Adopted May 2018
- Provides guidance for future development to meet existing and future needs
- Project included public review and input
 - 5 PAC meetings, 2 workshops, Council adoption
- Several Landside Alternatives incorporated
- Annual Budget & CIP review and approval



MARINA MUNICIPAL AIRPORT VISION STATEMENT

Mission Statement

The Marina Municipal Airport's mission is to provide a safe, efficient, customer focused airport to serve the Marina community and Monterey Peninsula area.

Vision

The Marina Municipal Airport is committed to supporting the economic, environmental, and recreational needs of the airport and Marina community through safe and secure operations and fiscal self-sustainability. Key strategies of our vision are:

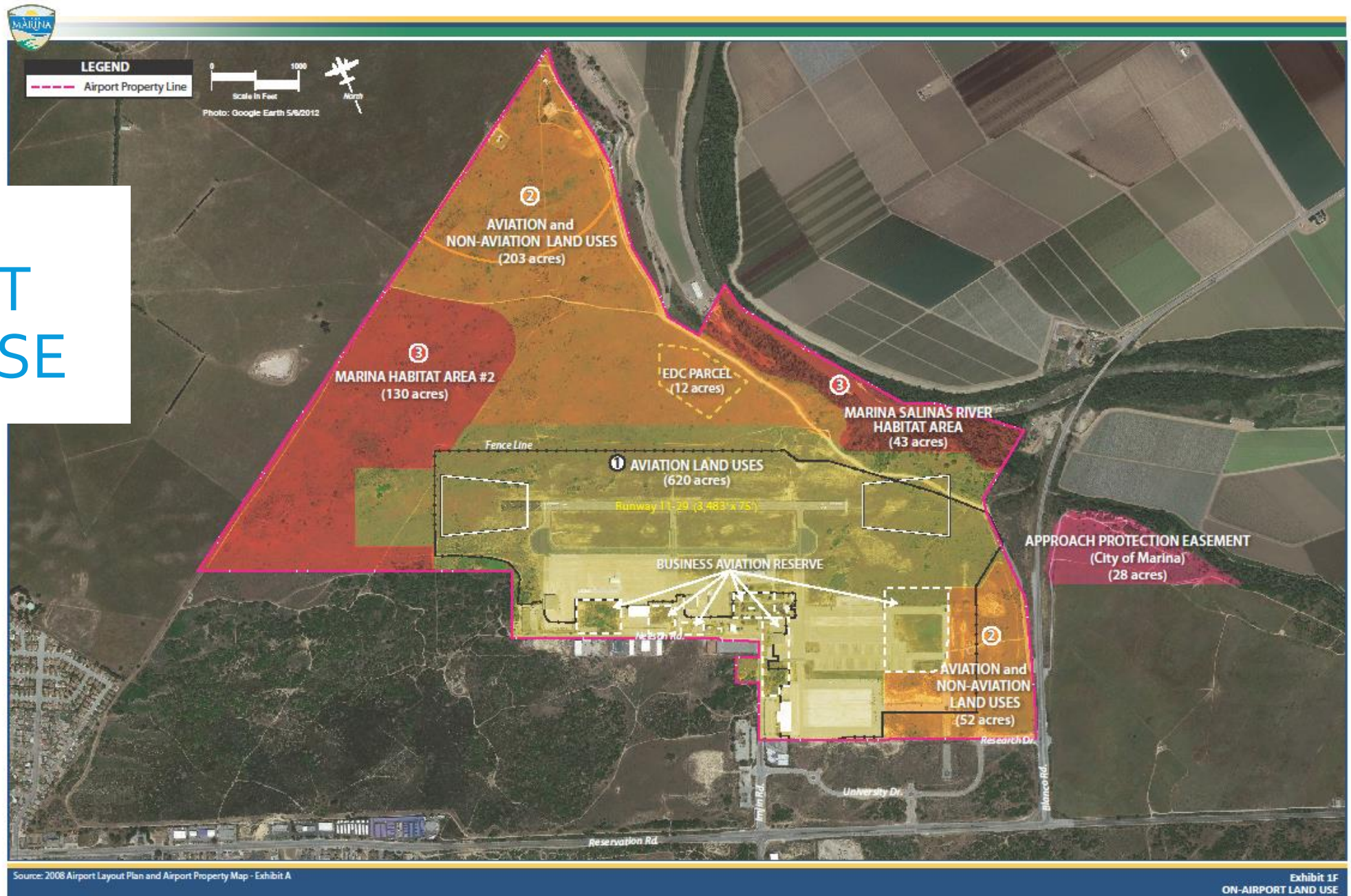
1. Expanding aviation related business by partnering with existing businesses or attracting new businesses.
2. Phasing in the expansion of aviation needs
3. Identifying revenue generating possibilities and partnering with the community for economic development
4. Identifying highest & best use of airport land area
5. Making the airport financially self-sustaining

MARINA MUNICIPAL AIRPORT VISION STATEMENT (CONT.)

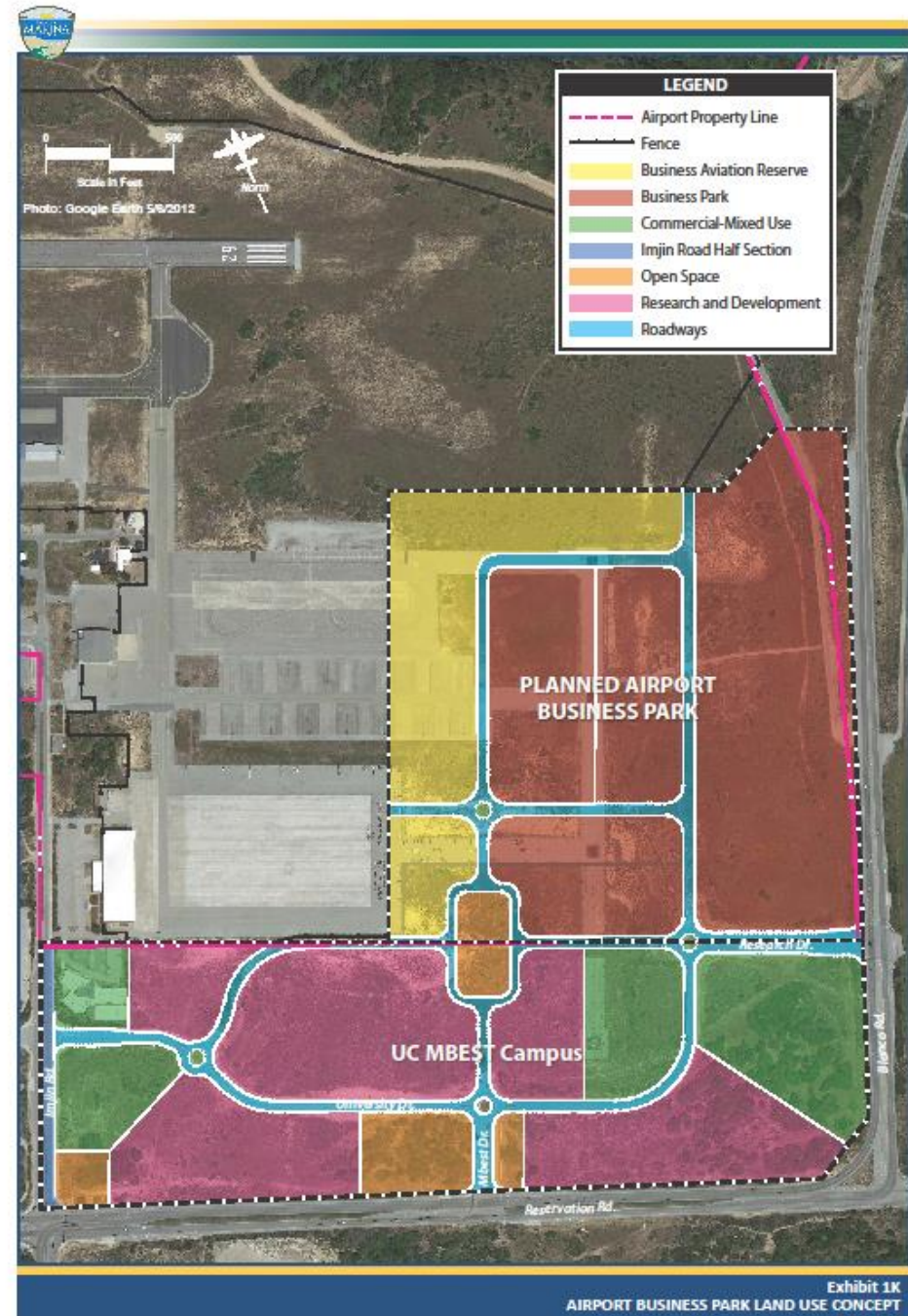
Goals and Objectives

1. Address the needs of the general aviation users
2. Address the general aviation needs of the businesses
3. Maintain and retain current facilities and airport assets including real property, runways, taxiways, ramps, hangars, etc.
4. Provide services and economic value to the City of Marina
5. Be a welcoming gateway for private aircraft access to the Monterey Peninsula
6. Provide a safe environment for all at the airport
7. Enabling the support, acquisition and construction of new airport assets
8. Identifying development projects to fulfill the preferred development plan in the ALP
9. Establish a phasing plan for development projects to meet forecasted needs and review possible funding sources

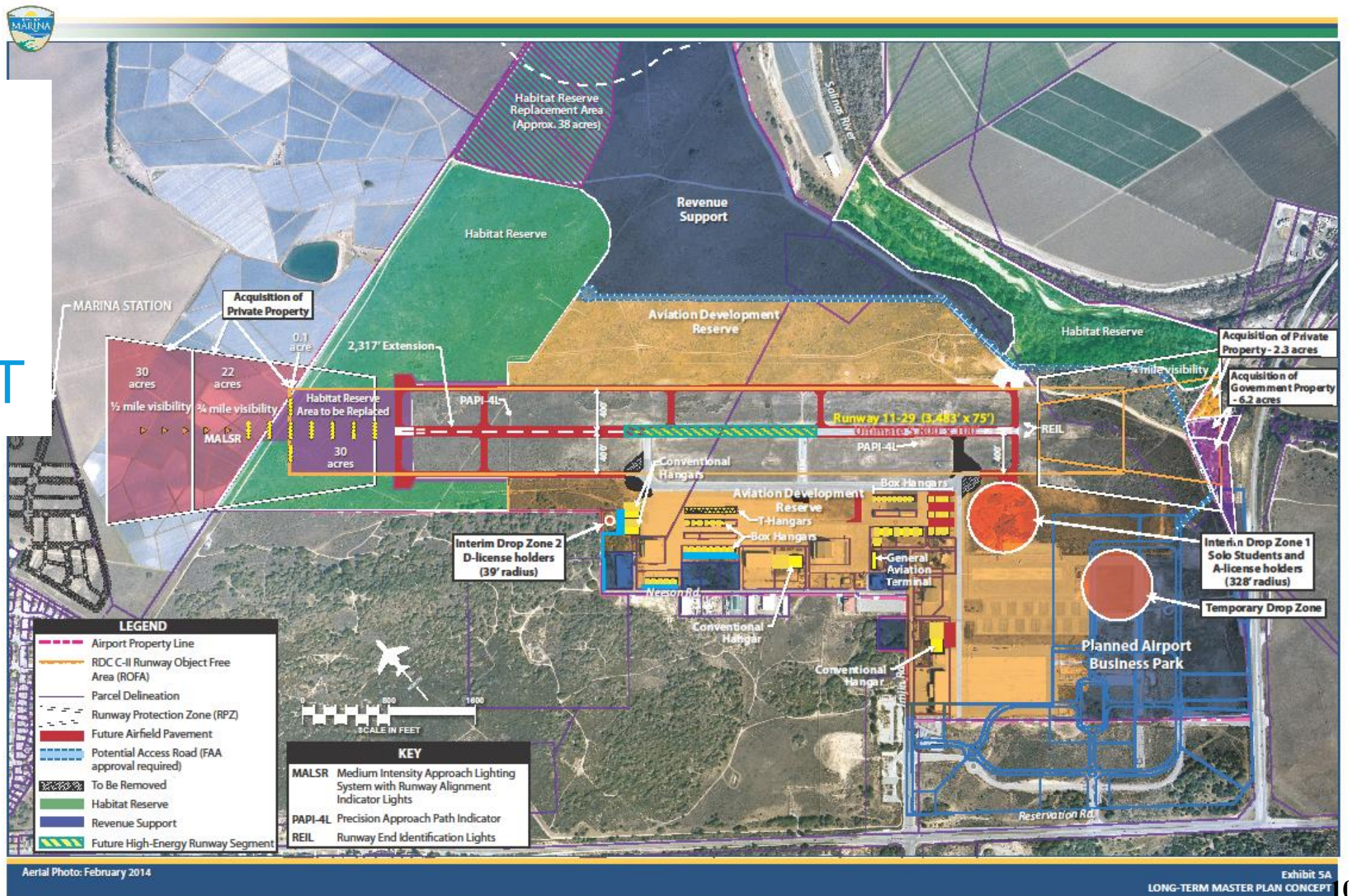
ON-AIRPORT LAND USE



AIRPORT BUSINESS PARK LAND USE CONCEPT



LONG-TERM MASTER PLAN CONCEPT





AIRCRAFT STORAGE AND PARKING INVENTORY

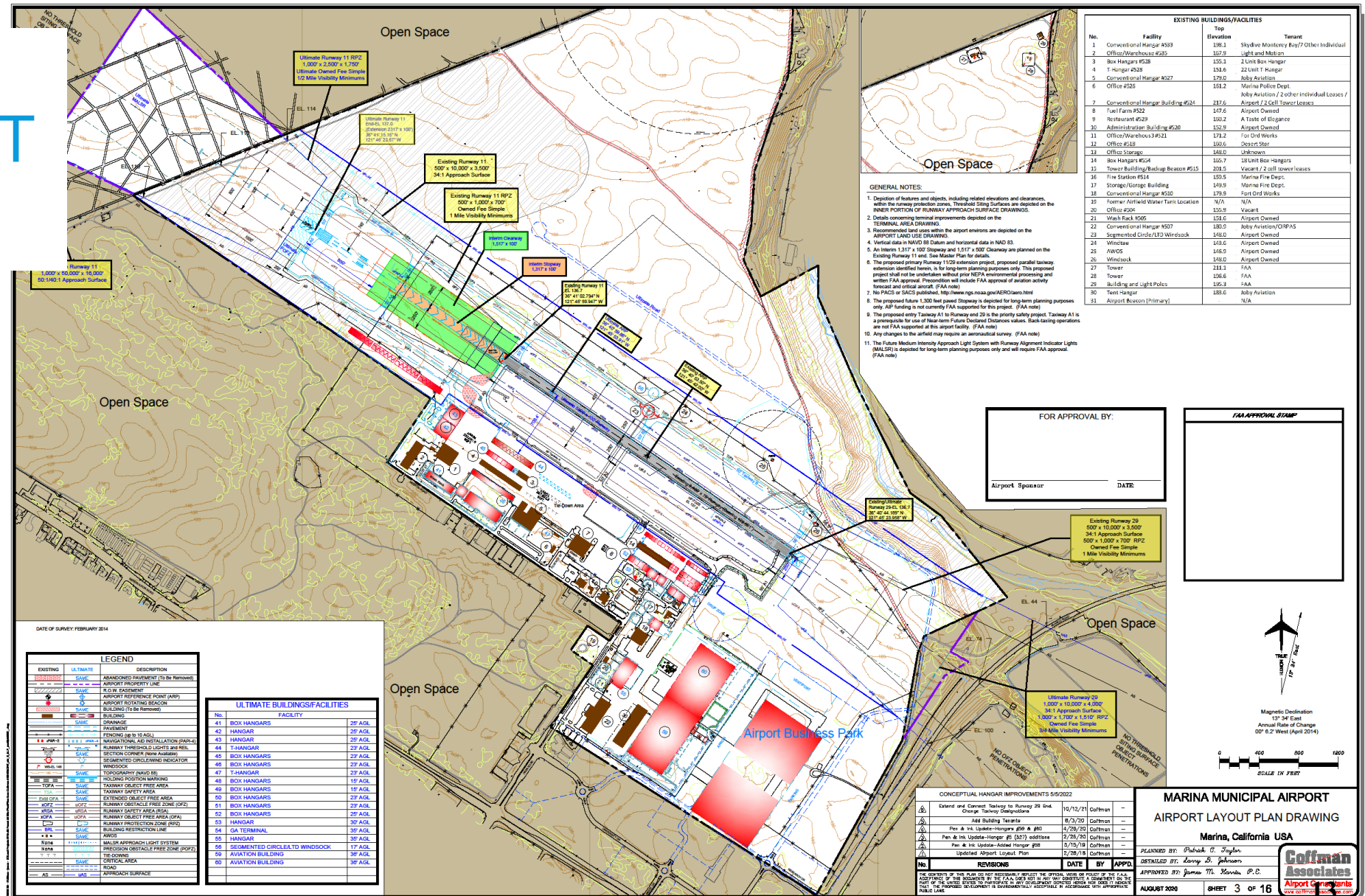
Aviation building space by type	Estimated Total Aircraft Positions	Maintenance/ Office Space (s.f)	Aircraft Storage Space (s.f.)
Total T-Hangar	24	1,000	23,500
Total Box Hangar	20	2,300	27,200
Total Conventional Hangar	43	22,200	125,500*
North Tarmac Tie Down Area	170		388,800
*Actual usage of hangars, especially if there is a single lessee, may result in fewer available aircraft positions.			

POTENTIAL AIRCRAFT STORAGE DEMAND

- Airport maintains and interest list for hangar storage
- List is a few years old and needs to be cleaned up for those that have found storage elsewhere.

Potential Interest List Category (has not been verified to see if still interested)	Total Units in Potential Demand
Total T-Hangar Waitlist	16
Total Box Hangar Waitlist	27
Total Unspecified Hanger Waitlist	51

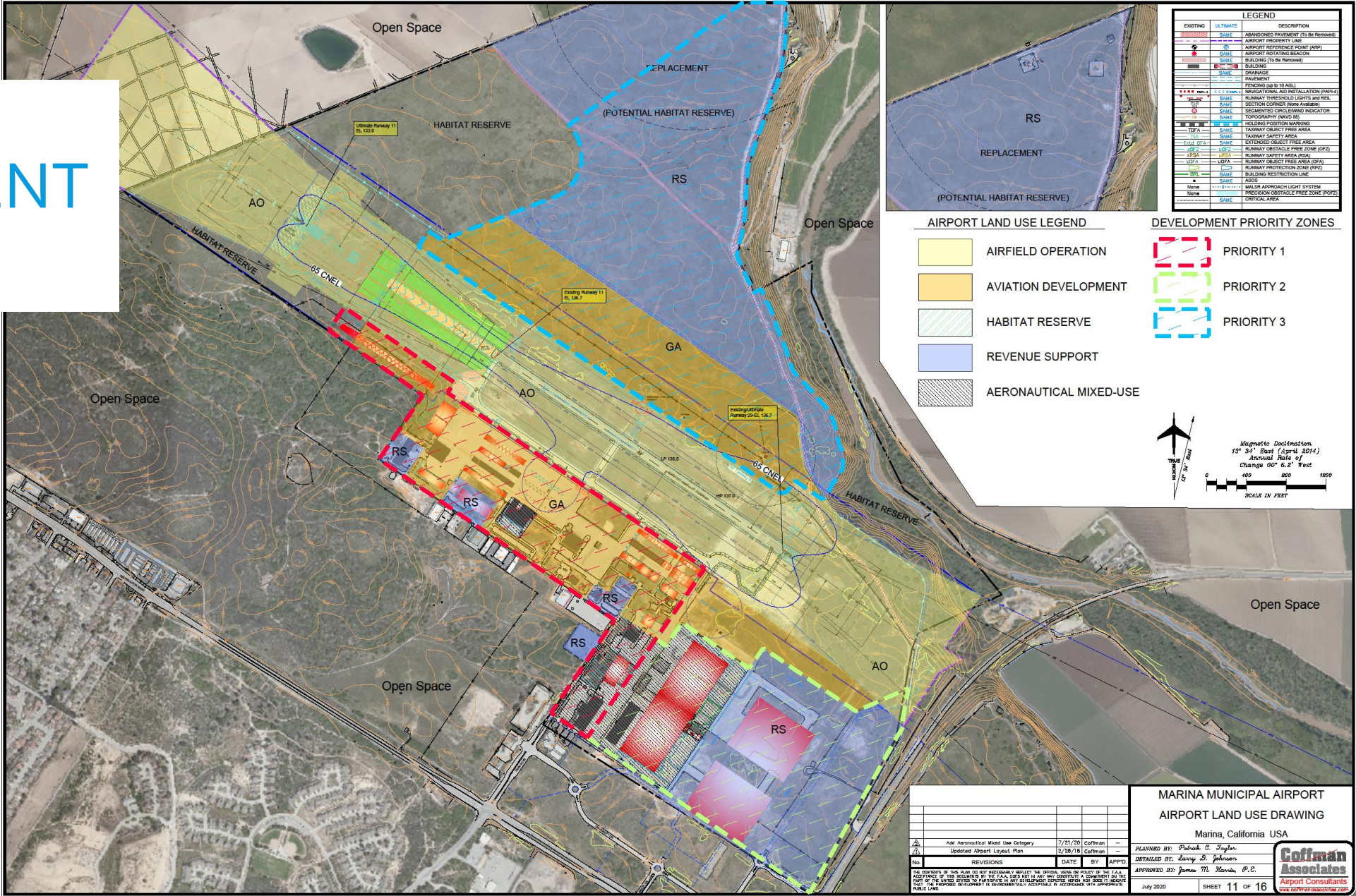
HANGAR DEVELOPMENT PLANNING



PROPOSED ADDITIONAL SUPPLY

Hangar Project	Total Number of Hangars	Size of Hangars		
North Tower Hangar Complex	44	40' x 40' 60' x 60' 160' x 130'	30' x 30' 80' x 100'	50' x 50' 80' x 80'
Neesen Road West Hangar Complex	21	60' x 50' 120' 50' x 120'	100' x 100' 80' x 100'	116' x 120'
West Apron Hangar	5	60' x 50'		
West End Hangar Complex	48	47'6" x 39' 130'	40' x 40'	160' x 130'
Taxi lane Hangar – Small	1	100' x 100'		
Taxi lane Hangar - Large	1	300' x 150'		
Total	120			

AIRPORT DEVELOPMENT PHASES



HANGER ADDITION PHASING

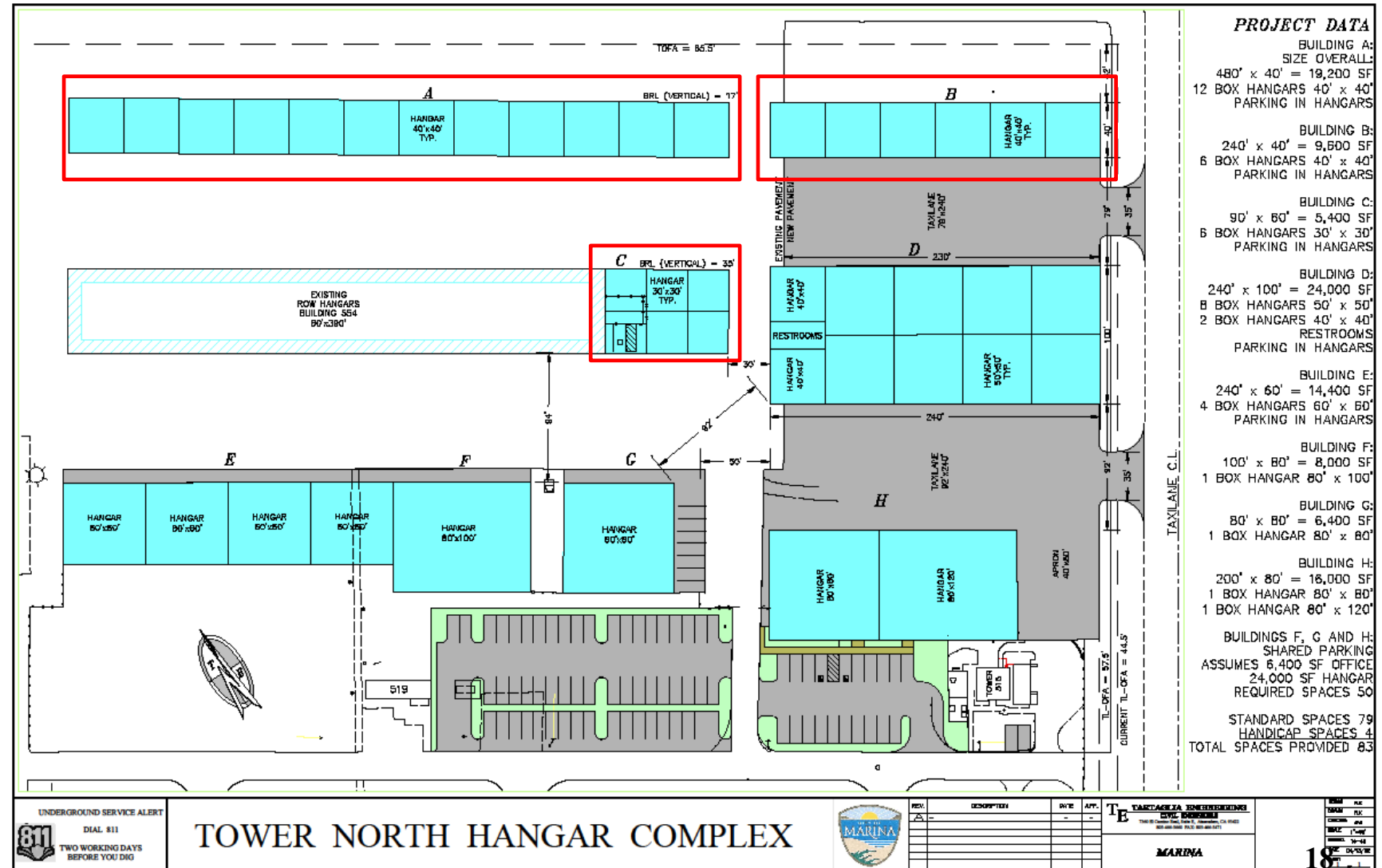
Priority	Phase 1 (Years 1 – 15)	Number of Hangars	Size of Hangars	Percent of Current Potential Demand
1	Tower North Hangar Complex Buildings A, B, C	26	40' x 40' 30' x 30'	28%
2	Tower North Hangar Complex Building D	10	50' x 50'	11%
3	Tower North Hangar Complex Buildings H	2	160' x 130'	2%
4	Tower North Hangar Complex Buildings E	4	60' x 60'	4%
5	Neesen Road West Hangar Complex Building A	11	60' x 50'	12%
6	West Apron Hangar	5	60' x 50'	5%
7	Neesen Road West Hangar Complex Building D	4	80' x 100'	4%
8	Neesen Road West Hangar Complex Building B	1	100' x 100'	1%
	Total	63		67%

HANGER ADDITION PHASING

Priority	Phase 2 (Years 15 – 30)	Number of Hangars	Size of Hangars	Percent of Current Potential Demand
	Tower North Hangar Complex Buildings F and G	2	80' x 100' 80' x 80'	2%
	Neesen Road West Hangar Complex Building C	21	116' x 120'	22%
	Taxilane Hangar - Small	1	100' x 100'	1%
	Taxilane Hangar - Large	1	300' x 150'	1%
	West End Hangar Complex Buildings A - F	48	47'6" x 39' 40' x 40' 160' x 130'	51%

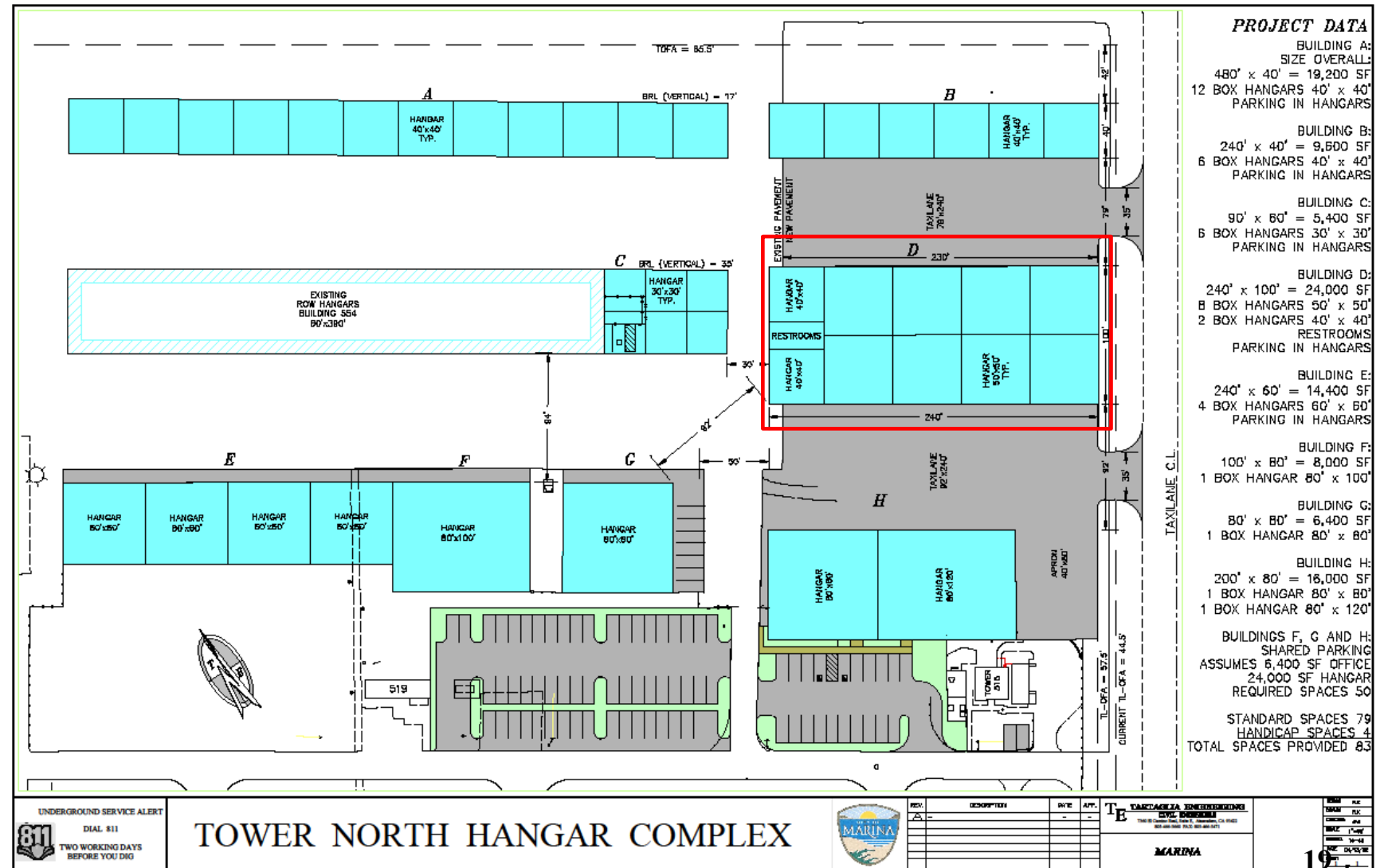
PHASE 1 – PRIORITY 1

	Bldg A	Bldng B	Bldng C	Total
Total Units	12	6	8	26
Unit Size	40' x 40'	40' x 40'	30' x 30'	
Estimated Cost	\$6,102,479			
Annual Revenue	\$153,600			



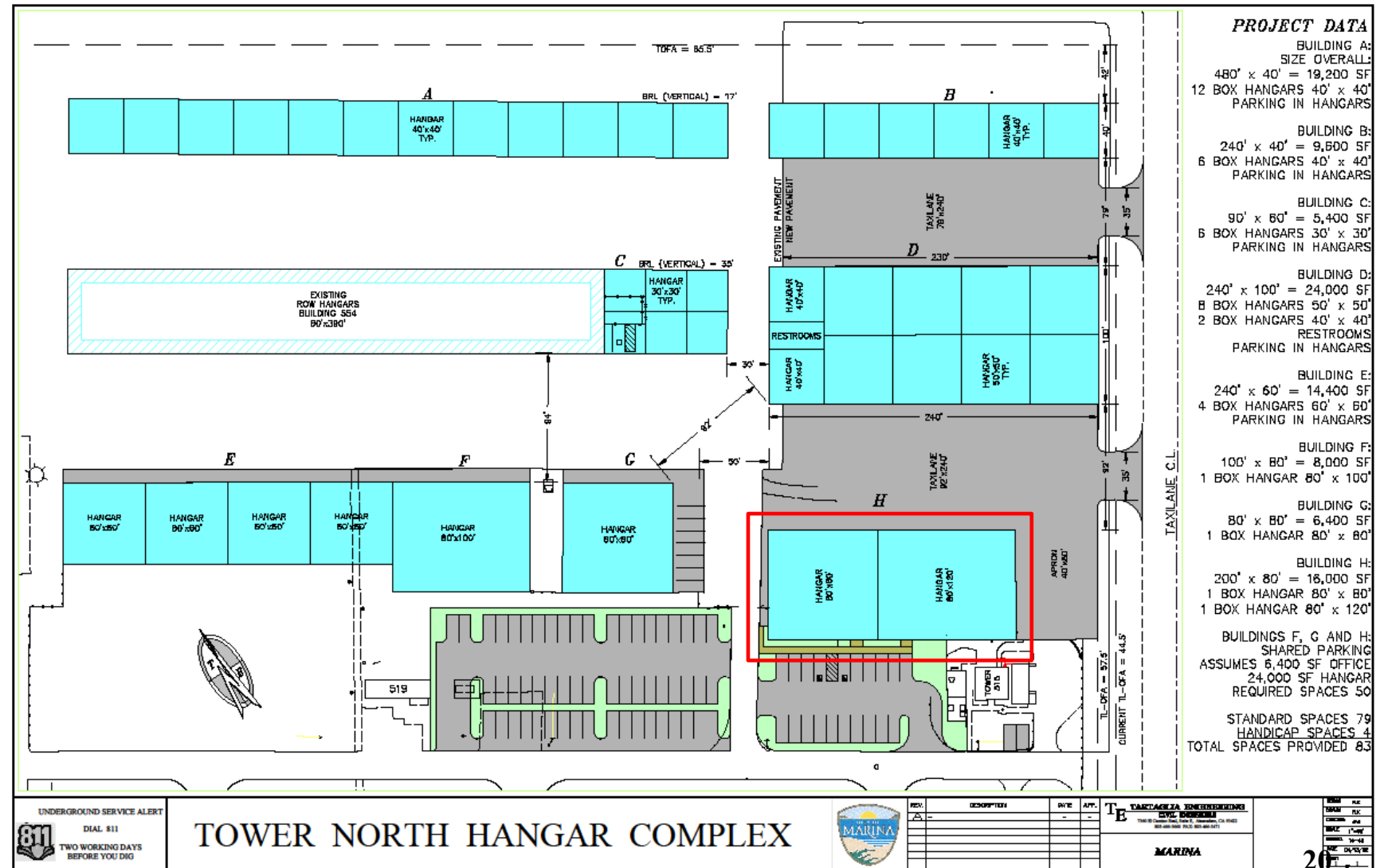
PHASE 1 – PRIORITY 2

	Bldg D	Total
Total Units	10	10
Unit Size	50' x 50'	
Estimated Cost	\$4,423,056	
Annual Revenue	\$72,000	



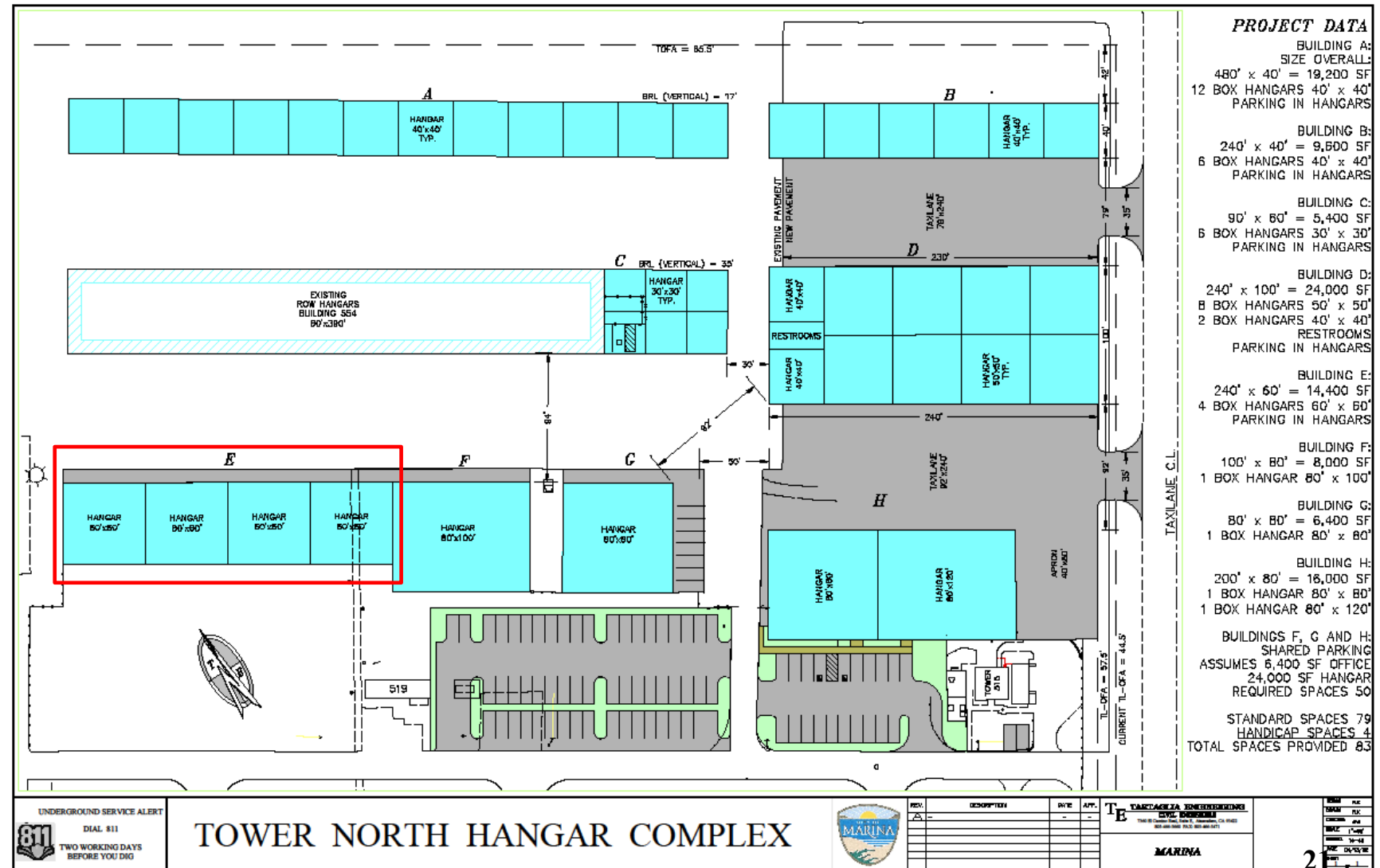
PHASE 1 – PRIORITY 3

	Bldg H	Total
Total Units	2	2
Unit Size	160' x 130'	
Estimated Cost	\$6,073,848	
Annual Revenue	\$53,760	



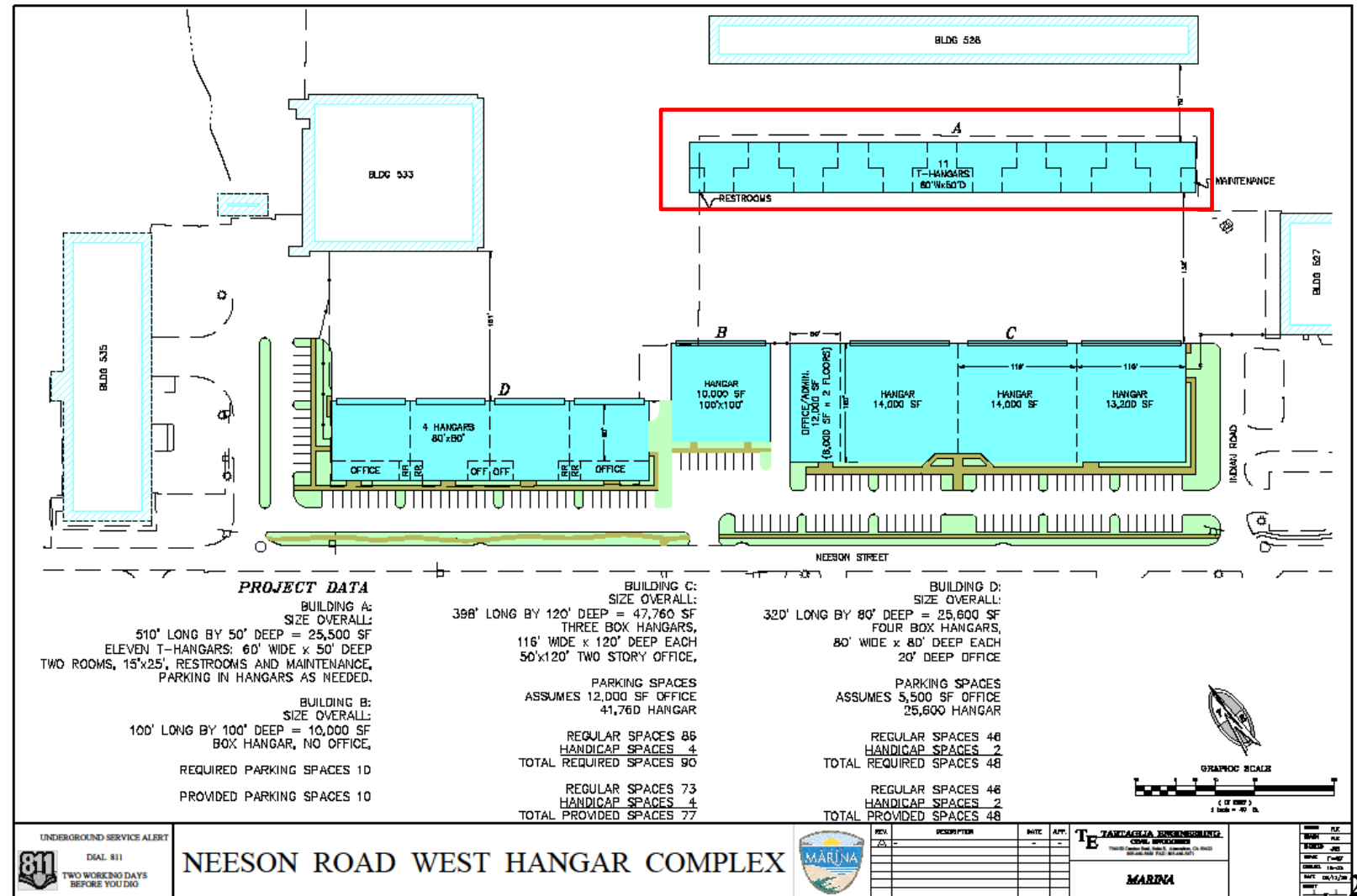
PHASE 1 – PRIORITY 4

	Bldg E	Total
Total Units	4	4
Unit Size	60' x60'	
Estimated Cost	\$3,520,968	
Annual Revenue	\$48,384	



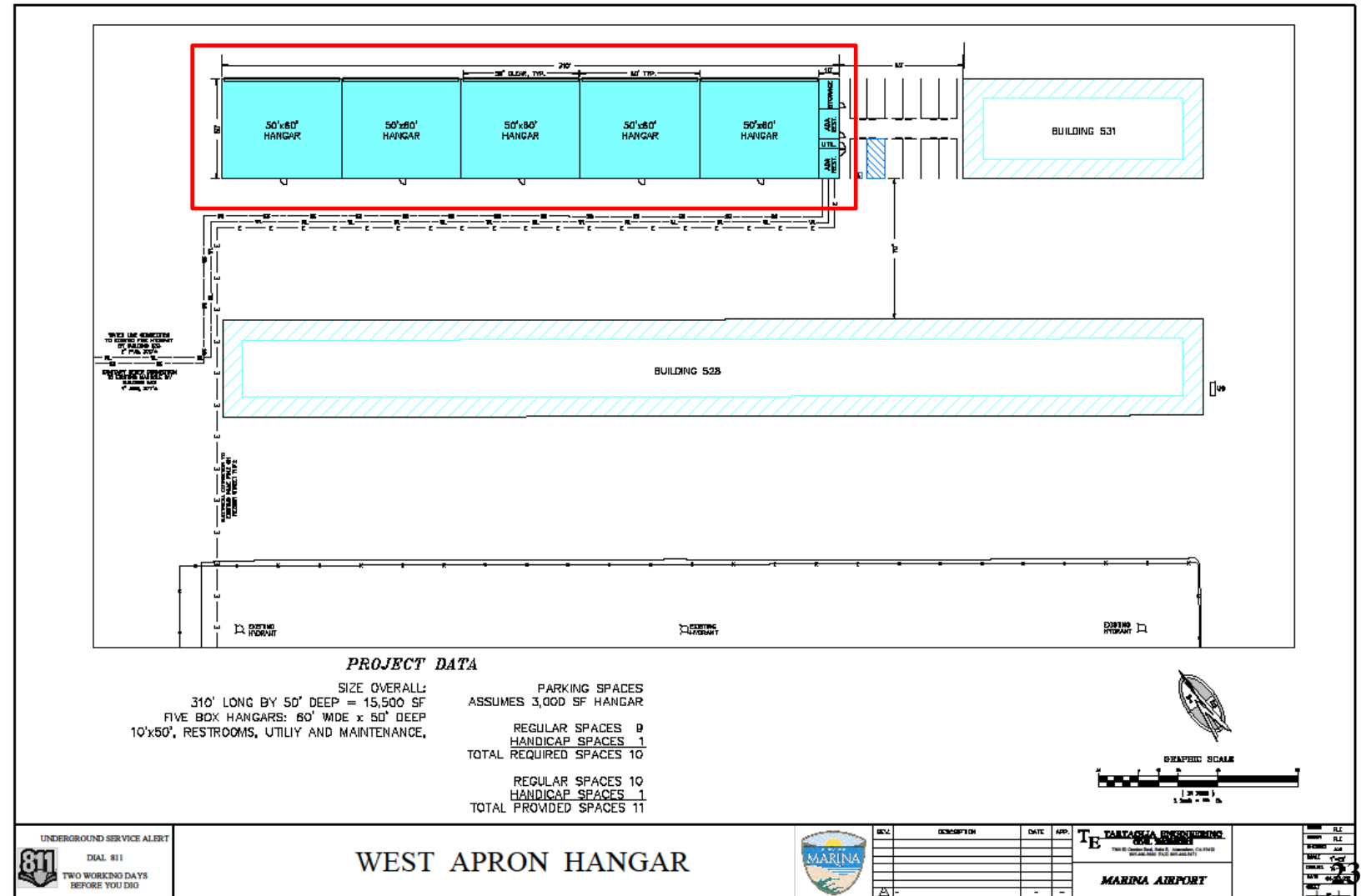
PHASE 1 – PRIORITY 5

	Bldg A	Total
Total Units	11	11
Unit Size	60' x 50'	
Estimated Cost	\$5,449,497	
Annual Revenue	\$79,200	



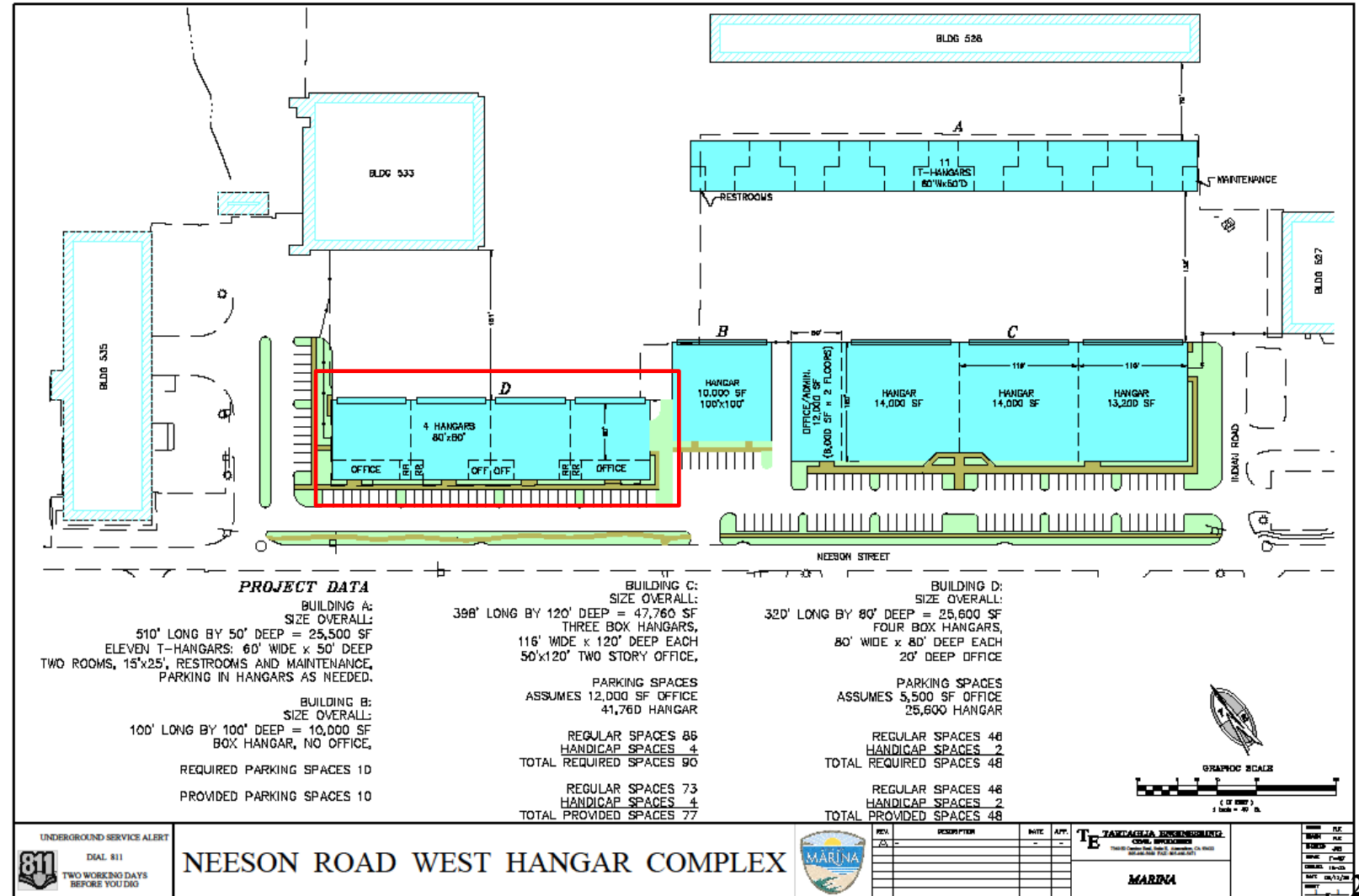
PHASE 1 – PRIORITY 6

	Bldg	Total
Total Units	5	5
Unit Size	60' x 50'	
Estimated Cost	\$6,044,465	
Annual Revenue	\$50,400	



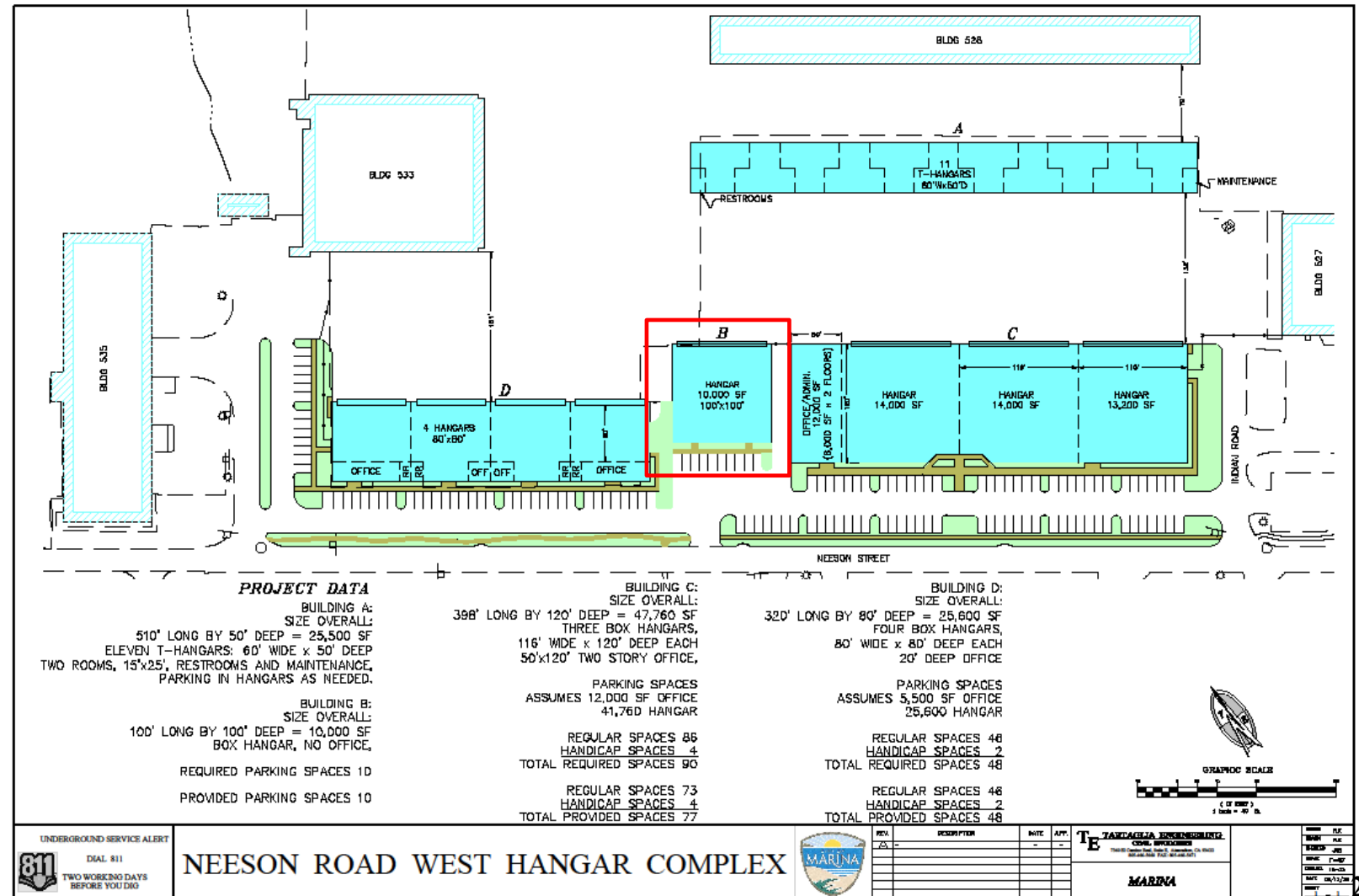
PHASE 1 – PRIORITY 7

	Bldg D	Total
Total Units	4	4
Unit Size	80' x 100'	
Estimated Cost	\$7,317,050	
Annual Revenue	\$86,016	



PHASE 1 – PRIORITY 8

	Bldg B	Total
Total Units	1	1
Unit Size	100' x 100'	
Estimated Cost	\$3,130,248	
Annual Revenue	\$33,600	

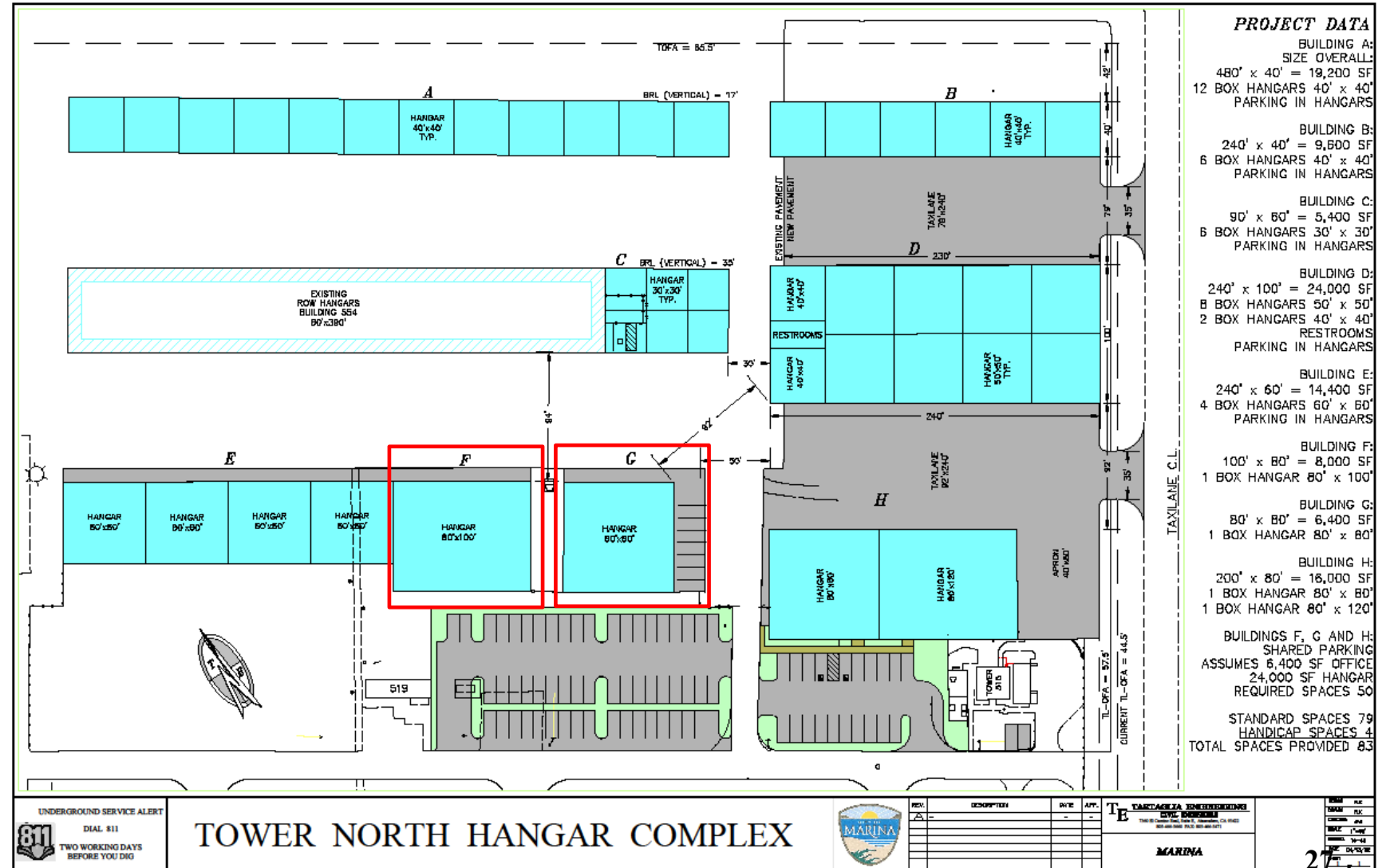


PHASE 1 TOTAL COSTS

Priority	PHASE 1 (YEARS 1-15)				
		Engineer Estimated Cost	Principle with Interest	Cash/Grant	Total Project Cost (D + E)
1	Tower North Hangar Complex Buildings A, B, C	\$ 6,102,479	\$ 4,583,152	\$ 3,850,000	\$ 8,433,152
2	Tower North Hangar Complex Buildings D	\$ 4,423,056	\$ 2,132,495	\$ 3,375,000	\$ 5,507,495
3	Tower North Hangar Complex Buildings H	\$ 6,073,848	\$ 1,574,560	\$ 5,300,000	\$ 6,874,560
4	Tower North Hangar Complex Buildings E	\$ 3,520,968	\$ 1,263,493	\$ 2,900,000	\$ 4,163,493
5	Neesen Road West Hangar Complex Building A	\$ 6,044,465	\$ 2,328,659	\$ 4,900,000	\$ 7,228,659
6	West Apron Hangar	\$ 6,044,465	\$ 1,209,566	\$ 5,450,000	\$ 6,659,566
7	Neesen Road West Hangar Complex Building D	\$ 7,317,050	\$ 2,578,086	\$ 6,050,000	\$ 8,628,086
8	Neesen Road West Hangar Complex Building B	\$ 3,130,248	\$ 773,696	\$ 2,750,000	\$ 3,523,696
Total Phase I		\$ 42,656,579		\$ 34,575,000	\$ 51,018,707

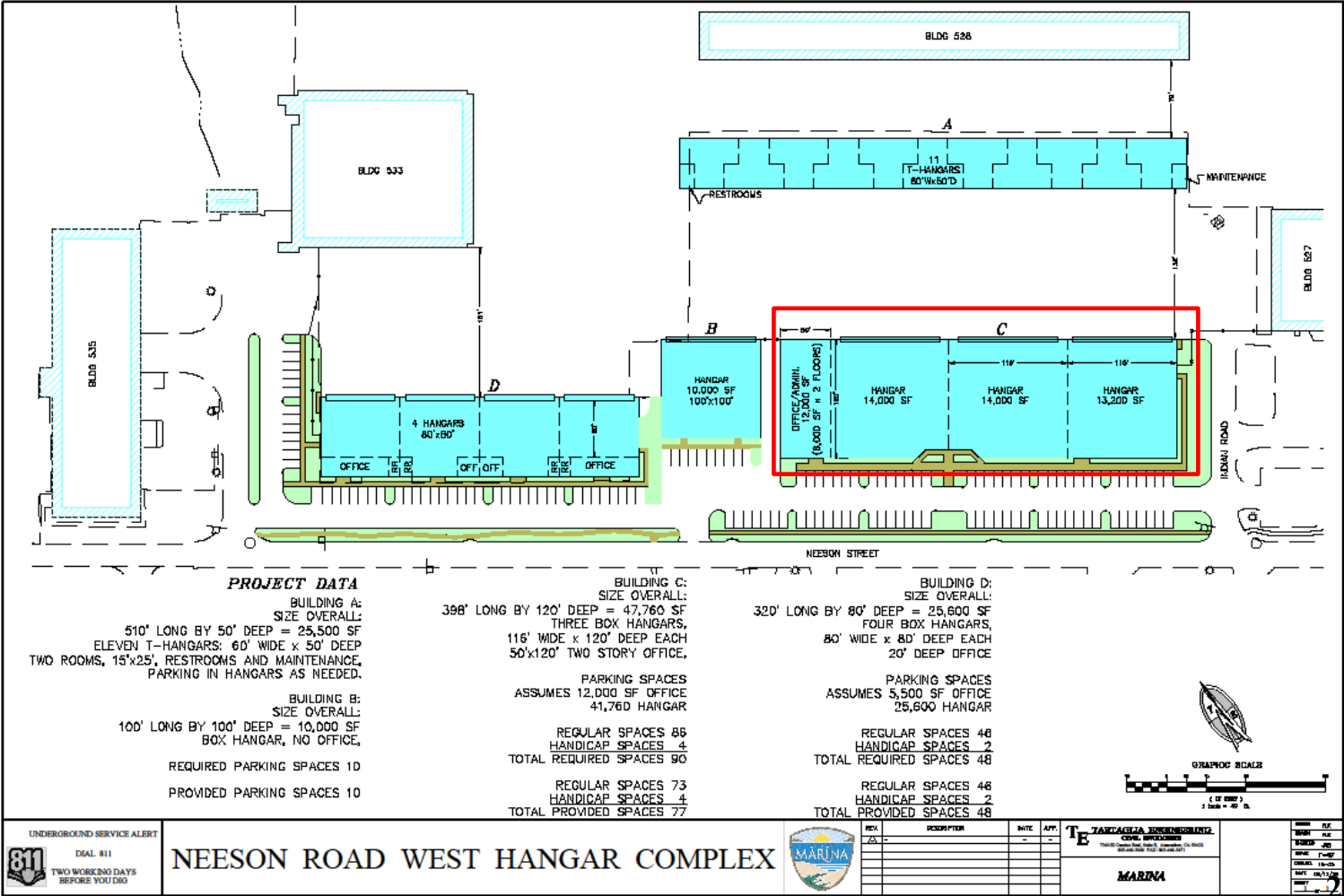
PHASE 2

	Bldg F	Bldg G	Total
Total Units	1	1	2
Unit Size	80' x 100'	80' x 80'	
Estimated Cost	\$12,990,641		
Annual Revenue	\$48,384		



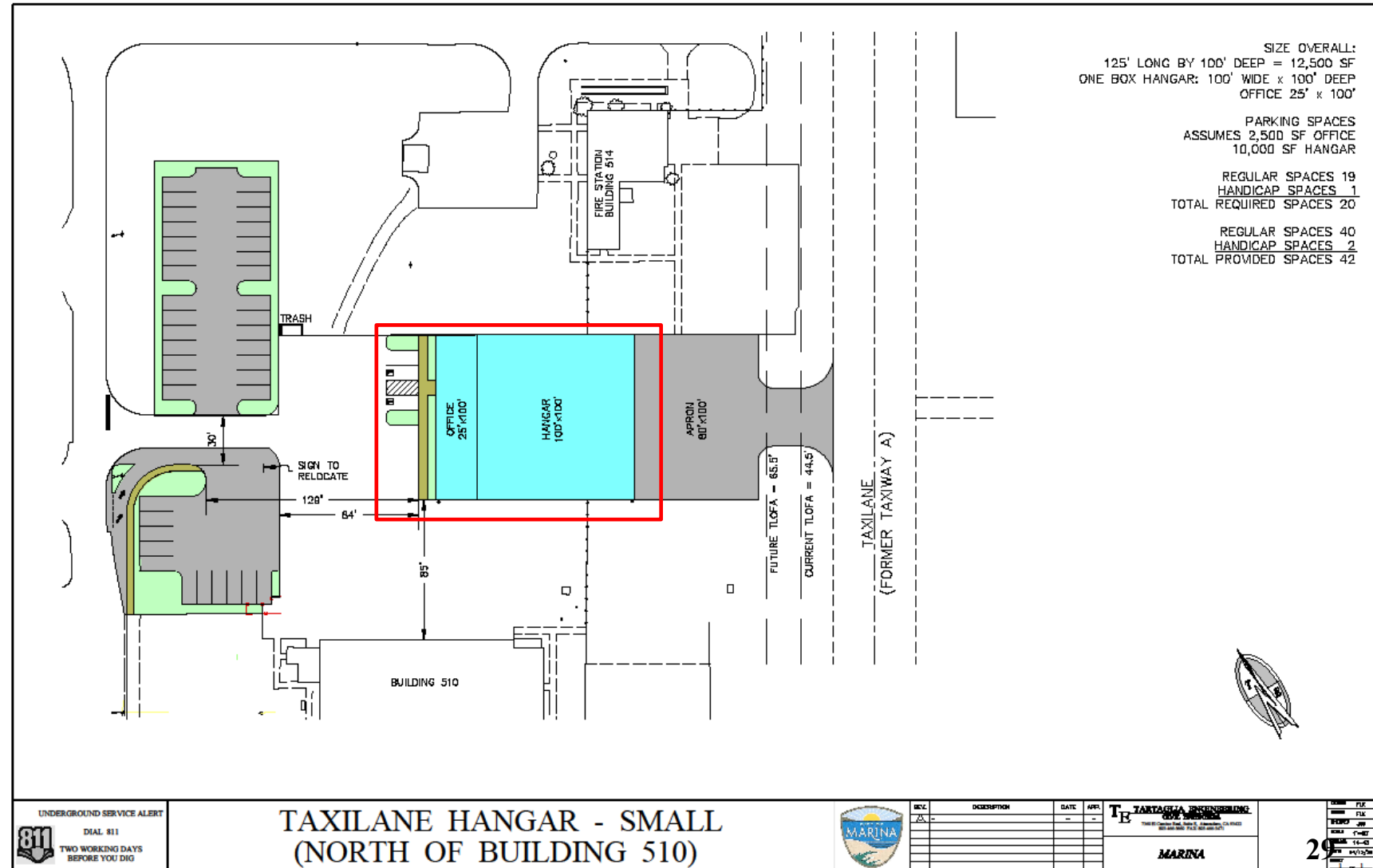
PHASE 2

	Bldng C	Total
Total Units	3	3
Unit Size	116' x 120'	
Estimated Cost	\$13,412,274	
Annual Revenue	\$141,120	



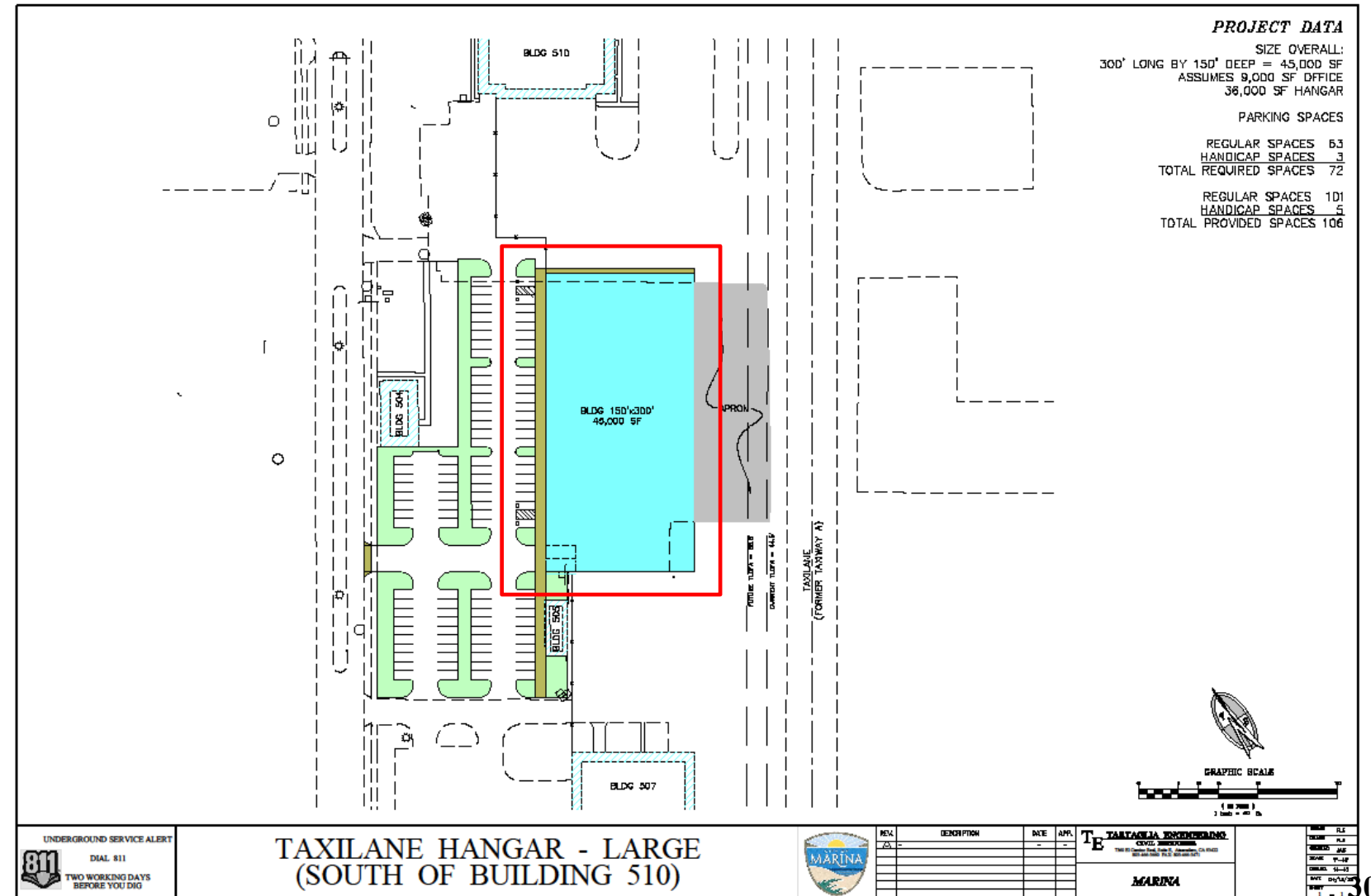
PHASE 2

	Bldg	Total
Total Units	1	1
Unit Size	100' x 100'	
Estimated Cost	\$4,230,863	
Annual Revenue	\$42,000	



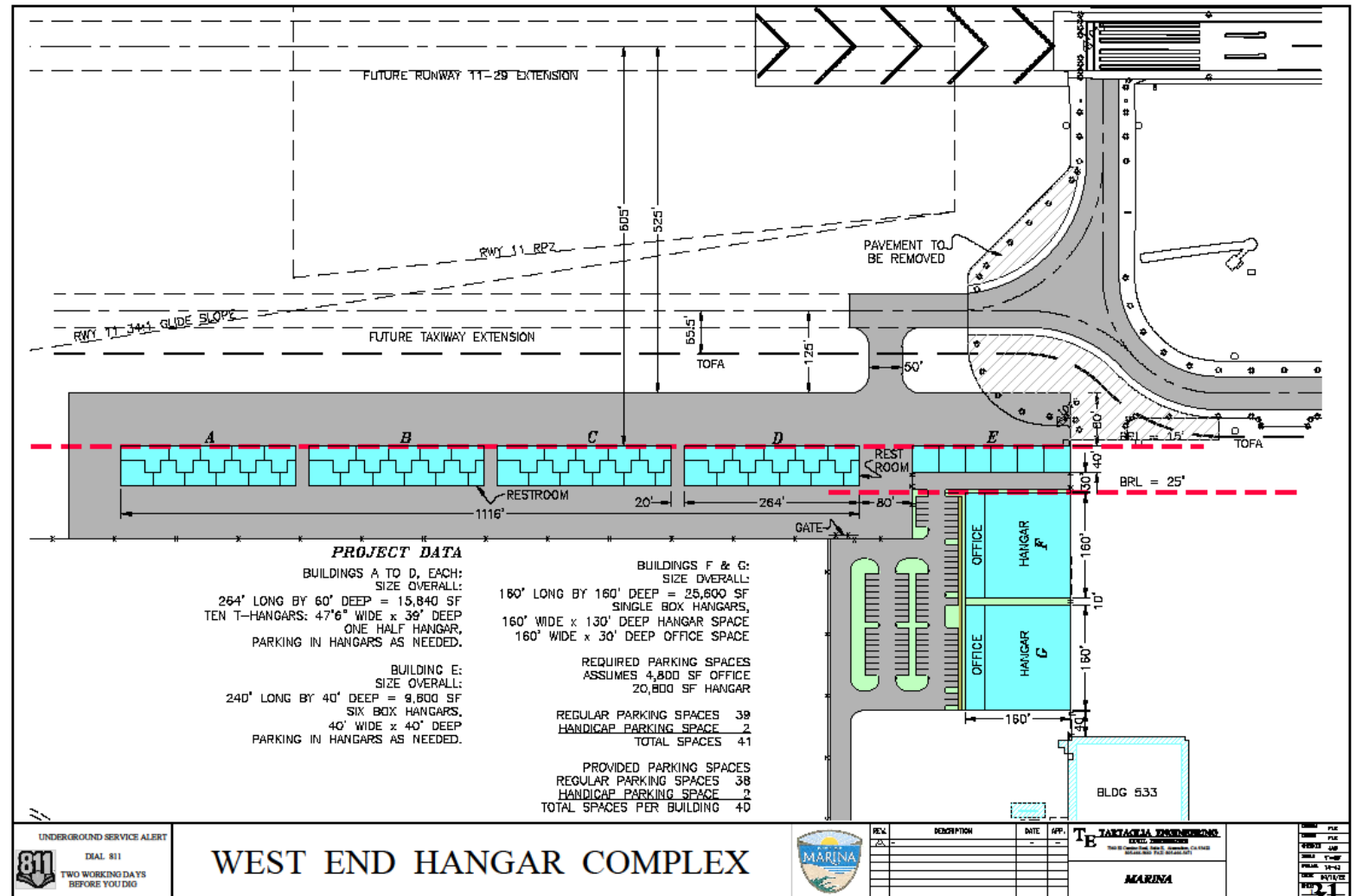
PHASE 2

	Bldg	Total
Total Units	1	1
Unit Size	300' x 150'	
Estimated Cost	\$15,654,732	
Annual Revenue	\$151,200	



PHASE 2

	Bldg A - D	Bldng E	Bldng F - G	Total
Total Units	40	6	2	48
Unit Size	47'6" x 39'	40' x 40'	160' x 130'	
Estimated Cost	\$35,425,870			
Annual Revenue	\$461,232			



PHASE 2 TOTAL COSTS

Priority	PHASE 2 (YEARS 15-30)				
none set yet		Engineer Estimated Cost	Principle with Interest	Cash/Grant	Total Project Cost (D + E)
	Tower North Hangar Complex Buildings F and G	\$ 12,990,641	\$ 26,432,248	\$ -	\$ 26,432,248
	Neesen Road West Hangar Complex Building C	\$ 13,412,274	\$ 27,290,149	\$ -	\$ 27,290,149
	Taxilane Hangar - Small	\$ 4,320,863	\$ 8,791,723	\$ -	\$ 8,791,723
	Taxilane Hangar - Large	\$ 15,654,732	\$ 31,852,912	\$ -	\$ 31,852,912
	West End Hangar Complex Buildings A - F	\$ 35,425,870	\$ 72,081,535	\$ -	\$ 72,081,535
		\$ 81,804,380	\$ 177,545,139		\$ 166,448,568

