



City of Los Banos

At the Crossroads of California

www.losbanos.org

AGENDA

CITY COUNCIL MEETING

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

OCTOBER 2, 2019

If you require special assistance to attend or participate in this meeting, please call the City Clerk's Office @ (209) 827-7000 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria de la ciudad al (209) 827-7000 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Desehabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the meeting and in the City Clerk's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

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Cualquier escritura o los documentos proporcionaron a una mayoría del Ayuntamiento respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina de la Secretaria de la ciudad en City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la ciudad en www.losbanos.org.

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (City Council Members)
Faria ____, Johnson-Santos ____, Jones ____, Lewis ____, Villalta ____
4. CONSIDERATION OF APPROVAL OF AGENDA.
5. PRESENTATIONS.
 - A. Certificate of Recognition to David Santos Farming as the Agriculture Business of the Year, 2019.

- B. Proclamation Recognizing October as Domestic Violence Prevention Awareness Month.
6. PUBLIC FORUM. (Members of the public may address the City Council Members on any item of public interest that is within the jurisdiction of the City Council; includes agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation. Detailed guidelines are posted on the Council Chamber informational table.)
7. CONSIDERATION OF APPROVAL OF CONSENT AGENDA. (Items on the Consent Agenda are considered to be routine and will be voted on in one motion unless removed from the Consent Agenda by a City Council Member.)
- A. Check Register for #218099 – #218327 in the Amount of \$1,361,111.48.
Recommendation: Approve the check register as submitted.
- B. City Council Resolution No. 6132 – Amending the Fiscal Year 2019-2020 Budget as it Pertains to the Expenditure of a Cab and Chassis with 240 Hooklift System in the Amount of \$133,710.45.
Recommendation: Adopt the resolution as submitted.
- C. City Council Resolution No. 6133 – Approving the Re-Certification of the City of Los Banos Sewer System Management Plan.
Recommendation: Adopt the resolution as submitted.
- D. City Council Resolution No. 6134 – Authorizing the City Manager to Develop and Submit an Application for Statewide Park Development and Community Revitalization Program Grant Funds.
Recommendation: Adopt the resolution as submitted.
- E. City Council Resolution No. 6135 – Approving Closure of Non-Essential City Offices on December 24 and 31, 2019.
Recommendation: Adopt the resolution as submitted.
8. PUBLIC HEARING. (If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.)
- A. Public Hearing – To Receive Public Comment and Consideration Regarding the Formation of the Los Banos Downtown Property and Business Improvement District (LBDPBID) and the Levy of Assessment.

- 1) City Council Resolution No. 6136 – Establishing the Los Banos Downtown Property and Business Improvement District, Approving the Assessment Formula and Levying the Assessments.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing and adopt the resolution as submitted.

- B. Public Hearing – To Receive Public Comment and Consideration of an Ordinance to Amend and Restate Article 34, Chapter 3 of Title 9 of the Los Banos Municipal Code Regarding Density Bonuses and other Affordable Housing Development Incentives.

- 1) Ordinance No. 1175 – Amending and Restating Article 34 Chapter 3 of Title 9 of the Los Banos Municipal Code Regarding Density Bonuses and Other Affordable Housing Development Incentives.

(First Reading & Introduction)

Recommendation: Receive staff report, open the public hearing, receive public comment, and introduce the ordinance as submitted.

9. CONSIDERATION OF ORDINANCE NO. 1176 – AMENDING TITLE 2 CHAPTER 2 ARTICLE 2 OF THE LOS BANOS MUNICIPAL CODE TO CREATE PLANNING COMMISSION DISTRICTS; AMEND THE NUMBER OF MEMBERS AND MANNER OF APPOINTMENT; LENGTH OF TERMS; AND ABSENCES.

(First Reading & Introduction)

Recommendation: Receive staff report and introduce the ordinance as submitted.

10. CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6137 – ADOPTING MAJOR CITY GOALS.

Recommendation: Receive staff report and adopt the resolution as submitted.

11. CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6138 – APPROVING A FOURTH AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT AS IT PERTAINS TO INCREASING THE ANNUAL BASE SALARY BY FIVE PERCENT (5%).

Recommendation: Receive the staff report and adopt the resolution as submitted.

12. CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6139 – AMENDING DIVISION 4, SALARY SCHEDULE – EMPLOYEE CLASSIFICATIONS RELATING TO SECTION A – ADMINISTRATION / CITY MANAGER.

Recommendation: Receive the staff report and adopt the resolution as submitted.

13. ADVISEMENT OF PUBLIC NOTICES. (Two Reports)

14. CITY MANAGER REPORT.

15. REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) AND MEASURE V COMMITTEE.

Recommendation: Informational item only, no action to be taken.

16. CITY COUNCIL MEMBER REPORTS.

- A. Brett Jones
- B. Deborah Lewis
- C. Tom Faria
- D. Daronica Johnson-Santos
- E. Mayor Mike Villalta

17. ADJOURNMENT.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.



Lucille L. Mallonee, City Clerk

Dated this 26th day of September 2019

CK # 218099- # 218327 10/02/2019

\$1,361,111.48

Bank Reconciliation

Checks by Date



City of
Los Banos
At the Crossroads of California

User: jcanchola
Printed: 09/24/2019 - 8:09AM
Cleared and Not Cleared Checks
Print Void Checks

Check No	Check Date	Name	Module Void	Amount
218101	9/13/2019	Alhambra	AP	134.99
218102	9/13/2019	A & A Portables Inc	AP	225.00
218103	9/13/2019	Accela, Inc.	AP	1,706.00
218104	9/13/2019	Advanced Chemical Transport, Inc.	AP	1,625.12
218105	9/13/2019	All American Plumbing	AP	301.00
218106	9/13/2019	Ameripride Services	AP	149.87
218107	9/13/2019	Anthony Gomes	AP	2,250.00
218108	9/13/2019	Aramark Uniform Ser Inc	AP	601.23
218109	9/13/2019	AT&T	AP	31.73
218110	9/13/2019	BJ's Consumers Choice	AP	210.00
218111	9/13/2019	Borelli Real Estate Service, Inc.	AP	90.00
218112	9/13/2019	Brenntag Pacific Inc	AP	4,161.47
218113	9/13/2019	BSK Associates	AP	1,210.00
218114	9/13/2019	Burton's Fire Inc.	AP	3,039.74
218115	9/13/2019	Caliber Bodyworks, Inc.	AP	13,424.03
218116	9/13/2019	Central Sanitary Supply	AP	190.85
218117	9/13/2019	Comcast	AP	96.16
218118	9/13/2019	Cook's Communications Corp.	AP	471.25
218119	9/13/2019	LN Curtis & Sons	AP	186.28
218120	9/13/2019	Custom Locksmith & Alarm Inc.	AP	278.88
218121	9/13/2019	Employee Relations, Inc.	AP	50.00
218122	9/13/2019	Eddings Attorney Support Svsc, Inc	AP	275.00
218123	9/13/2019	Farmer Brothers Coffee	AP	254.97
218124	9/13/2019	Fastenal Company	AP	2,041.14
218125	9/13/2019	Fast Track Car Wash	AP	238.00
218126	9/13/2019	Federal Express Corporation	AP	33.66
218127	9/13/2019	Ferrellgas, Inc.	AP	71.70
218128	9/13/2019	Fresno Truck Center	AP	66.50
218129	9/13/2019	Galls Inc	AP	200.00
218130	9/13/2019	Halo Branded Solutions Inc.	AP	2,845.52
218131	9/13/2019	Helena Chemical Co Inc	AP	426.68
218132	9/13/2019	Hi Tech Emergency Vehicle Services, Inc	AP	476.20
218133	9/13/2019	Holt of California	AP	1,419.65
218134	9/13/2019	InfoSend Inc.	AP	5,839.33
218135	9/13/2019	JC's Pure Water & More	AP	70.00
218136	9/13/2019	David A Jones	AP	2,060.00
218137	9/13/2019	Kalmikov Enterprises, Inc	AP	344.04
218138	9/13/2019	Kone Inc.	AP	719.43
218139	9/13/2019	Lucas Business Systems	AP	2,647.51
218140	9/13/2019	Marfab Inc	AP	163.05
218141	9/13/2019	Merced Chevrolet Inc.	AP	878.06
218142	9/13/2019	Merced County Regional Waste Management Authority	AP	3,051.60
218143	9/13/2019	Merced County Regional Waste Management Authority	AP	78,982.79

218144	9/13/2019	Merced County Regional Waste Management Authority	AP	5,513.39
218145	9/13/2019	Madera Uniform & Accessories	AP	473.13
218146	9/13/2019	MOO, Inc.	AP	305.76
218147	9/13/2019	North Central Laboratories	AP	202.51
218148	9/13/2019	The Office City	AP	199.79
218149	9/13/2019	OSE	AP	110.22
218150	9/13/2019	Pacific Landscape Supply, Inc.	AP	4,220.50
218151	9/13/2019	Pitney Bowes Inc	AP	472.59
218152	9/13/2019	Proforce Law Enforcement	AP	495.90
218153	9/13/2019	Pro Clean Supply	AP	179.98
218154	9/13/2019	Protech Security & Electronics, Inc.	AP	312.00
218155	9/13/2019	R3 Consulting Group	AP	967.50
218156	9/13/2019	Razzari Dodge Chrysler Jeep	AP	249.06
218157	9/13/2019	SJVAPCD	AP	241.00
218158	9/13/2019	Safeguard Business System, Inc.	AP	2,447.60
218159	9/13/2019	Safe T Lite of Modesto, Inc.	AP	34,391.10
218160	9/13/2019	Save Mart Supermarkets	AP	63.71
218161	9/13/2019	Michael Bartholomew	AP	35.00
218162	9/13/2019	Sherwin Williams Co	AP	460.43
218163	9/13/2019	Shred-It US JV LLC	AP	267.92
218164	9/13/2019	Robert & Susan Hansen	AP	286.00
218165	9/13/2019	Sorensens True Value	AP	989.86
218166	9/13/2019	Syar Industries Inc.	AP	1,836.11
218167	9/13/2019	Talley Oil Inc.	AP	19,063.94
218168	9/13/2019	T & T Pavement Markings and Products, Inc.	AP	581.82
218169	9/13/2019	Terminix Processing Center	AP	148.00
218170	9/13/2019	The Don Chapin Co., Inc.	AP	474.81
218171	9/13/2019	Stephanie Pereira	AP	37.82
218172	9/13/2019	Ronald Obando	AP	134.34
218173	9/13/2019	Sarah Cunha	AP	96.01
218174	9/13/2019	Blossom Valley Realty, JR Souza	AP	110.46
218175	9/13/2019	Sergio Ochoa	AP	3.66
218176	9/13/2019	Kristina Fearnside	AP	53.52
218177	9/13/2019	D.R. Horton	AP	164.88
218178	9/13/2019	Felipe Santiago	AP	13.45
218179	9/13/2019	Angela & Salvador Viveros	AP	13.45
218180	9/13/2019	Christina Neal	AP	58.22
218181	9/13/2019	Duy Huynh	AP	81.54
218182	9/13/2019	RB Construction	AP	92.67
218183	9/13/2019	RB Construction	AP	92.67
218184	9/13/2019	Westhill Property Mgmt	AP	116.43
218185	9/13/2019	D.R. Horton	AP	191.20
218186	9/13/2019	Blossom Valley Realty	AP	79.37
218187	9/13/2019	Evelyn Threat	AP	100.00
218188	9/13/2019	Jesus Castro	AP	10.46
218189	9/13/2019	Craig & Craig Prof. Services, Gina	AP	158.22
218190	9/13/2019	Jooho Park	AP	19.86
218191	9/13/2019	D.R. Horton	AP	194.87
218192	9/13/2019	Westhill Real Estate	AP	125.39
218193	9/13/2019	Valley Critter Care , Inc.	AP	225.85
218194	9/13/2019	Westside Water Conditioning	AP	52.32
218195	9/13/2019	Windecker Inc	AP	17,680.14
218196	9/13/2019	Young's Air Conditioning	AP	583.00
218197	9/13/2019	Zee Medical Service Co	AP	235.77

218198	9/13/2019	Richard A Blak Phd	AP	400.00
218199	9/13/2019	Gisselle Curiel	AP	3,340.00
218200	9/13/2019	City of Los Banos Utility	AP	281.64
218201	9/13/2019	Mary Lou Gilardi	AP	60.80
218202	9/13/2019	Liebert Cassidy Whitmore	AP	8,743.00
218203	9/13/2019	Los Banos Medical Group A Medical Corp.	AP	266.18
218204	9/13/2019	Ronny's Inc.	AP	39,180.00
218205	9/13/2019	Ronny's Inc.	AP	12,621.61
218206	9/13/2019	Ronny's Inc.	AP	14,125.50
218207	9/13/2019	Law Offices of William A Vaughn	AP	10,972.50
218217	9/19/2019	Aflac-Customer Service	AP	535.19
218218	9/19/2019	Los Banos Fitness &	AP	416.00
218219	9/19/2019	Los Banos Police Assn	AP	455.00
218220	9/19/2019	Los Banos Police Assn	AP	175.00
218221	9/19/2019	Los Banos Police Assn	AP	945.00
218222	9/19/2019	MassMutual	AP	1,423.09
218223	9/19/2019	MassMutual	AP	4,142.50
218224	9/19/2019	Merced County Sheriff	AP	150.00
218225	9/19/2019	Nationwide Retirement Solutions	AP	3,037.50
218226	9/19/2019	Professional Fire Fighter	AP	630.00
218227	9/19/2019	State Disbursement Unit	AP	2,088.00
218228	9/19/2019	Vantagepont Transfer Agents - 306797	AP	884.45
218229	9/19/2019	Vantagepoint Transfer Agents - 705827	AP	25.00
218230	9/19/2019	Vantagepoint Transfer Agents - 801838	AP	2,950.00
218231	9/20/2019	A & A Portables Inc	AP	76.82
218232	9/20/2019	Allied Waste Services #917	AP	285,747.26
218233	9/20/2019	Amerigas Propane, LP	AP	94.82
218234	9/20/2019	Ameripride Services	AP	147.87
218235	9/20/2019	American Water Works Assn	AP	2,237.00
218236	9/20/2019	Animal Damage Management, Inc.	AP	4,040.00
218237	9/20/2019	Aramark Uniform Ser Inc	AP	549.24
218238	9/20/2019	ASCE Membership	AP	295.00
218239	9/20/2019	Ascent Aviation Group, Inc.	AP	23,843.26
218240	9/20/2019	AT&T Mobility	AP	411.75
218241	9/20/2019	AT&T	AP	639.71
218242	9/20/2019	Battery Systems, Inc.	AP	263.92
218243	9/20/2019	Blueglobes LLC	AP	218.35
218244	9/20/2019	Brenntag Pacific Inc	AP	3,401.47
218245	9/20/2019	Brinks Inc.	AP	680.56
218246	9/20/2019	Bruce's Tire Inc	AP	1,612.54
218247	9/20/2019	BSK Associates	AP	1,274.00
218248	9/20/2019	Central Sanitary Supply	AP	42.16
218249	9/20/2019	Clark Pest Control Inc	AP	343.00
218250	9/20/2019	Comcast	AP	126.72
218251	9/20/2019	CSG Consultants Inc.	AP	38,625.02
218252	9/20/2019	LN Curtis & Sons	AP	76.60
218253	9/20/2019	Custom Locksmith & Alarm Inc.	AP	185.55
218254	9/20/2019	DTSC	AP	150.00
218255	9/20/2019	Erica Escobar	AP	500.00
218256	9/20/2019	F S Rod Inc	AP	1,415.63
218257	9/20/2019	Fast Track Car Wash	AP	234.50
218258	9/20/2019	Federal Express Corporation	AP	21.43
218259	9/20/2019	Ferrellgas, Inc.	AP	2.62
218260	9/20/2019	Golden State Flow Measurement	AP	37,489.83

218261	9/20/2019	Government Revenue Solutions Holdings I, LLC	AP	273.07
218262	9/20/2019	Gouveia Engineering Inc.	AP	2,703.16
218263	9/20/2019	Leo Godinez	AP	350.00
218264	9/20/2019	Holt of California	AP	2,739.18
218265	9/20/2019	Interstate Truck Center, LLC	AP	85.90
218266	9/20/2019	Indigo/Hammond & Playle Architects, LLP	AP	11,959.86
218267	9/20/2019	Johnnie's Cleaners	AP	137.75
218268	9/20/2019	Kings View Corporation	AP	400.00
218269	9/20/2019	Lawson Products, Inc.	AP	323.11
218270	9/20/2019	Marfab Inc	AP	600.20
218271	9/20/2019	Merced Chevrolet Inc.	AP	268.61
218272	9/20/2019	Merced Truck & Trailer Inc	AP	112.06
218273	9/20/2019	Monterey Auto Services Inc.	AP	100.00
218274	9/20/2019	MOO, Inc.	AP	183.06
218275	9/20/2019	Claudia Medina	AP	600.00
218276	9/20/2019	The Office City	AP	434.91
218277	9/20/2019	OSE	AP	19.36
218278	9/20/2019	O'Reilly Auto Parts	AP	552.09
218279	9/20/2019	PG Tools & Equipment, LLC	AP	79.12
218280	9/20/2019	PlaceWorks, Inc.	AP	36,803.49
218281	9/20/2019	Precision Civil Engineering, Inc	AP	2,465.00
218282	9/20/2019	Price Paige and Company Accountancy Corporation	AP	1,515.00
218283	9/20/2019	Protech Security & Electronics, Inc.	AP	180.00
218284	9/20/2019	Safe T Lite of Modesto, Inc.	AP	1,452.90
218285	9/20/2019	Save Mart Supermarkets	AP	10.41
218286	9/20/2019	Henry Schein Inc.	AP	88.95
218287	9/20/2019	Michael Bartholomew	AP	129.44
218288	9/20/2019	Sherwin Williams Co	AP	163.13
218289	9/20/2019	Robert & Susan Hansen	AP	587.25
218290	9/20/2019	Frank Silveria	AP	142.50
218291	9/20/2019	Sorensens True Value	AP	337.72
218292	9/20/2019	Sorensens True Value	AP	26.08
218293	9/20/2019	Ignacio C. Sanchez	AP	500.00
218294	9/20/2019	Gregory Soliz	AP	600.00
218295	9/20/2019	Talley Oil Inc.	AP	10,389.61
218296	9/20/2019	Tractor Supply Credit Plan	AP	372.84
218297	9/20/2019	Craig & Craig Prof. Services, Gina	AP	179.10
218298	9/20/2019	Manuel Retana Sierra	AP	49.26
218299	9/20/2019	Jeffrey Farnden	AP	88.07
218300	9/20/2019	Matthew Patrick	AP	140.31
218301	9/20/2019	D.R. Horton	AP	186.81
218302	9/20/2019	Alma Mijares	AP	7.47
218303	9/20/2019	Emilia De Cortez	AP	40.31
218304	9/20/2019	Remi Ogunnupe	AP	142.46
218305	9/20/2019	D.R. Horton	AP	189.00
218306	9/20/2019	Merced County Westside Family Health Services	AP	188.02
218307	9/20/2019	William Stenberg	AP	59.25
218308	9/20/2019	William Stenberg	AP	86.51
218309	9/20/2019	Eblin Alborno	AP	13.49
218310	9/20/2019	Melinda Manalo	AP	89.54
218311	9/20/2019	Neldyn Lopez	AP	81.00
218312	9/20/2019	Lynette Pacini	AP	82.10
218313	9/20/2019	Serreta Properties, LP	AP	84.96
218314	9/20/2019	Verizon Wireless	AP	778.55

218315	9/20/2019	Westside Water Conditioning	AP	173.50
218316	9/20/2019	Windecker Inc	AP	8,086.83
218317	9/20/2019	Richard A Blak Phd	AP	400.00
218318	9/20/2019	CSJVRMA	AP	350,743.00
218319	9/20/2019	Gisselle Curiel	AP	3,340.00
218320	9/20/2019	Ford Motor Credit Company LLC	AP	1,307.85
218321	9/20/2019	Mary Lou Gilardi	AP	36.00
218322	9/20/2019	Jason Kirschman	AP	46.00
218323	9/20/2019	Los Banos Medical Group A Medical Corp.	AP	490.00
218324	9/20/2019	Merced County	AP	50.00
218325	9/20/2019	PG&E Company	AP	149,899.15
218326	9/20/2019	Robert Strauch	AP	3,000.00
218327	9/20/2019	US Bank Corp Pymt System	AP	21,518.96

Break in check sequence due to the following:
Check #218099 - #218100 (Payroll)

Total Void Check Count: 0
Total Void Check Amount:

Break in check sequence due to the following:
Check #218208 - #218216 (Payroll)

Total Valid Check Count: 218
Total Valid Check Amount: 1,361,111.48
Total Check Count: 218
Total Check Amount: 1,361,111.48



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: October 2, 2019

TYPE OF REPORT: Consent Agenda

SUBJECT: Adopting a revised budget for Fiscal Year 2019-2020 as it pertains to the expenditure of a Cab and Chassis with 240 Hooklift System

Recommendation:

That the City Council adopts the Resolution to amend the 2019-2020 Fiscal Year Budget by increasing appropriations as it pertains to the expenditure of a Cab and Chassis with 240 Hooklift System.

Background:

The City of Los Banos approved the purchase of a Cab and Chassis with 240 Hooklift System (truck) from Fresno Truck Center in the amount of \$133,710.45 on September 19, 2018. The bid documents allowed up to 180 days for delivery of the truck. Fresno Truck Center indicated they would be able to deliver the truck within the 180 calendar days. Prior to the delivery due date, correspondence between the City and Fresno Truck Center communicated recent trade tariffs would likely delay the delivery date to mid June.

Discussion:

The 2018-2019 budget included the purchase of the truck. The City received the invoice for the purchase of the truck on June 29, 2019. A check was issued July 2, 2019. Scheduling conflicts between Fresno Truck Center and City Staff delayed the delivery date. Subsequently, staff received delivery of the truck on July 10, 2019. As the delivery occurred in the 2019-2020 Fiscal Year, staff is requesting funds for the purchase of the truck be appropriated in the Fiscal Year 2019-2020 budget.

Fiscal Impact:

Increase appropriations in the Solid Waste Fund, expenditure account number 510-490-100-753, in the amount of \$133,710.45.

Reviewed by:



Alex Terrazas, City Manager


Sonya Williams, Finance Director

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF LOS BANOS AMENDING THE
FISCAL YEAR 2019-2020 BUDGET AS IT
PERTAINS TO THE EXPENDITURE OF A CAB
AND CHASSIS WITH 240 HOOKLIFT SYSTEM**

WHEREAS, the City Council of the City of Los Banos has been presented an amendment to the Fiscal Year 2019-2020 budget; and

WHEREAS, the City Council of the City of Los Banos may adjust the overall appropriation levels in each fund at any time during the Fiscal Year by action to amend the budget; and

WHEREAS, the proposed budget increase include \$133,710.45 in expenditures for the Solid Waste Fund account 510-490-100-753; and

WHEREAS, the funds were previously appropriated in the 2018-2019 Fiscal Year budget and were not encumbered.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos hereby amends the Fiscal Year 2019-2020 Budget to include an increase of \$133,710.45 in expenditures for the Solid Waste Fund account 510-490-100-753.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

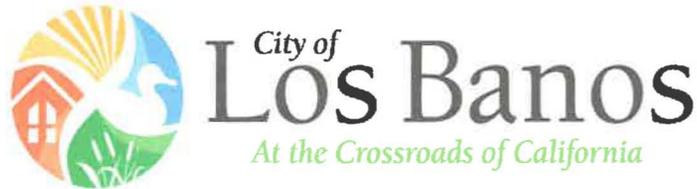
AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: October 2, 2019

TYPE OF REPORT: Consent Agenda

SUBJECT: Sewer System Management Plan Re-Certification

Recommendation:

That the City Council adopt the Resolution to re-certify the adoption of the City of Los Banos Public Works Department Sewer System Management Plan to meet the requirements of the State Water Quality Control Board.

Background:

The State Water Resources Control Board (SWRCB) adopted the Statewide General Waste Discharge Requirement (GWDR) on May 2, 2006. The GWDR regulates many components of waste dischargers, including wastewater treatment plants, pretreatment programs and collection systems. The GWDR applies to all public collection system agencies in California that own or operate collection systems comprised of more than one mile of pipe or sewer lines, which convey untreated wastewater to a publicly owned treatment facility, and requires each agency to prepare a Sewer System Management Plan (SSMP).

The SSMP is a document that describes the activities your agency uses to manage your wastewater collection system. One of the many requirements of the SSMP is the approval by the enrollee's governing board at a public meeting (GWDR, Page 9, Paragraph 11). The GWDR further requires that the SSMP be updated and re-certified every five years. The Public Works Department audits and updates the SSMP annually to maintain its relevance and to ensure that new requirements are being met. The City Council adopted the SSMP at the July 1, 2009 meeting and re-certified the adoption on June 18, 2014.

Discussion:

The Public Works Department currently has many policies, practices, and ordinances related to the operation and maintenance of our collection system, which meet the requirements of the SSMP. The SSMP documents effective management of the wastewater collection system. This is a living document that changes with personnel,

equipment, new technologies, improved operations, and additional GWDR requirements. This update consisted of changes to the following:

- Employee contact information
- Public Works organization chart
- Equipment inventory
- Sewer System cleaning records

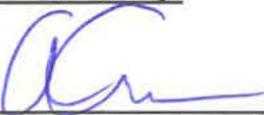
The Sewer System Management Plan, with appendices, is located on the City's web site for your review, in the Public Works document section.

The City of Los Banos Public Works Department is committed to preserving and securing the health and safety of residents by providing quality wastewater services. A well managed, operated, and maintained wastewater collection system is imperative in meeting this goal. This update and recertification ensures the City is compliant with the requirements of the Regional Water Quality Control Board and applicability of the City's SSMP.

Fiscal Impact:

Funding for the SSMP will be minimal. The SSMP is written, implemented, and maintained by the Public Works Department. Our current operation and Master Plan meet the requirements of the SSMP. Equipment, personnel, and review of the system fall under the normal responsibility of the department. One element of the SSMP is reporting to the State any sewer system overflows that occur, and could potentially enter the storm system and reach receiving waters. This reporting has the potential of generating fines related to the spill. The fine process is undefined and at the discretion of the SWRCB. Every effort is made to avoid and contain overflows. Therefore, we do not perceive a large financial impact beyond the normal operating budget projections.

Reviewed by:



Alex Terrazas, City Manager



Sonya Williams, Finance Director

Attachments:

Resolution
City of Los Banos Sewer System Management Plan

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING THE RE-
CERTIFICATION OF THE CITY OF LOS BANOS
SEWER SYSTEM MANAGEMENT PLAN**

WHEREAS, the State Water Resources Control Board (SWRCB) adopted the Statewide General Waste Discharge Requirement (GWDR) on May 2, 2006; and

WHEREAS, the GWDR applies to all public collection system agencies in California that own or operate collection systems comprised of more than one mile of pipe of sewer lines; and

WHEREAS, the GWDR requires public collection system agencies to prepare and maintain a Sewer System Management Plan (SSMP); and

WHEREAS, the City Council of the City of Los Banos is committed to providing quality wastewater services with a well managed, operated, and maintained wastewater collection system; and

WHEREAS, the SSMP documents the effective management of the wastewater collection system; and

WHEREAS, the City Council of the City of Los Banos, at their meeting on July 1, 2009, adopted the City of Los Banos Sewer System Management Plan by resolution No. 5151; and

WHEREAS, the SWRCB requires that the City Council of the City of Los Banos recertify the SSMP every five years.

WHEREAS, the City Council of the City of Los Banos has reviewed the City of Los Banos Sewer System Management Plan.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve and recertify the adoption of the City of Los Banos Sewer System Management Plan to meet the requirement of the State Water Quality Control Board.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mike Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

Sewer System Management Plan (SSMP)

Updated September 2019



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This Sewer System Management Plan is in conjunction with the following City documents:

- City of Los Banos Sewer Infrastructure Maps
- City of Los Banos Master Plan for Wastewater Collection System
- City of Los Banos Improvement Standards and Specifications

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- Merced County Environmental Health Department contact information
- Log of sewers cleaned frequently due to a history of FOG
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- Sewer lift pumping station inspection and maintenance record form
- Public Outreach Brochures

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- SSMP Audits



Glossary of Terms / Acronyms

AACE	Association for the Advancement of Cost Engineering
APWA	American Public Works Association
BACWA	Bay Area Clean Water Agencies
CCTV	Closed Circuit Television
CIWQS	California Integrated Water Quality System
CRWA	California Rural Water Association
CWEA	California Water Environment Association
DHS	Department of Health Services
FOG	Fats, Oils and Grease
LBFD	Los Banos Fire Department
LBPD	Los Banos Police Department
LBPW	Los Banos Public Works (department)
MCEHD	Merced County Environmental Health Department
MRP	Mandatory Reporting Program
NPDES	National Pollution Discharge Elimination System
OERP	Overflow Emergency Response Plan
OES	Office of Emergency Services
PW	Public Works (department)
RWQCB	Regional Water Quality Control Board
SOPSPSF	Standard Operating Procedures for Sewer Pump Station Failures
SORP	Sewer Overflow Response Plan
SSO	Sewer System Overflow
SSORP	Sewer System Overflow Response Plan
SSMP	Sewer System Management Plan
SWMP	Storm Water Management Plan
SWRCB	State Water Resources Control Board
WDR	Waste Discharge Requirement
WWTP	Waste Water Treatment Plant

This introductory section provides background information on the purpose and organization of this Sewer System Management Plan (SSMP) and provides a brief overview of the City's service area and sewer system.

SSMP Requirement Background

This SSMP has been prepared in compliance with requirements of the Regional Water Quality Control Board (RWQCB) pursuant to section 13267 of the California Water Code. The RWQCB mandates that the City prepare a SSMP following the guidelines in the SSMP Development guide prepared by the RWQCB in cooperation with the Bay Area Clean Water Agencies (BACWA). The City must also comply with RWQCB sanitary sewer overflow (SSO) electronic reporting requirements.

The State Water Resources Control Board (SWRCB) enacted on May 2, 2006 to require all public wastewater collection system agencies in California with greater than one mile of sewers to be regulated under General Waste Discharge Requirements (GWDR). The SWRCB action also mandates the development of a SSMP and the reporting of SSO's using an electronic reporting system. The SWRCB SSMP requirements are similar to the RWQCB requirements, but differ in organization and some details.

Document Organization

This SSMP is intended to meet the requirements of both the RWQCB and the GWDR. The Organization of this document is consistent with the RWQCB guidelines, but the contents address both the RWQCB and SWRCB requirements. The SSMP includes eleven elements, listed below. Each of these elements forms a section of this document. (As of November 2007 the Goals and the Organization are the only two elements of the eleven that are prepared for this SSMP.) Parenthesis indicates the title of the comparable SWRCB element.

1. Goals
2. Organization
3. Overflow Emergency Response Plan
4. Fats, Oils and Grease (FOG) Control Program
5. Legal Authority
6. Measures and Activities (Operations and Maintenance Program)
7. Design and Construction Standards (Design and Performance Provisions)
8. Capacity Management (System Evaluation and Capacity Assurance Plan)
9. Monitoring, Measurement, and Program Modifications
10. SSMP Audits
11. Communication

Supporting information for each element is included in the appendix associated with that section, as applicable. (The appendix would include information expected to require updates, such as names and phone numbers of staff, as well as supporting information, such as maps, forms or schedules.)

SSMP Preparations Deadlines

Deadlines for completion of the required elements have been assigned based on the population served by the public wastewater collection system agency. The City of Los Banos is included in the schedule for population served between 10,000 and 100,000. The deadlines for preparation and implementation of the SSMP required actions and elements for this population group are as follows:

ACTIONS	Completion Dates
SSMP Development Plan and Schedule	11/1/07
Approval of SSMP, by agency's governing board (City Council)	11/1/07
Final SSMP Approval, by agency's governing board (City Council)	7/1/09
ELEMENTS	Completion Dates
Goals	11/1/07
Organization	11/1/07
Overflow Emergency Response Plan (Develop a formal SSO emergency response plan)	5/1/09
Fats, Oils and Grease Control Program (Establish a FOG program through regulation and education)	5/1/09
Legal Authority (Review and establish enforcement provisions for violations)	5/1/09
Measures and Activities (Assess and optimize maintenance activities)	5/1/09
Design and Construction Standards (Review and update design and construction standards)	7/1/09
Capacity Management (Hydraulic modeling will be included as part of the new Master Plan)	7/1/09
Monitoring, Measurement, and Program Modifications (Evaluation and updating of training, procedures and data)	7/1/09
SSMP Audits (Annual update and review of SSMP progress)	7/1/09
Communication (Continually educate all stakeholders)	7/1/09

City Service Area and Sewer System

The City of Los Banos is located in the Central San Joaquin Valley at the cross roads of Highways 152, 165 and 33. Interstate 5 is six miles to the west and Highway 99 is 30 minutes to the east. Los Banos is famous for its agricultural products, including melons, almonds, walnuts, apricots, cotton, tomatoes and dairy products. As of January of 2019, the City had a population of approximately 41,898.

The City's sewer system consists of approximately 131 miles of sewer mains, 13 lift stations, 1273 sewer manholes, and 245 sewer cleanouts, as of July 2019. Little or no change has occurred to date. The City provides sewer service to most businesses and residences within the City, as well as industries which discharge into the collection system.



Element 1: Goals

This SSMP element identifies goals the City has set for the management, operation and maintenance of the sewer system and discusses the role of the SSMP in supporting these goals. These goals provide focus for City staff to continue high-quality work and to implement improvements in the management of the City's wastewater collection system. This section fulfills the Goals requirements of both the RWQCB (Element 1) and the SWRCB (Element 1) SSMP requirements.

1.1 Regulatory Requirements for Goals Element

The summarized requirements for the Goals element of the SSMP are as follows:

RWQCB Requirement:

The City of Los Banos must develop goals to manage, operate, and maintain all parts of its collection system. The goals should address the provision of adequate capacity to convey peak wastewater flows, as well as a reduction in the frequency of sanitary sewer overflows (SSO's) and the mitigation of their impacts.

SWRCB Requirement:

The City of Los Banos must develop goals to properly manage, operate, and maintain all parts of its wastewater collection system in order to reduce SSO's, as well as to mitigate any SSO's that occur.

1.2 Appendix

There is no appendix associated with Element 1.

1.3 Goals Discussion

Providing safe, responsive, and reliable sewer service is a key component to fulfilling the City's Public Works Department mission statement: "To preserve and protect the health and safety of residents by providing quality wastewater services"

In support of this mission, the City has developed the following goals for the operation and maintenance of its sewer system. These goals are also adopted by the City's staff and provide procedures and guidelines for maintenance and cleaning activities.

1. Minimize sanitary sewer overflows.
2. Prevent public health hazards.
3. Minimize inconveniences by responsibly handling interruptions in services.
4. Protect the large investment in collection systems by maintaining adequate capacities and extending useful life.
5. Prevent unnecessary damage to public and private property.

6. Use funds available for sewer operations in the most efficient manner.
7. Convey wastewater to treatment facilities with a minimum of infiltration, inflow, and exfiltration.
8. Provide adequate capacity to convey peak flows.
9. Perform all operations in a safe manner to avoid personal injury and property damage.

This SSMP supplements and supports the City's existing Operations & Maintenance program and goals by providing high-level, consolidated guidelines and procedures for all aspects of the City sewer system management. The SSMP will contribute to the proper management of the collection system and assist the City in minimizing the frequency and impacts of SSOs by providing guidance for appropriate maintenance, capacity management, and emergency response.



2.1 SSMP Staff Organization

The organization chart for the management, operations, and maintenance of the City's wastewater collection system is shown in Figure 2-1. The names and phone numbers of staff filling these positions are included in Appendix A, Table 1.

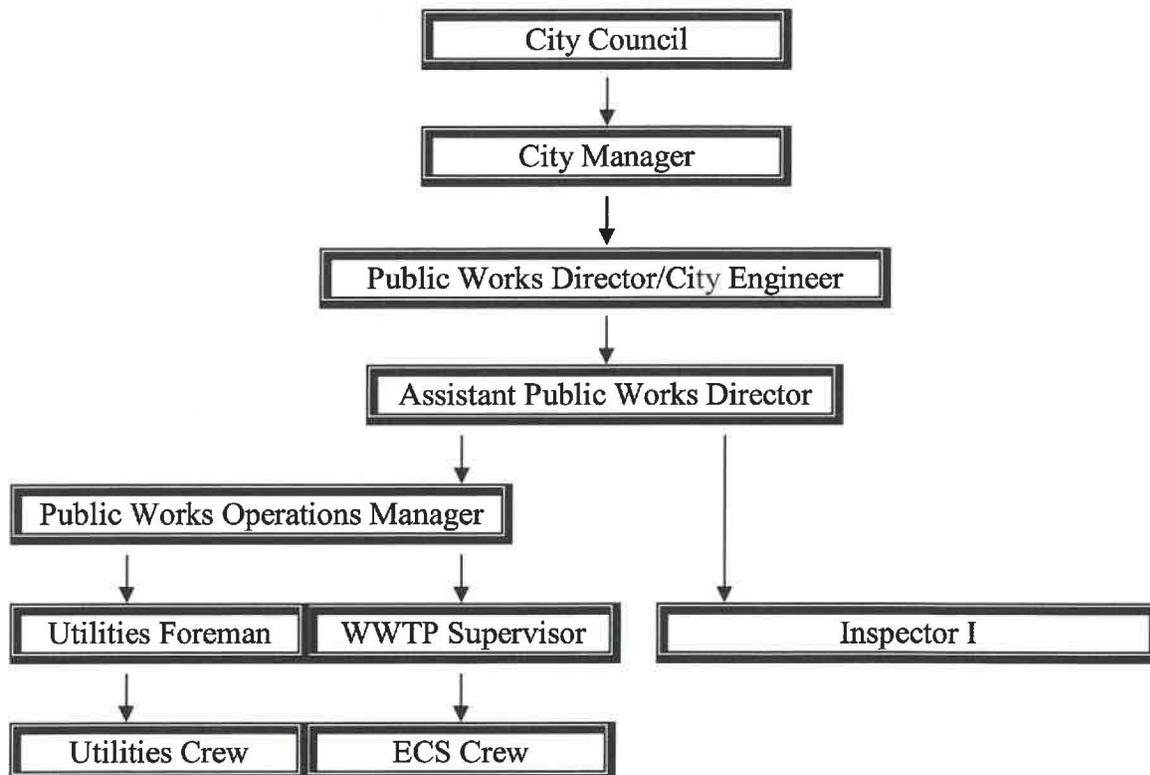


Figure 2-1. Organization Chart of Sewer Staff

2.2 Element 2 Appendix

Supporting information for Element 2 is included in Appendix A. This appendix includes the following documents:

1. Public Works Contact List

2.3 Description of General Responsibilities

City Council. Responsible for the approval, adoption and resolution of the SSMP, Master Plan for Wastewater Collections, Improvement Standards & Specifications, Municipal Code, budgets and other documents directing and pertaining to the sewer system management.

City Manager. Oversees the Public Works Department through the Public Works Director/Engineer

Public Works Director/City Engineer. Plans, organizes, directs, and supervises the Public Works activities of the City. Advises the City Council and Planning Commission on engineering and Public Works matters, including those related to the collection system. Oversees and controls department budget. Reviews project plans and specifications for public works projects and performs technical engineering planning studies. Confers with engineering consultants and officials of other public works departments.

Assistant Public Works Director. Works under the broad policy guidance and direction of the Public Works Director/City Engineer. Works to improve efficiency and effectiveness of operations. Assists the Public Works Director/City Engineer in development of department plans, including sewer operations and the Capital Improvement Program. Supervises the review of private development plans for compliance of codes, regulations, and standards, adequacy of applications for permits and compliance with approved plans. Oversees and coordinates sewer maintenance operations. Acts as project manager on public works projects, including sewer projects. Confers with contractors, consultants, and the public on engineering and construction matters. Prepares reports on sewer and other public works projects.

Public Works Operations Manager. Plans, organizes, and supervises the maintenance and repair of City public works infrastructure, including sewers. Manages the various public works Services. Reviews plans and specifications for sewer and other projects, and makes recommendations regarding maintenance, construction, and operations aspects. Controls budget expenditures within the Utilities Services. Confers with contractors, engineers, and members of the general public on construction and maintenance problems and procedures.

Wastewater Treatment Plant Supervisor. Supervises Sewer lift station maintenance workers. Schedules work assignments. Maintains records of projects assigned and completed, supplies and equipment used, and cost incurred. Estimates needed equipment and equipment maintenance.

Utilities Foreman. Investigates sewer related complaints from the general public. Supervises and personally assists in the cleaning and repair of sewer mains and lines. Oversees the locating and raising of manholes. Lays out and schedules work for the crew. Trains crew members in specific tasks, as needed, including collection system preventive maintenance and SSO response. Checks work of assigned crew.

Utilities Crew / Environmental Control Specialist (WWTP) Crew. Works alone or as part of a crew. Repairs, unplugs, cleans, and performs preventative maintenance on sewer lines. Repairs and maintains the many sewer lift stations throughout the system. Operates power equipment including hydraulic / vacuum cleaning truck. Conforms to all confined space regulations, USA and other safety rules.

Inspector I. Works to insure that public works projects meet the current code requirements. Inspection of development and infrastructure projects to insure that plans, materials and scope of work meet the City's standards. Observe all projects for compliance with Best Management Practices Policies.

2.4 Authorized Representative

The City's authorized representative in all wastewater collection system matters is the Public Works Director/City Engineer. The Public Works Director/City Engineer is authorized to certify electronic spill reports submitted to the SWRCB

The assistant Public Works Director is authorized to act in the Director's absence.

The Public Works Operations Manager (or other designee) is authorized to complete electronic SSO reports for further certification by the Director.

2.5 Responsibility for SSMP Implementation

The Public Works Director/City Engineer is responsible for implementation and maintaining all elements of this SSMP.

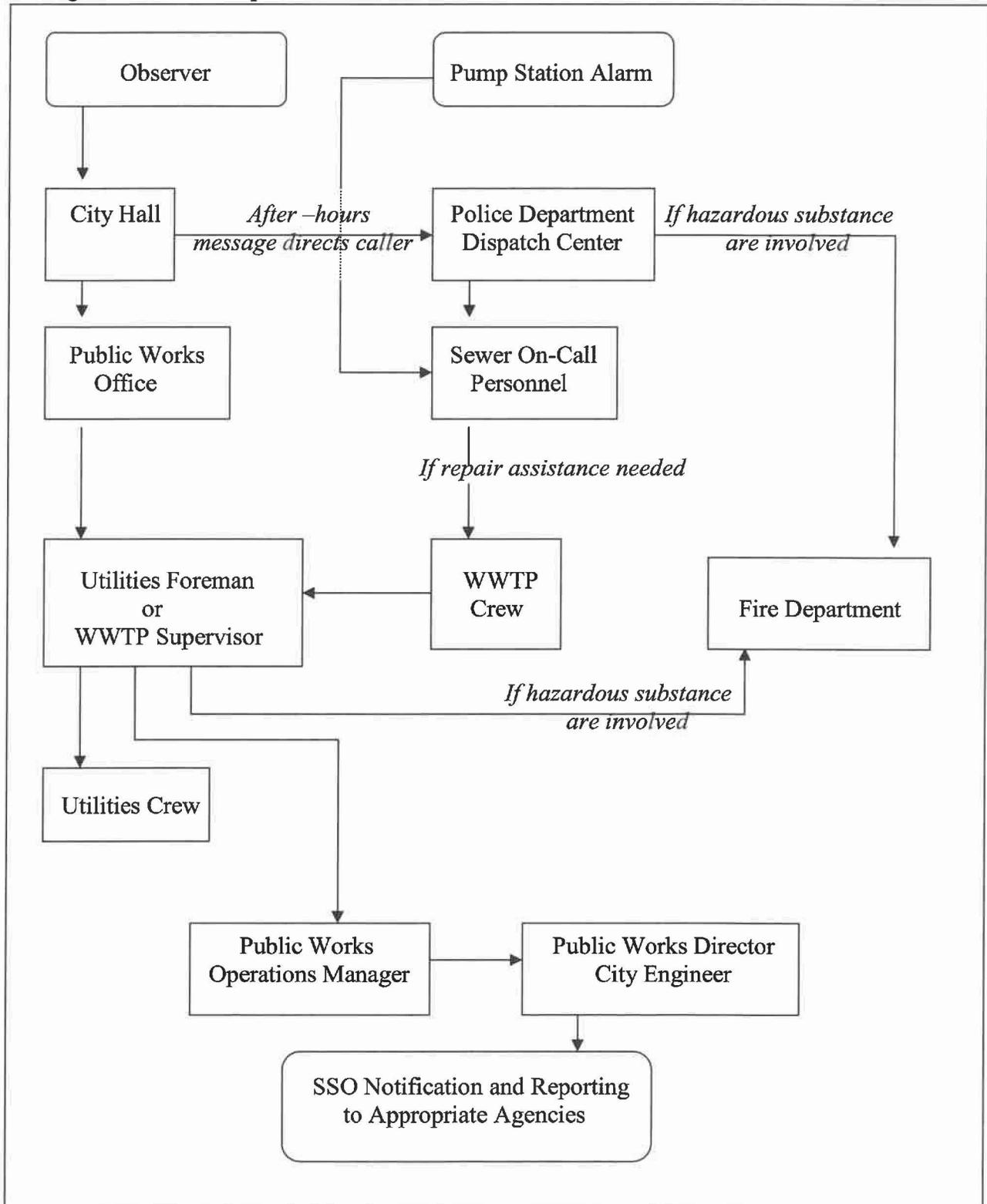
2.6 SSO Reporting Chain of Communication

Figure 2-2 contains a flowchart depicting the chain of communication for responding to and reporting SSO's, from observation of a SSO to reporting the SSO to the appropriate regulatory agencies. Table 2-1 lists contact phone numbers for the parties included in the chain of communication. The SSO reporting process is described in more detail in Element 3: Overflow Emergency Response Plan. (Element 3 pending.)

Table 2-1. Contact Numbers for SSO Chain of Communication

Contact	Telephone Number
City Hall	(209) 827-7000
Public Works Office	(209) 827-7056
Police / Fire Department Dispatch Center	(209) 827-7070
Public Works Director/City Engineer	(209) 827-7056
Public Works Operations Manager's Office	(209) 827-7044
Wastewater Treatment Plant Supervisor	(209) 827-7052
Public Works Utilities Foreman	(209) 827-7056
Sewer On-Call Personnel	(209) 587-1013

Figure 2-2. SSO Response Chain of Communication





Element 3: Overflow Emergency Response Plan

This section of the SSMP provides an overview and summary of the City's emergency response documents and procedures for sewer overflows. Complete documentation for overflow response procedures are attached in Appendix B. This section fulfills the Overflow Emergency Response Plan requirement of both the RWQCB (Element 3) and the SWRCB (Element 6) SSMP requirements.

3.1 Regulatory Requirements for Overflow Emergency Response Plan Element

The summarized requirements for the Overflow Emergency Response Plan element of the SSMP are as follows:

RWQCB Requirement:

The collection system agency must develop an Overflow Emergency Response Plan (OERP) that provides procedures for SSO notification, reporting, and impact mitigation. The response plan should be developed as a stand-alone document and summarized in the SSMP.

SWRCB Requirement:

The collection system agency shall develop and implement an Overflow Emergency Response Plan that identifies measures to protect public health and the environment. At a minimum, this plan must include the following:

- (a) Proper notification procedures so that the primary responders and regulatory agencies are informed of all SSOs in a timely manner.
- (b) A program to insure appropriate response to all overflows.
- (c) Procedures to insure prompt notification to appropriate regulatory agencies and other potentially effected entities (e.g. health agencies, regional water boards, water suppliers, etc...) of all SSOs that potentially affect public health or reach the waters of the state in accordance with the MRP. All SSOs shall be reported in accordance with this MRP, the California Water Code, other State Law, and other applicable Regional Water Board WDR or NPDES permit requirements. The SSMP should identify the officials who will receive immediate notification;
- (d) Procedures to insure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained;
- (e) Procedures to address emergency operations, such as traffic and crowd control and other necessary response activities; and
- (f) A program to insure that all reasonable steps are taken to contain untreated wastewater and prevent discharge of untreated wastewater to waters of the United States and minimize or correct any adverse impact on the environment resulting from the SSOs, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge.

3.2 Element 3 Appendix

Supporting information for Element 3 is included in Appendix B. This appendix includes the following documents:

1. Public Works Department - Sanitary Sewer Overflow Response Plan
2. Public Works Department - Standard Operating Procedure for Sewer Pump Station Failure

3.3 Overview of Sewer Overflow Response Documents

The City has two separate documents that define procedures or guidelines for responding to sewer overflows or other sewer-related emergencies (e.g., stoppages or pump station failures).

The Sanitary Sewer Overflow Response Plan and Operational Guidelines provides overflow emergency response procedures from the receipt of a sewer system overflow complaint, through response and cleanup, to reporting of the overflow to the appropriate government agencies. The document is relevant to anyone involved in the overflow response process, including the person initially receiving information about the SSO, the first responder and field crew responsible for identifying the source of the problem, correcting the cause of the overflow, and cleaning the surrounding area as well as other agency responders that could potentially be involved in the process (police and fire departments). The guidelines also include forms that a responder needs to fill out and guides the person responsible for submitting the overflow reports.

The Standard Operating Procedures for Sewer Pump Station Failure provides brief instructions on whom to contact and how to respond in case of a failure of any of the City's many (currently thirteen) sewer lift pump stations. This document is most relevant to maintenance staff responsible for responding to overflows.

The Sanitary Sewer Overflow Response Plan and Operational Guidelines are summarized in the following subsections and included in Appendix B. This document should provide the procedures and guidelines necessary for fulfilling both the RWQCB and SWRCB emergency response plan requirements.

3.4 Summary of Sanitary Sewer Overflow Response Plan and Operational Guidelines

The City's overflow response plan is divided into seven sections, as follows:

- I. Authority
- II. General (objectives and organization)
- III. Overflow Response Procedure
- IV. Public Advisory Procedure
- V. Regulatory Agency Notification Procedure
- VI. Media Notification Procedure
- VII. Distribution and Maintenance of Sanitary Sewer Overflow Response Plan and Operational Guidelines

Objectives of the City's Sanitary Sewer Overflow Response Plan and Operational Guidelines are to protect public health and the environment, satisfy regulatory agency requirements, and minimize risk of enforcement actions against the City. Additional objectives include providing appropriate customer service and protecting City personnel, the collection system and facilities, and private and public property.

Initial Notification and Response

Section III of the plan details response procedures from initial notification through field response and internal reporting. Subsections include the following:

- A. *Receipt of Information Regarding an SSO:* This subsection provides the contact information and chain of communication for receiving overflow reports, including pump station failures. This subsection also details the information that should be obtained regarding the overflow. Refer to Element 2 (organization) of this SSMP for a flow chart depicting the chain of communication.
- B. *Dispatch of Appropriate Crews to Site of Sanitary Sewer Overflow:* This subsection details protocols for dispatching appropriate crews and equipment, and discusses the additional communication between the response crew and supervisors. Guidelines for completing and documenting a preliminary damage assessment are provided, and coordination with any hazardous material response is explained.
- C. *Overflow Correction, Containment, and Cleanup:* This subsection describes the responsibilities of the response crew while on site. Upon arrival, the crew is responsible for determining the cause of the overflow, assessing the need for additional equipment or assistance, notifying the dispatcher to notify the Merced County Health Department if private property is effected, and taking immediate steps to stop the overflow. This subsection also discusses measures that should be taken for containment, sampling, and site cleanup. Section IV of the plan is referenced for determining whether public advisory notices are to be posted.
- D. *Overflow Report:* The Supervisor is responsible for submitting an overflow report to the Operations Manager. This subsection details the information to be included in the report, including indication whether the overflow reached receiving waters, start and stop time of the overflow, overflow volume, and damage assessment.

Officials receiving immediate notification of the SSO vary depending on the size of the spill and whether or not the spill contains hazardous materials, effects surface waters, or has the potential to impact human health. Appendix B, document 1 lists these officials, and the circumstances under which they are notified.

Public Notification

Sections IV (Public Advisory Procedures) and VI (Media Notification) of the plan discuss circumstances under which the public should be notified of an SSO and establishes responsibilities for posting notices or contacting the media. Potential public notification measures include temporary signage to indicate any polluted surface waters or ground water due to an SSO and notification through media outlets. The Operations Manager is responsible for determining if temporary signage and further notification is necessary. The Operations Manager will serve as the contact person for all media notification communication.

Agency Reporting

Section V of the response plan details reporting requirements to the RWQCB and the State Office of Emergency Services (OES). Criteria for immediate reporting versus ten day reporting are specified per RWQCB requirements, and the section includes a decision-making flowchart. This section also provides contact information for other agencies that may need to be contacted.

Distribution, Updates, and Training

In addition to maintenance staff, Section VII of the response plan specifies additional departments that should receive the plan, including the Police Department and Fire Department. This section also provides for annual review and update of the plan, as well as annual training sessions for personnel.

Sewer Backup Into Home or Business

This section includes flowcharts to determine the source of the backup, instructions on filling out the appropriate forms, and tips for communicating effectively with homeowners. Forms to be filled out include a first responder, field report form, which describes the location of the backup and provides an initial damage assessment.



Element 4: Fats, Oils, and Grease (FOG) Control Program

This section of the SSMP discusses the City's FOG control measures, including identification of problem areas, focused cleaning, and source control. This section fulfills the FOG control requirement for both the RWQCB (Element 4) and the SWRCB (Element 7) SSMP requirement.

4.1 Regulatory Requirements for FOG Control Element

The requirements for the FOG Control element of the SSMP are summarized below:

RWQCB Requirement:

The City must evaluate its service area to determine whether a FOG control program is needed. If so, a FOG control program shall be developed as part of the SSMP. If the City determines that a FOG program is not necessary, proper justification must be provided.

SWRCB Requirement:

The City shall evaluate its service area to determine whether a FOG control program is needed. If the City determines that a FOG program is not needed, the City must provide justification for why it is not needed. If FOG is found to be a problem, the City must prepare and implement a FOG source control program to reduce the amount of these substances discharged to the sanitary sewer system. The FOG source control program shall include the following as appropriate.

- (a) An implementation plan and schedule for a public education outreach program that promotes proper disposal of FOG;
- (b) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area;
- (c) The legal authority to prohibit dischargers to the system and identify measures to prevent SSOs and blockages caused by FOG;
- (d) Requirements to install grease removal devices (such as traps or interceptors) design standards for the grease removal devices, maintenance requirements, record keeping and report requirements;
- (e) Authority to inspect grease producing facilities, enforcement authorities, and whether the City has sufficient staff to inspect and enforce the FOG ordinance.
- (f) An identification of sewer system sections subject to FOG blockages and establish a cleaning maintenance schedule for each section; and
- (g) Development and implementation of source control measures for all sources of FOG discharged to the sewer system, for each sewer system section identified in (f) above

4.2 Element 4 Appendix

Supporting information for Element 4 is included in Appendix C. This appendix includes the following documents:

1. List of food facilities in Los Banos (potential grease dischargers).
2. Merced County Environmental Health Department contact information. (serves as the inspection and enforcement agency for food services)
3. Log of sewers cleaned frequently due to a history of FOG.
4. Schedule for cleaning of identified sewer sections.
5. Sewer lift pumping station inspection and maintenance record form.
6. Public Outreach Brochures

4.3 FOG Control Discussion

The City has determined that a FOG control program is necessary per SSMP requirements. Over 189 food services (and other potential FOG producing facilities) are located within the City Limits and discharge to the City sewer system. Operations and maintenance staff have also noted the tendency for grease buildup in sewer lines and sewer lift pump station wet wells. This Section discusses measures that the City takes to control FOG.

The City's FOG control program consists of inspection, cleaning, and maintenance of identified sections of the sewer system. The following subsections discuss identification and cleaning of grease-prone areas, facility inspection, and public outreach.

Identification and Sewer Cleaning

The core means of FOG control utilized by the City is the identification of trouble spots or sewer lines that are likely prone to grease accumulation, and targeted cleaning of these areas.

- a. Identification of Grease Problem Areas. The City collection staff identifies potential grease problem areas by routine weekly inspection of sewer system sections with a history of FOG buildup. The Wastewater Treatment Plant operations staff makes routine weekly inspections of all sewer-lift pumping stations to include an evaluation of the FOG buildup in the lift station wet well. Areas with grease-producing facilities are also considered likely potential problem areas.
- b. Focused Cleaning. Cleaning frequency depends on inspection and evaluation made by the maintenance crews, history of stoppages, and areas expected to be prone to grease buildup. Cleaning, by our City's maintenance crew, is accomplished largely by use of rodding cleaning equipped truck and vacuum equipment for the removal of grease, as well as other types of debris. The maintenance crew uses detailed maps of the collection system for an organized cleaning strategy, cleaning from lamp hole, through manholes and to lift station wet-wells. The lift pump maintenance crew utilizes a numerical evaluation system to monitor changes in the system and decide when wet well cleaning is necessary.

- c. Blockage Investigation. The City collection crew uses our CCTV Van for inspection of suspect areas and investigation of sources of FOG, when issues arise.

Additional information about cleaning and maintenance is included in Element 6: Measures & Activities

Legal Authority

Legal measures available to the City control sources of FOG include the following:

- Authority to prohibit dischargers
 - Requirement of grease removal device
 - Authority to inspect grease-producing facilities
 - Enforcement measures, as appropriate
- a. Legal authority to prohibit dischargers. Section 6-5.04 subsection (c) & (e) of the City's municipal code prohibits grease disposal, as follows:

(c) Materials prohibited in sewers. No person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewer:

(4) Solid or viscous substances which may precipitate, solidify, or become viscous at temperatures existing within the sewer collection system in quantities or of such size capable of causing obstructions to the flow in sewers or other interference with the proper operation of the sewage works.

(e) Materials the City Engineer may prohibit in sewers. No person shall discharge, or cause to be discharged, into any sewer, the following described substances, materials, waters or wastes if it appears likely, in the opinion of the City Engineer, that such wastes can harm either sewers, sewage treatment plant process, or equipment, have an adverse effect on the receiving area, or otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of such waters, the City Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, the materials of construction of the sewers, the nature of the sewer treatment process, the capacity of the sewage treatment plant, the degree of treatability of wastes in the sewage treatment plant, and other pertinent factors:

(2) Any waters or wastes containing fats, wax, grease, or oils of animal origin, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and 150 degrees Fahrenheit (zero and (65) degrees Centigrade);

- b. Requirement of grease removal device. Section 6-5.04 subsection (f) of the City's municipal code requires a grease removal device by all dischargers in order to comply with subsections (c) and (e), as quoted previously. The City's municipal code requires dischargers to comply with the most recent edition of the Uniform Plumbing Code, as follows:

(f) Interceptors and separators. Interceptors and separators required to comply with subsections (c) and (e) of this section or as required in the judgment of the City Engineer shall comply with the applicable sections of the most recently adopted edition of the Uniform Plumbing Code.

- c. Authority to inspect grease-producing facilities. Section 6-5.07 subsection (d) of the City's municipal code establishes the authority for the City to conduct inspections and monitor wastewater discharges, as follows:

(d) City inspections. The City may inspect the facilities of any discharger to ascertain whether the provisions of this chapter are being met and the wastewater discharge limits are being complied with. Such inspections shall be made with the consent of the owner or possessor of such facilities or, if such consent is refused, with a warrant duly issued pursuant to the procedure in accordance with general law; provided, however, in the event of any emergency effecting the public health or safety, such inspections may be made without consent or the issuance of a warrant. To verify the wastewater flows and strengths reported by dischargers or to determine compliance with this chapter, inspections, measurements, and samplings, may be conducted from time to time by the City. The City shall have the right to install, maintain, and operate the necessary sampling and measuring equipment on the premises of the discharger.

The City works in co-operation with the Merced County Environmental Health Department. They routinely inspect food service, commercial and industrial, establishments for proper operation, necessary cleaning of grease removal devices, and possible violations.

- d. Enforcement measures, as appropriate. Section 6-5.08 Subsections (a), (c) and (d) of the municipal code include enforcement measures for violations of any sewer protection measure, including grease discharge. These measures range from issuance of a notice of non-compliance to criminal penalties, as follows:

(a) Enforcement. The City may adopt procedures and rules for the implementation and administration of this chapter. The City shall enforce the provisions of this chapter, including requirements established or permits issued hereunder in this section.

(1) Requiring dischargers to submit schedules for remedial or preventive measures. When the City finds that a discharge of waste water is taking place or threatening to take place that violate the prohibitions or limits prescribed by this chapter or the waste water source control requirements or the provisions of a waste water discharge permit, the City may require the discharger to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions the discharger shall take to correct or prevent a violation of such requirements.

(2) Issuance of a cease and desist order. When the City finds that a discharger of waste water is taking place or threatening to take place in violation of the prohibitions or limits of this chapter or the waste water source control requirements or the provisions of waste water discharge permit, the City may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limits, requirements, or provisions (1) comply forthwith; (2) comply in accordance with a time schedule set by the City; or (3) in the event of a threatened violation, take appropriate remedial or preventative action.

(c) Criminal penalties. Any person who intentionally discharges waste water in any manner in violation of any order issued by the City, which discharge results in contamination, pollution, or a nuisance, as defined in this chapter, shall be a misdemeanor.

(d) Civil enforcement remedies and penalties. The City may pursue any of the following alternative civil remedies against any discharger who violates the provisions of this chapter:

(1) Damages to facilities: When the discharge of wastewater causes an obstruction, damages, or other impairment to City disposal facilities, the City may assess a charge against the discharger for the work required to clean or repair the facility and add such charge to the discharger's sewage disposal charge.

(2) Fines. A fine of Six Thousand (6,000.00) Dollars per day may be assessed against any person who intentionally or negligently violates any order issued by the City for violations of the provisions of this chapter or regulating or prohibiting the discharger of wastewater which causes, or threatens to cause, a condition of contamination, pollution, or nuisance, as defined in this chapter. (§ 2, Ord. 615,eff. August 21, 1978)

Public Outreach

The City uses brochures entitled "FOG Prevention" and "Fat-Free Sewers" in addition to other means of reducing backups or blockages. The brochure discusses grease and the roll of fats, oils, and grease in causing blockages. This brochure is displayed and available at the Public Works office counter and will be utilized at local outreach events, such as: County Fair booth, Senior Fair booth, and the Water Awareness student classroom presentations conducted annually by a team from our Public Works staff.

The City distributes letters to Restaurants outlining the required maintenance of grease removal devices. It covers maintenance, cleaning frequency, record keeping requirements and the right of inspection by the City. It also includes suggested pollution management practices and provides a cleaning record verification form.

The City mails letters to restaurants, auto shops, and retail outlets concerning FOG, BMPs and storm runoff practices annually.

Table 4-2. Summary Table With Respect to Possible FOG Elements Identified by the State

State Element	Los Banos
(a) An implementation plan and schedule for a public outreach education program that promotes proper disposal of FOG	Residential FOG not currently a major SSO factor. The brochures and outreach events are sufficient at this time. Merced County Environmental Health Department routinely inspects commercial establishments.
(b) A plan and schedule for the disposal of FOG generated within the sanitary sewer system service area. This may include a list of acceptable disposal facilities and/or additional facilities needed to adequately dispose of FOG generated within a sanitary sewer system service area	The educational materials direct residents to utilize a proper container for disposal in the trash. Commercial establishments must have FOG removed from their grease interceptor by a grease removal company and trucked off site. The City does not accept loads from grease hauling companies. The nearest WWTP accepting FOG is the City of Merced WWTP approximately 30 miles to the northeast.
(c) The legal authority to prohibit dischargers to the system and identify measures to prevent SSOs and blockages caused by FOG	Los Banos FOG program includes adequate legal authority to prohibit dischargers and to identify measures to prevent SSOs and blockages from FOG. The City distributes letters to restaurants, auto shops, & retail outlets concerning FOG and BMPs.
(d) Requirements to install grease removal devices (such as traps or interceptors) design standards for the grease removal devices, maintenance requirements, record keeping and report requirements.	Los Banos Municipal Code requires grease interceptors for all new or remodeled food service facilities. The Municipal Code also requires construction to conform to the Uniform Plumbing Code
(e) Authority to inspect grease producing facilities, enforcement authorities, and whether the City has sufficient staff to inspect and enforce the FOG ordinance	Los Banos has adequate authority to inspect and enforce the Municipal Code requirements in respect to FOG. Merced County Environmental Health Department routinely inspects commercial establishments.
(f) An identification of sewer system sections subject to FOG blockages and establish a cleaning maintenance schedule for each section	Los Banos Public Works crews routinely identify areas prone to FOG accumulation. They inspect sewer mains, maintain a cleaning schedule and log all cleaning activities to include sewer lines and lift station wet wells.
(g) Development and implementation of source control measures, for all sources of FOG discharged to the sewer system, for each sewer system section identified in (f) above	At this time the cleaning schedule appears sufficient to reduce FOG blockages and prevent FOG related overflows.



Element 5: Legal Authority

This element of the SSMP discusses the City's Legal Authority, including its Municipal Code. This section fulfills the Legal Authority requirement for the RWQCB (element 5) and the SWRCB (element 3).

5.1 Regulatory Requirements for Legal Authority Element

The requirements for the Legal Authority element of the SSMP are summarized below:

RWCB Requirement

The City must demonstrate that it has the legal authority (through ordinances, service agreements, and other bidding procedures) to control infiltration and inflow (I/I) from satellite collection systems and private service laterals; require proper design, construction, installation, testing, and inspection of new and rehabilitated sewers and laterals; and enforce violation of ordinances.

The SSMP should describe specific applicable legal mechanisms, with citations of names and code numbers of ordinances. If legal authority does not currently exist for a required element, the SSMP should indicate a schedule of activities to obtain the proper legal authority.

SWRCB Requirement

The City must demonstrate, through collection system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:

- (a) Prevent illicit discharges into the wastewater collection system (examples may include infiltration and inflow (I/I), storm water, chemical dumping, unauthorized debris and cut roots, etc.);
- (b) Require that sewers and connections be properly designed and constructed;
- (c) Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the public agency;
- (d) Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and
- (e) Enforce any violation of its sewer ordinances.

5.2 Element 5 Appendix

Supporting information for element 5 is included in Appendix D. This appendix includes the following document:

Chapter 5 (Sewer System) of the Municipal Code

5.3 Municipal Code

The legal authority required for the SSMP by the SWQCB and the SWRCB is contained within Section 6-5.01 through 6-5.12, of the City's municipal code dedicated to the sewer system, all included within Chapter 5:

- 6-5.01 Definitions
- 6-5.02 Use of public sewers required: Exceptions
- 6-5.03 Building sewers and connections
- 6-5.04 Discharges to public sewers
- 6-5.05 Discharger classifications and calculations of sewage disposal charges
- 6-5.06 Wastewater discharge permits
- 6-5.07 Administration
- 6-5.08 Enforcement and penalties
- 6-5.09 Charger: Amendments
- 6-5.10 Prohibited activities involving wastewater facilities
- 6-5.11 Severability
- 6-5.12 Wastewater collection and treatment fees

Sections 6-5.02, 6-5.03, 6-5.04, 6-5.07, 6-5.08, 6-5.09, and 6-5.12 as listed above pertain to the legal authority required for fulfillment of SSMP requirements. These sections are included in full in Appendix D, Chapter 5 (Sewer System). Portions of this Chapter are discussed in the following subsections as they pertain to prevention of illicit discharges, proper design and construction of sewer and connections, maintenance access, and enforcement measures.

Prevention of Illicit Discharges

All measures prohibiting illicit discharges are included in section 6-5.04, Discharges to Public Sewers. The specific purpose of this section is to prevent the discharge of any pollutant into the sewers that would obstruct or damage the collection system, interfere with treatment, or threaten harm to human health or the environment. Examples of discharges covered are included below. Refer to the municipal code included in Appendix D for the complete text.

- Storm Water and I/I. Section 6-5.04 (a), Prohibits discharge of storm water, clear water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or uncontaminated process water to any sanitary or industrial sewer or natural outlet; (b) accept by approval of the City Engineer. Furthermore, Section 6-5.04 (b) expressly requires that storm water and other unpolluted drainage be discharged into a storm sewer or approved natural outlet.
- Chemical Dumping. Section 6-5.04 (c), Prohibits discharge of gasoline, benzene, naphtha, fuel, oil, flammable, explosive, toxic or poisonous, liquid, solid or gas, or waters that interfere with the treatment process, or constitute a hazard to humans or animals, or create a public nuisance.
- Industrial Waste. Section 6-5.06, Requires all industrial waste dischargers to obtain a permit and prohibits discharge in excess of the permit allowance. The permit issued may include provisions for wastewater quality and quantity. Additionally, regulations may require periodic testing, reporting, and notification of discharges.

- **Other Discharges.** Section 6-5.04 (c)(4), Prohibits the discharge of various debris such as, but not limited to, ashes, bones, cinders, glue, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, un-ground garbage, whole blood, manure, hair, ground paper, and the like.

Proper Design and Construction of Sewers and Connections

Regulations pertaining to the design, construction, and inspection of private sewer systems, building sewers, and connections are included in Chapter 5, Section 6-5.03 of the Municipal Code.

- **Permit Required.** A permit is required prior to construction of any private sewage disposal system (section 6-5.02, (d)). A permit is also required prior to constructing a building or lateral sewer or connecting to a public sewer (section 6-5.03). This section also lays out the requirements for obtaining a permit and provides for review of plans and specifications by the City.
- **Design Requirements.** Section 6-5.03, (g), specifies the minimum size and slope of a building sewer, as well as connections allowed to the building sewer. This section states that the design and materials shall conform to the current requirements of the Uniform Building Code.
- **Construction Requirements.** Section 6-5.02, (i), requires that construction of building sewers conform to the requirements of the Building and Plumbing Codes, as well as the Improvement Standards and Specifications currently in effect.
- **Inspecting and Testing.** All building sewers shall be tested and inspected, (section 6-5.03, (j)). connection to the public sewer shall be made in the presence and under the inspection of the Inspector or his representative.

Lateral Maintenance Access

Property owners are responsible for maintaining the building sewer (lateral), per section 6-5.04, (d) of the Municipal Code. The “building sewer” (section 6-5.01, (b), is defined as “the extension from the building drain to the public sewer”.

Limit Discharge of FOG and Other Debris

As discussed under Element 4: Fats, Oils, and Grease (FOG) Control Program, Section 6-5.04 of the Municipal Code prohibits grease disposal, including discharge to any public or private sanitary sewer. This section requires a grease removal device for commercial or industrial grease generators. Section 6-5.08 outlines enforcement and penalties for violation of the code requirements.

Discharge of debris is covered in section 6-5.04 of the Municipal Code, which among other things, prohibits discharge of any waste that could cause a nuisance, cause damage to the sewer system, or cause extra collection, treatment, or disposal costs. Additionally, prohibits discharge of solids that will obstruct or damage the collection system and prohibits discharge of any substance into a manhole.



Element 6: Measures and Activities

This section of the SSMP discusses the City's operations, maintenance and other related measures and activities. This section fulfills the Measures and Activities SSMP requirement for the RWQCB (Element 6) and the Operation and Maintenance Program SSMP requirement for the SWRCB (Element 4).

6.1 Regulatory Requirements for the Measures and Activities

The requirements for the Measures and Activities element of the SSMP are summarized below. Since requirements for this SSMP element contain several categories, this summary is organized by category, with RWQCB and SWQCB requirements described for each category as applicable.

Collection System Map

RWQCB Requirement: The wastewater agency must maintain up-to-date maps of its collection system facilities. The SSMP should describe the types of maps currently being used, along with procedures for updating the maps with new and rehabilitated facilities.

SWRCB Requirement: As appropriate and applicable to the system, the wastewater agency must maintain up-to-date maps of the sanitary sewer system, showing all gravity line segments, manholes, pumping facilities, pressure pipes, valves and stormwater conveyance facilities.

Resources and Budget

RWQCB Requirement: The wastewater agency shall allocate adequate resources for the operation, maintenance, and repair of its collection system. The SSMP should demonstrate that the resources are adequate for an acceptable delivery of the agency's services.

SWRCB Requirement: None.

Prioritized Preventive Maintenance

RWQCB Requirement: The wastewater agency shall prioritize its preventive maintenance activities. The SSMP should describe the system currently used for prioritized preventive maintenance and any plans, as needed, to maintain the integrity of the system and reduce frequency of SSOs.

SWRCB Requirement: As appropriate and applicable to the system, the wastewater agency must describe routine preventive operation and maintenance activities by staff and contractors; including a system for scheduling regular maintenance and cleaning of the sanitary sewer system, with more frequent cleaning and maintenance targeted at known problem areas. The preventive maintenance program should have a system to document scheduled and conducted activities, such as work orders.

Scheduled Inspections and Condition Assessment

RWQCB Requirement: The wastewater agency shall identify and prioritize structural deficiencies and implement a program of prioritized short-term and long-term actions to address them. The SSMP should describe the approach used for scheduled inspections and condition assessment of the sewer collection system. The approach should address criteria and results for short-term and long-term prioritization of corrective actions, based on identified structural or other deficiencies.

SWRCB Requirement: As appropriate and applicable to the system, the wastewater agency must develop a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The program should include regular visual and TV inspections of manhole and sewer pipes, and a system for ranking the condition of the sewer pipes and scheduled rehabilitation. Rehabilitation and replacement should focus on sewer pipes that are at risk of collapse or prone to frequent blockages due to pipe defects. Finally, the rehabilitation and replacement plan should include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the short and long term plans, plus a schedule for developing the funds needed for the capital improvement plan.

Contingency Equipment and Replacement Inventories

RWQCB Requirement: The wastewater agency shall provide contingency equipment to handle emergencies, and spare/replacement parts intended to minimize equipment downtime. The SSMP should summarize the agency's critical spare parts inventory and list major equipment used for sewer system operation and maintenance.

SWRCB Requirement: As appropriate and applicable to the system, the wastewater agency must provide equipment and replacement part inventories, including identification of critical replacement parts

Training

RWQCB Requirement: The wastewater agency shall provide training on regular basis for its staff in collection system operations, maintenance, and monitoring. The SSMP should include a description of the agency's training program and whether any changes or improvements are anticipated in the near future.

SWRCB Requirement: As appropriate and applicable to the system, the wastewater agency must provide training on regular basis for staff in sanitary sewer system operations, maintenance, and require contractors to be appropriately trained.

Outreach to Plumbing and Building Contractors

RWQCB Requirement: The wastewater agency must implement an outreach program to educate commercial entities involved in sewer construction or maintenance about the proper practices for preventing blockages in private laterals. This requirement can be met by participating in a region-wide outreach program.

SWRCB Requirement: None.

6.2 Element 6 Appendix

Supporting information for element 6 is included in Appendix E. This appendix includes the following documents:

1. City Council Resolution for the adoption of the 2008 Wastewater Collection System Master Plan
2. Equipment list
3. Wastewater Budget

Additional related documents to support Element 6 are located in Appendix C

4. Log of sewers cleaned frequently due to a history of FOG
5. Schedule for cleaning of identified sewer sections
6. Sewer lift pumping station inspection and maintenance record form

6.3 Collection System Map Discussion

The City has block book maps of their sewer and storm systems, with block book sheets covering approximately 0.25 sq. mile. Maps are printed into a map book for use by maintenance and engineering staff. Each grid has a page assigned based on the grids location. The block book map shows flow direction, pipe diameter, street names, parcels, and sewer lift station locations within the system.

The City has a map room where maps are indexed and filed. Both paper and Mylar maps are maintained for the entire sewer system and sewer lift stations. These maps are design maps, as well as the as-built maps that show more detail than the working crew's block book maps. These maps include: pipe inverts, manhole inverts, manhole depth, and complete sewer lift station details.

The City prepared and approved the Wastewater Collection System Master Plan (adopted by City Council Resolution on 9/3/2008). The Master Plan details the collection system sewer lines, trunk lines, and sewer lift stations both current and for future planned development. The plan also evaluates the system capacity and identifies areas of planned upgrade and rehabilitation.

The City Inspection staff reviews and updates the maps with any new development or corrections, as needed.

6.4 Resources and Budget Discussion

The City funds the sewer system services including operations, maintenance, and capital projects, through a sewer enterprise fund. This fund is user-supported; it uses revenue from ratepayers to fund sewer related work. The City currently has adequate resources and budget to provide sufficient operations, maintenance, and repair of the collection system as required by the SSMP, and the City re-evaluates its budgets annually. The current budget is included in Appendix E.

New Infrastructure required for new construction projects are funded by developers, development fees, and impact fees as related to the project, and the impact on the sewer collection system. These fees are reviewed and updated to assure adequate funding as necessary.

In the Wastewater Collection System Master Plan, the City has identified several capital improvement projects for the maintenance of the collection system. These projects include both improvements to the existing system, as well as new infrastructure. The Master Plan discusses the funding sources as they relate to these projects and recommends that the user benefiting from the project, pay the costs related to the project. A breakdown of the existing and future user cost share of the proposed projects, by phase, is summarized in Table 7.3 of the Wastewater Collection System Master Plan.

The Capital Improvement Projects are prioritized based on their urgency to mitigate existing deficiencies and for servicing anticipated growth. The implementation phases are separated into 5-year increments as described in table 7.2 and 7.3, of the Wastewater Collection System Master Plan.

6.5 Prioritized Preventive Maintenance Discussion

Sewer Cleaning

The City prioritizes its preventive maintenance activities. The preventive maintenance includes scheduled focused cleaning and routine preventative maintenance of the entire collection system, to include 13 sewer lift pump stations. More frequent cleaning is scheduled on identified problem areas as shown on the Schedule for Cleaning Sewer Sections, in Appendix C. Other areas of concern are scheduled for cleaning based on routine weekly inspections, or daily as the need arises. The Public Works crew uses a Cleaning Record (log) to document activities, included in Appendix C.

The City owns and operates three water-jet rodding equipped trucks for sewer main cleaning. These vehicles are also equipped with vacuum units for the removal of grease and debris within the sewer collection system. The Public Works collection crew uses detailed maps of the collection system to aid in the organization and strategy of their cleaning activities.

Pump Station Maintenance

The City Wastewater Treatment Plant staff performs weekly inspections of the City's thirteen sewer lift pump stations. These visits include: a visual inspection of the station, log and evaluation of pump hours, wet well level verification, an assessment of the wet-well cleaning needs (using a numerical system), and documentation of these assessments. The crew also schedules maintenance of the stations various service needs, wet-well cleaning, filter replacement, vacuum pump testing and replacement, etc. as well as weed abatement and debris removal needs. This crew also responds to all immediate issues related to the lift stations, to include: high level alarms (received by cell phone from the station alarm systems), respond to problems related to the station, or to a complaint concerning odors or noise issues.

These stations currently include seven above ground and six underground. The underground stations are non-permitted confined space entry spaces. Confined space entry procedures are followed, as required, and the crew services these stations in teams to insure safety.

The Public Works Department follows a "Confined Space Manual" outlining proper procedures. All entries include proper ventilation, testing of the environment air quality, safety hazards observed, and evacuation when called for, as well as other requirements. The City Fire Department is available upon request for assistance and is instrumental in the continued training of the crew for both non-permitted and permitted confined space entries.

Odor Control

The City receives only a few isolated odor complaints a year. The complaints are usually for the area near the Crest Hills sewer lift station. This station is situated between two homes and also in a high foot traffic area, directly on the walk path to the City's Rail Trail. All complaints are responded to in a timely manner. Mitigation of the problem have included: cleaning of the wet-well, cleaning of the sewer lines, sealing of the wet-well opening, and installation of odor masking spray equipment. Any other areas that receive odor complaints are treated with the same sense of urgency and all measures possible are taken to resolve the problem.

Investigation of Customer Complaints

The City responds to all customer complaints about sewer service. The collection system staff responds during work hours and the standby worker responds after hours. Response includes assessing the complaint and resolving the problem. Additional staff is called out as needed.

Complaints are generally related to sewer stoppages. Some stoppages are related to the sewer main, but most stoppages occur in laterals. The City has the equipment to clean laterals and the crew will maintain any sewer line within the city's easement. Although crews respond to all stoppage complaints, they are not responsible for cleaning stoppages in the property owner's laterals.

Maintenance Management and Service Requests

All maintenance of the collection system is scheduled by utilizing inspection information, known areas prone to blockages, complaints, and service requests. The activities are documented by the use of cleaning logs, service request forms, and complaint forms. These records are filed as a permanent record, as well as reference for future assessment.

6.6 Scheduled Inspections and Condition Assessment

The City has recently approved and adopted the Wastewater Collection System Master Plan. This Master Plan outlines an assessment of the collection system, identifies areas in need of upgrade or rehabilitation, and addresses infrastructure needed for anticipated growth. The Master Plan also includes long-term and short-term capital improvement projects for the protection of the infrastructure assets.

Manhole and Pipeline Inspection

The collection crew schedules weekly visual inspections of manholes as a routine maintenance activity. A selected area of the system is inspected, as well as targeted locations of known areas prone to blockages. The purpose of this inspection is to assess the condition of the system and its components.

The City owns and operates a closed circuit television camera van equipped with all necessary equipment required for inspection and documentation of the collection system condition. Inspections of all new construction are made prior to approval of a project. Inspections of sections with suspected defects or problem areas are also inspected.

Pump Station Inspections and Assessment

The mechanical and electrical condition of the City's thirteen sewer lift pumping stations is evaluated on a regular basis. The stations are visited weekly, inspected and maintained regularly, and assessed for service needs. The City has an electrician at its disposal 24/7 with a vast knowledge of our system and many years of experience with our electrical needs.

Pumping stations are included in the Collection System Master Plan. Assessments of the lift stations were made, capacity of each station was evaluated, and recommendations for long-term and short-term capital improvements are stated.

6.7 Contingency Equipment and Replacement Inventories

The City maintains a fleet of vehicles and equipment required for the operation and maintenance of the sewer collection system. The collection division has 3 vacuum/rodding trucks, 1 snake van, 1 closed circuit television/camera van, 2 dump trucks, 2 flat bed trucks, 2 backhoes, 1 portable pump, and 3 portable generators (capable of running any of our sewer lift pump stations).

The City's other departments and divisions have additional equipment available should the need arise. Local vendors have agreed to make pumps or additional equipment available to us 24 hours a day. The City also maintains an adequate inventory of other gas-powered equipment, electrical equipment, and the tools necessary to operate and maintain the system. The crews perform their routine maintenance in utility/pickup trucks that are well equipped and stocked with the proper tools, parts, and safety equipment for the work they need to perform.

The City maintains an equipment inventory. All sewer maintenance equipment and replacement parts are stored at the City's Public Works Yard on Madison Avenue. Equipment and replacement parts are periodically replaced based on the estimated usefulness and remaining life. The City's equipment list is included in Appendix E

The City keeps spare/replacement parts in inventory to minimize facility down time in the event of an unplanned failure. Spare parts include: spare manhole lids, hoses, valves, sewer pipe and fittings.

The lift stations have redundant pumping at each pump site to reduce impacts of a failure, however, the City maintains a vast inventory of spare parts for each station to include motors; pump impellers, compressors, vacuum pumps, valves, repair kits, filters, relays, timers, switches, and a variety of the necessary electrical components. The pumping stations are of various brands. Each brand has some unique parts requirements, and most parts are unavailable at a local vender. The City has a large investment in this parts inventory.

6.8 Training Discussion

The City budgets for training its sewer maintenance staff each year. The Training Program includes scheduled weekly safety and training meetings. The training includes the operation of equipment to include vehicles, pumps, generators, vacuum/rodding truck, backhoe and other related equipment. A record of training is maintained. Staff also receives training for confined space entry, trenching safety, as well as other related training, such as, SSO response and protection of public health and the environment.

The City encourages sewer staff to become CWEA certified, and provides training opportunities to enable all sewer maintenance staff to become and remain certified. The City assists with certification by paying for the preparation courses needed, certification exams, and required continuing education. The City also provides training tapes and manuals for employees for both work and home study. Currently, one member of the city staff is certified.

New employees and maintenance crew work directly with and under the supervision of an experienced senior worker until they can demonstrate competency in the skill sets required.

The City uses numerous outside sources and programs, as well as providing in house and on-the-job training for sewer maintenance crews. Training sources that the City uses are listed below:

- CWEA (California Water Environment Association)
- CRWA (California Rural Water Association)
- APWA (American Public Works Association)
- PG&E (Pacific Gas and Electric)
- Los Banos Fire Department
- Vendor sponsored training
- In-house training by supervisors
- Safety meetings by staff or vendors
- Video and printed media

6.9 Outreach to Plumbers and Building Contractors Discussion

City personnel are in constant contact and interaction with plumbing companies and contractors on sewer related maintenance and construction within the city. We maintain a good working relationship; provide guidance when needed and handout our standards upon application or request.

All plumbers, contractors and developers are required to maintain a level of construction consistent with the City's Municipal Code, the current Design and Improvement Standards, and the Uniform Plumbing Code. Copies of these documents are made available to all, at the Public Works Office. The City's Design Improvement Standards and Specifications are available online at <http://www.usspecbook.com>.



Element 7: Design and Construction Standards

This section of the SSMP discusses the City's design and construction standards. This section fulfills the Design and Construction Standards SSMP requirement for the RWQCB (Element 7) and the Design and Performance Provisions SSMP requirement for the SWRCB (Element 5).

7.1 Regulatory Requirements for Design & Construction Standards

The requirements for the design and Construction elements of the SSMP are summarized below.

RWQCB Requirement

The City shall identify minimum design and construction standards and specifications for the installation of new sewer systems and for the rehabilitation and repair of existing sewer systems. The City should evaluate whether the existing design standards are appropriate and up to date. If the City believes its current standards are appropriate, the City can refer to the documentation that already exists.

The City shall also identify procedures and standards for inspection and testing the installation of new sewers, pump stations, and other appurtenances; and for rehabilitation and repair projects. The SSMP may refer to existing documents.

SWRCB Requirement

The City must have design and construction standards and specifications for the installation of new sewer systems, pump stations, and other appurtenances; and for the rehabilitation and repair of existing sewer systems. The City must also have procedures and standards for inspection and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects.

7.2 Element 7 Appendix

Supporting information for Element 7 is included in Appendix F. This appendix includes the following documents:

1. Table of Contents of the City of Los Banos Improvement Standards and Specifications, approved by City Council Resolution No. 4539, October 6, 2004 (February 2007 Draft)
2. Standard Details (drawings) Table of Contents of the City of Los Banos Improvement Standards and Specifications, approved by City Council Resolution No. 4539, October 6, 2004 (February 2007 Draft)

7.3 Design and Construction Standards Discussion

The City's current "Improvement Standards and Specifications" were approved by the City Council on October 6, 2004, by Resolution No. 4539. These standards shall be followed in any work for acceptance by the City. Improvement plans and supplemental information shall be approved by the City Engineer for all projects that are subject to the approval of the Department of Public Works prior to the issuance of permits allowing construction to begin.

Part II, section 4 of the Improvement Standards and Specifications addresses Sanitary Sewer facilities designed for installation within a public right-of-way or public utility easement in the City. This section includes specifications on pipes, manholes, force mains, flow rates, lift stations, and services.

Part III, Division 5 of the Improvement Standards and Specifications addresses pipelines. Section 5 covers Sanitary Sewer Pipelines including: lateral connections to sanitary sewers, cleaning and flushing, testing, and closed circuit TV inspection.

The City owns, operates and maintains thirteen sewer lift stations within its service area. These pumping stations have been evaluated for design and capacity in the Master Plan for Wastewater Collection System. Design and improvement standards are outlined in Part II, Section 4, page 6/7.



Element 8: Capacity Management

This section of the SSMP discusses the City's capacity management measures, including the most recent Master Plan and recommended capacity improvement projects. This section fulfills the Capacity Management SSMP requirement for the RWQCB (element 8) and the System Evaluation and Capacity Assurance Plan SSMP requirement for the SWRCB (element 8).

8.1 Regulatory Requirements for Capacity Management

The requirements for the Capacity Management element are summarized below.

RWQCB Requirement

The RWQCB Capacity Management requirement is divided into two sections:

- a) **Capacity Assessment:** The wastewater collection system agency shall establish a process to assess the current and future capacity requirements for the collection facilities. The SSMP should describe whether a current capacity assessment has been prepared, and if not, provide a schedule of activities for completing an assessment.
- b) **System Evaluation and Capacity Assurance Plan:** The wastewater collection system agency shall prepare and implement a capital improvement plan to provide hydraulic capacity of key sewer system elements under peak flow conditions. Once the capacity assessment described in (a) above has been completed, a capital improvement program must be implemented to address any capacity needs. The SSMP should briefly describe the capital improvements anticipated and be updated as implementation occurs and priorities change.

SWRCB Requirement

The wastewater collection agency shall prepare and implement a capital improvement plan that will provide hydraulic capacity of key sewer system elements under peak flow conditions. This plan must include:

- a) **Evaluation:** The agency must identify actions needed to evaluate those portions of the sewer system that are experiencing or contributing to an SSO discharge caused by hydraulic deficiency. The evaluation must provide estimates of peak flows, estimates of the capacity of key system components, hydraulic deficiencies, and the major sources that contribute to the peak flows associated with overflow events.
- b) **Design Criteria:** Where design criteria do not exist or are deficient, the agency should undertake the evaluation identified in (a) above to establish appropriate design criteria.

- c) Capacity Enhancement Measures: The agency must identify the steps needed to establish a short and long-term capital improvement plan (CIP) to address identified hydraulic deficiencies including prioritization, alternatives analysis, and schedules. The CIP may include increases in pipe size, I/I reduction programs, increases and redundancy in the pumping capacity, and storage facilities. The CIP shall include an implementation schedule and shall identify sources of funding.
- d) Schedule: The agency shall develop a schedule of completion dates for all portions of the CIP developed in (a) through (c) above. This schedule shall be revised and updated at least every five years.

8.2 Element 8 Appendix

Supporting information for Element 8 is included in appendix G. This appendix includes the following documents:

1. Schedule of proposed Sewer Capital Improvement Projects.

8.3 Capacity Evaluation Discussion

The City completed a comprehensive Master Plan for Wastewater Collection System in September 2008. This Master Plan includes a capacity evaluation and identifies capacity related improvement projects. The Master Plan is a separate document from the SSMP. This section of the SSMP summarizes key capacity related portions of the Master Plan. The complete Master Plan is available on line at <http://www.losbanos.org/index>.

The capacity assessment completed as part of the City's Wastewater Collection System Master Plan was based on hydraulic modeling of the City's collection system under current and future design flows. The following subsections provide a brief summary of the modeled system, flow estimates, and evaluation criteria used for the City's sewer system capacity evaluation.

Note that the City has not experienced any sanitary sewer overflows due to hydraulic deficiencies in the sewer system. Likewise, modeling of the City's sewer system conducted during the preparation of the 2008 Master Plan showed the wastewater collection system to have sufficient capacity to convey existing design flows.

Hydraulic Model

As a part of the City's Master Plan for Wastewater Collection System, a hydraulic model was developed based on data collected from the City's AutoCAD database, developer design drawings, lift station design summaries, and field studies. Refer to Chapter 5 (5.3) of the Master Plan for complete discussion of the model development.

In total, there are more than 130 miles of sewer mains and trunk sewers in the City's collection system. The sewer system model generally includes pipelines with a diameter of 10-inches or greater, all associated manholes, and lift stations.

Flow Estimates

Existing flows were estimated by measuring flow from different areas of the collection system. The flow was monitored for approximately one week at 16 strategically selected monitoring sites. Future flows were estimated based on the City's 2007-2030 General Plan and the City's 2007 Wastewater Strategic Plan.

Flow projections through the year 2055 are shown in the following table:

Planning Year	WWTP Average Day Flow (mgd)
Existing	3.55
2010	4.16
2015	5.06
2020	6.15
2025	7.48
2030	9.10
2035	9.47
2040	9.85
2045	10.24
2050	10.65
2055	11.10

Information from the Master Plan for Wastewater Collection System (September 2007) Table 4.9.

Design and Planning Criteria

The capacity of the City's wastewater collection system was evaluated in the Master Plan based on the planning criteria as defined in Chapter 3. The planning criteria address the collection system capacity, gravity sewer slopes, maximum depth of flow within the sewer, average wastewater flow coefficients, and wastewater peaking factors.

Capacity Evaluation Results

The capacity evaluation is summarized below. Refer to Chapter 6 of the Master Plan for a complete discussion of the capacity evaluation and proposed improvements.

Existing Deficiencies

In the City's down town area, existing storm drain connections cause sudden increases in wastewater flow during a storm event.

Future Improvement

The addition of future sewer users on the existing sewer system will require capacity expansion of the existing sewer mains and lift stations.

8.4 Recommended Capacity Projects

Existing

The City has planned a storm drain project to separate the storm runoff from the wastewater collection system in the City's downtown area. This project is discussed in more detail in the Storm Drainage Master Plan.

Future

The Master Plan outlines several projects to increase the capacity of the collection system. These projects are phased by priority and planned in conjunction with the City's General Plan. The projects include upgrading existing sewers and lift stations to serve future users and building new sewers necessary for future growth. The Master Plan has identified projects through the year 2025 and beyond.

8.5 Capital Improvement Projects Schedule

Chapter 7 of the Master Plan outlines proposed collection capital improvement projects. The implementation phases of these projects are separated into 5-year increments. Table 7.2 of the Master Plan lists each project by type, location, project size, and the phasing. Refer to Appendix G for the Schedule of proposed Sewer Capital Improvement Projects.

8.6 Financial and Economic Analysis

The vast majority of the Master Plan improvements will serve future users, even when an improvement calls for the upgrade of an existing facility. Future improvements will be funded by developers or through development impact fees. All projects fall into one of the three following categories:

- **Existing Improvements:** Existing improvements correct existing deficiencies or rehabilitate/replace existing facilities that have reached their useful life. These projects are funded through user rates.
- **Developer Improvements:** Future improvements that serve new users. These improvements will be developer funded and/or may be a part of a reimbursement agreement between developers.
- **Regional Improvements:** Future improvements that serve new users. These improvements will be funded through wastewater development impact fees collected by the city.

The Schedule of proposed Sewer Capital Improvement Projects, in Appendix G, lists the estimated cost and a reimbursement category for each project. The Association for the Advancement of Cost Engineering (AACE) guideline was used for estimating costs in December 2007 dollars.



Element 9: Monitoring, Measurement, & Program Modifications

This section of the SSMP discusses parameters the City tracks to monitor the success of the SSMP, and how the City plans to keep the SSMP current. This section fulfills both the RWQCB (Element 9) and the SWQCB (Element 9) SSMP Monitoring, Measurement and Program Modifications requirements.

9.1 Regulatory Requirements for Monitoring, Measurement, and Program Modifications

The requirements for the Monitoring, Measurement and Program Modifications element of the SSMP are summarized below:

RWQCB Requirement

The City must monitor the effectiveness of each SSMP element and update and modify SSMP elements to keep them current, accurate, and available for audit as appropriate. The SSMP should discuss performance indicators to be tracked and a description of how the City plans to keep the SSMP up-to-date.

SWRCB Requirement

The City shall:

- Maintain relevant information that can be used to establish and prioritize appropriate SSMP activities;
- Monitor the implementation and, where appropriate, measure the effectiveness of each element of the SSMP;
- Assess the success of the preventative maintenance program;
- Update the program elements, as appropriate, based on monitoring or performance evaluations; and
- Identify and illustrate SSO trends, including: frequency, location, and volume.

9.2 Element 9 Appendix

Supporting information for Element 9 is included in Appendix H. This appendix includes the following documents:

1. Element 9: SSMP Monitoring Tracking Sheet

9.3 Monitoring and Measurement Discussion

The City already tracks several performance measures through logs and reports, including but not limited to location and cause of stoppages; number, cause, location, and volume of SSOs; SSO response time; length of pipe cleaned and type of debris found. The City intends to continue tracking all performance measures that are currently tracked.

In order to monitor the effectiveness of the SSMP, however, the City has selected certain, specific parameters that can be documented and compared on an annual basis in a simple format. These parameters were selected because they are straightforward, quantitative, and focused on results. Although the parameters may not track everything associated with the SSMP implementation, changes in these parameters over time will indicate the overall success of the SSMP or, conversely, underlying problems that can than be investigated further.

Table 9-1 lists each SSMP element, the overall purpose of the SSMP element, and the specific parameters that the City plans to track that will help in evaluating the effectiveness of the SSMP. Appendix H includes a tracking sheet listing each of these parameters, which the City will fill out annually in conjunction with completing the SSMP audit (Element 10).

Table 9-1, SSMP Monitoring Parameters, by SSMP Element

SSMP Element	Summary of Element Purpose	Parameters for Tracking Effectiveness (Annually)
Goals	Establish priorities of City and provide focus for City staff	None needed
Organization	Document organization of City staff and chain of communication for SSO response	None needed
Overflow Emergency Response Plan	Provide timely and effective response to SSO emergencies and comply with regulatory reporting requirements	<ul style="list-style-type: none"> ▪ Average and minimum response time ▪ Percent of SSO contained or returned
Fats, Oils, & Grease Control Program	Minimize blockages and overflows due to FOG	<ul style="list-style-type: none"> ▪ Number of blockages due to FOG ▪ Number of SSOs due to FOG
Legal Authority	Ensure the City has sufficient legal authority to properly maintain the system	None needed
Measures and Activities	Minimize blockages and SSOs by properly maintaining the system and keeping the system in good condition	<ul style="list-style-type: none"> ▪ Total number of SSOs ▪ Volume of SSOs ▪ Repeat SSOs ▪ Total number of mainline blockages ▪ Total Number of pump station failures ▪ Number of pipe failures ▪ Length of pipe CCTV'd
Design & Construction Standards	Ensure new facilities are properly designed and constructed	None needed
Capacity Management	Minimize SSOs due to insufficient capacity by evaluating system capacity and implementing necessary projects	<ul style="list-style-type: none"> ▪ Number of SSOs due to capacity limitations ▪ Number of SSOs due to wet weather ▪ Date of completion of the last capacity evaluation

SSMP Element	Summary of Element Purpose	Parameters for Tracking Effectiveness (Annually)
Monitoring, Measurement, & Program Modifications	Evaluate effectiveness of SSMP, keep SSMP up-to-date, and identify necessary changes	None needed
SSMP Audits	Formally identify SSMP effectiveness, limitations, and necessary changes on an annual basis	<ul style="list-style-type: none"> ▪ Date of completion of last annual audit
Communication	Communicate with the public and satellite agencies	None needed

The City will use the specific tracking parameters listed in Table 9-1 and documented in Appendix H to assist in completion of the annual SSMP audit described in element 10. As noted above, the City will also continue to collect data for all performance measures currently tracked. This additional information will be used to support or further evaluate the successes and limitations of the SSMP as needed.

9.4 SSMP Modifications

The SSMP needs to be updated periodically to maintain current information, and programs need to be enhanced or modified if it is determined that they are less effective than needed. The City will review the success and needed improvements of the SSMP as part of the SSMP annual audit, described in Element 10.

City staff will update critical information, such as contact numbers and SSO response chain of communication, as needed. A capacity CIP comprehensive SSMP update will occur every 5 years, as required by the SWQCB.



Element 10: SSMP Audits

This section of the SSMP discusses the City's SSMP audit program. This section fulfills both the RWQCB (Element 10) and the SWQCB (Element 10) SSMP audit requirement.

10.1 Regulatory Requirements for SSMP Audits

RWQCB Requirement

The City shall conduct an annual audit of their SSMP that includes any deficiencies and steps to correct them that are appropriate to the size of the City's system and number of overflows. The City must submit a report of the audit to the RWQCB by March 15 of the year following the calendar year for which the analysis applies.

SWRCB Requirement

The City shall conduct periodic internal audits appropriate to the size of the City's system and number of SSOs. At a minimum, these audits must occur every two years and a report must be prepared and kept on file. This audit shall focus on evaluating the effectiveness of the SSMP and the City's compliance with the SSMP requirements, including identification of any deficiencies in the SSMP and steps to correct them.

10.2 Element 10 Appendix

Completed SSMP audits are stored in Appendix I.

10.3 SSMP Audits Discussion

The City will complete audits of the SSMP each year, and will include a report on the audit with the annual SSO report to the RWQCB submitted by March 15. The audit will include the following:

- Review of the progress made on development of SSMP elements
- Review of monitoring and measurements tracking under Element 9
- Identification of success of implementing SSMP elements and needed improvements
- Description of system improvements during the past year
- Description of system improvements planned for the upcoming year, with an estimated schedule for implementation

Upon completion of the audit, the City will keep a report of the audit on file to fulfill the SWQCB audit requirement. A copy of each audit will be stored in Appendix I of the SSMP.



Element 11: Communication

This section of the SSMP discusses the City's communication with the public and satellite agencies. This section fulfills the communication Program requirement for the SWQCB (Element 11). The RWQCB has no equivalent requirement.

11.1 Regulatory Requirements for Communication

The requirement for the Communication element of the SSMP are summarized below:

RWQCB Requirement

None.

SWRCB Requirement

The City shall communicate on a regular basis with the public on the development, implementation, and performance of its SSMP. The communication system shall provide the public the opportunity to provide input to the City as the program is developed and implemented. The City shall also create a plan of communication with systems that are tributary and/or satellite to the City's sanitary sewer system.

11.2 Appendix

There is no appendix associated with Element 11

11.3 Communication Discussion

The City maintains a website (<http://www.losbanos.org>) to inform the public about City activities. The City's website is an effective communication tool for providing alerts and news to the public. The website has department specific information and contact telephone numbers. The Water Distribution System Master Plan, Storm Drainage System Master Plan, and Wastewater Collection Master Plan are published on website. Additionally, various Public Works documents are available for public review.

The City Council Meetings are televised on public access cable TV (channel 96). The agenda and supporting documents are posted on the internet-website prior to all City Council Meetings. The public is given an opportunity to address the City Council at every Council Meeting and is encouraged to express their opinion on any item. These public comments are also televised.

The City Council Meeting agenda for the approval/adoption of the SSMP will also be posted outside City Hall prior to the Council Meeting and supporting documents will be made available upon request.



Log of Audits and Updates

April 29, 2009 – Updates:

- Page 3 Updated - with current data
- Page 6 Removed - Associate Civil Engineer & Inspector Trainee
- Page 7 Removed - Associate Civil Engineer & Inspector Trainee
- Updated - the job description for Assistant Director

February 5, 2010 – Audit (copy in Appendix I) – Updates:

- Appendix A Updated - WWTP phone number on the Contact List
- Page 7 Moved, - “Investigates sewer related complaints from the general public.” from WWTP Supervisor to Forman Responsibilities
- Page 25 Added - item 3, Wastewater Budget
- Page 25 Removed - “annually or semi-annually,” from the last sentence
- Page 26 Added - The current budget is included in appendix E. to the first paragraph
- Page 29 Changed – “maintenance staff has” to Training Program includes in the first paragraph of 6.8
- Page 30 Added – the following paragraph to 6.9:
City personnel are in constant contact and interaction with plumbing companies and contractors on sewer related maintenance and construction within the city. We maintain a good working relationship; provide guidance when needed and handout our standards upon application or request
- Page II Added - Wastewater Budget to the Table of Contents II, Appendix E

March 2, 2011 – Audit (copy in Appendix I) – Updates:

- Page III Added- Glossary of Terms / Acronyms to the Table of Contents
- Page 6 Added- City Council and City Manager Responsibilities:

City Council. Responsible for the approval, adoption and resolution of the SSMP, Master Plan for Wastewater Collections, Improvement Standards & Specifications, Municipal Code, budgets and other documents directing and pertaining to the sewer system management.

City Manager. Oversees the Public Works Department through the Public Works Director/Engineer

- Page 8 Changed- (209) 827-7041 to (209) 827-7052

February 16, 2012 – Audit (copy in Appendix I) – Updates:

- Page 1 Changed – “acted at it’s meeting” to “enacted”
- Page 3 Population change - 2007 to 2010 & 35,211 to 36,525.
- Page 34 Changed – 124 miles to 130 miles

February 21, 2013 – Audit (copy in Appendix I) – Updates:

- Appendix A Updated - Contact List
- Appendix E Updated - Inserted the current collections system budget
- Appendix H Updated - SSMP Monitoring Tracking Sheet – 2012 data
- Page 3 Updated, - Population to: 36,546 as of September 2012
- Page 25 Added - .”Little or no change has occurred to date.”
- Page 18 Added - “The City distributes letters to Restaurants outlining the required maintenance of grease removal devices. It covers maintenance, cleaning frequency, record keeping requirements and the right of inspection by the City. It also includes suggested pollution management practices and provides a cleaning record verification form.
- The City mails letters to restaurants, auto shops, and retail outlets concerning FOG, BMPs and storm runoff practices annually.”
- Page 19 Added - To c: “The City distributes letters to restaurants, auto shops, & retail outlets concerning FOG and BMPs.”

Changes and Updates 1 through 7 reviewed and approved by:
 Royal Lloyd, Wastewater Treatment Plant Supervisor
 Mark Fachin, Public Works Director/City Engineer

March 10, 2014 – Audit (copy in Appendix I) – Updates:

- Appendix A Updated - Contact List
- Appendix E Updated - Inserted the current collections system budget
- Appendix H Updated - SSMP Monitoring Tracking Sheet – 2012 data
- Page 3 Updated, - Population to: As of May 2013... 37,017 & updated Collection system information “as of July 2013”
- Appendix B Updated - Pages 8,9 & 10 of the Sanitary Sewer Overflow Response Plan changed to meet the amended SWRCB requirements
- Appendix B Addition - Added the SWRCB Order No. WQ 2013-0058-EXEC Amendment as an appendix to the Sanitary Sewer Overflow Response Plan
- Appendix B Updated - Added Phone number for Santa Barbara Sewer Lift Station alarm to page 20 of the Standard Operating Procedures for Sewer Pump Station Failure Manuel

February 6, 2015 – Audit (copy in Appendix I) – Updates:

- Appendix A Updated - Contact List
- Appendix A Added - Public Works Operations Personnel Chart
- Appendix B Updated - SORP Page 2 – added a 9th sewer lift station alarm
“ 9 209 617-2575 West I Street”
- Appendix E Updated - Inserted the current collections system budget
- Appendix H Updated - SSMP Monitoring Tracking Sheet – 2014 data
- Page 3 Updated, - Population to: 37,168 as of May 2014

February 10, 2016 – Audit (copy in Appendix I) – Updates:

- Page 3 Updated, - Population to: As of May 2015... 37,145 & updated
Collection system information “as of July 2013”
- Page 8 Changed – “Wastewater Treatment Supervisor” to Public
Works Operations Manager
- Appendix A Updated - Public Works Operations Personnel Chart
- Appendix E Updated - Inserted the current collections system budget
- Appendix H Updated - SSMP Monitoring Tracking Sheet – 2015 data

September 6, 2019 – Audit (copy in Appendix I) – Updates:

- Page 3 Updated - Population to: As of May 2018... 40,986 & updated
Collection system information “as of July 2019”
- Appendix A Updated - Contact List
- Appendix B Updated - Names and contact order for Lift Station Alarms
- Appendix C Updated - Potential Fog Dischargers List
- Appendix E Updated - Inserted the current collections system budget and
equipment list
- Appendix H Updated - SSMP Monitoring Tracking Sheet – 2018 data,
monitoring tracking records



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Mark Fachin, P.E., Public Works Director/City Engineer

DATE: October 2, 2019

TYPE OF REPORT: Consent

SUBJECT: Authorizing the City Manager to develop and submit an application for Statewide Park Development and Community Revitalization Program grant funds.

Recommendation:

That the City Council adopt the Resolution authorizing the City Manager to develop and submit an application for Statewide Park Development and Community Revitalization Program grant funds.

Background:

On June 5, 2018, California voters approved Proposition 68, authorizing \$4 billion in general obligation bonds for State and local parks, environmental protection projects, water infrastructure projects, and flood protection projects. Approximately \$1.2 billion of the \$4 billion was included in the 2018-19 Budget that was signed by the Governor. A little over \$460 million of what was included in the Budget is part of the per capita formulaic allocation to local governments and other local and regional grant programs, including the Statewide Park Development and Community Revitalization Program.

There is approximately \$650 million available for Statewide Park Development and Community Revitalization Program in Proposition 68, of which roughly \$265 million is available in the current round of funding. Applications for competitive project funding from this program are due on August 5, 2019.

Discussion:

The Pacheco Park Revitalization Project will fully renovate Pacheco Park and be a transformative renovation for the City of Los Banos' most central park. Major amenities that will be added and renovated include: installation of a new splash pad and

playground, replacement of the existing Recreation Hall building, installation of a Veterans Memorial, installation of sports courts and construction of pedestrian walkways and a parking lot to improve safe access into the park. Additionally, over 200 new shade trees and turf will replace diseased trees and sparsely growing turf. New water-efficient irrigation, lighting and educational signage will provide an improved recreation area for residents of Los Banos, as well as visitors.

Environmental Assessment:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is found to be categorically exempt from the provisions of CEQA – Article 19, Section 15301(c)(d)(e), 15302(b), 15303(e), and 15304(b). The project consists of minor alterations to pedestrian walkways and street trees, restoration/rehabilitation of deteriorated structures to meet current public health and safety standards, minor additions to existing facilities, the replacement of existing structures, installation of small new facilities or structures, and new landscaping.

The proposed project includes no expansion of an existing use, meaning structures replaced will be located on the same project site as existing structures and will have the same purpose and capacity. The proposed project will not involve the removal of healthy or scenic trees. Additionally, the proposed project is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, or other limiting factors that would make the exemption inapplicable based on the proposed project's scope.

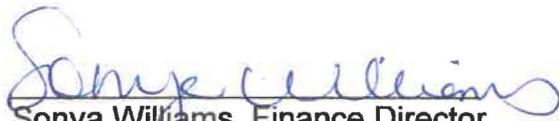
Fiscal Impact:

\$8,496,040 is requested from the Statewide Park Development and Community Revitalization Program. This amount is reimbursable from the grant. The total impact will be \$8,617,040, with \$121,000 coming in the form of in-house labor for site clearing and building removal.

Reviewed by:



Alex Terrazas, City Manager


Sonya Williams, Finance Director

Attachments:

- Resolution
- Proposed Pacheco Park Conceptual Master Plan

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS AUTHORIZING THE CITY
MANAGER TO DEVELOP AND SUBMIT AN
APPLICATION FOR STATEWIDE PARK
DEVELOPMENT AND COMMUNITY
REVITALIZATION PROGRAM GRANT FUNDS**

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Development and Community Revitalization Grant Program, setting up necessary procedures governing the application; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, the Pacheco Park Revitalization Project was determined to be categorically exempt from the provisions of CEQA per Article 19, Section 15301(c)(d)(e), 15302(b), 15303(e), and 15304(b) for Pacheco Park located at 903 Pacheco Blvd; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of the application before submission of said application to the State; and

WHEREAS, successful Applicants will enter into a contract with the State of California to complete the Grant Scope project;

BASED UPON THE EVIDENCE PRESENTED, the City Council of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos hereby approve development and submittal of an application for the Pacheco Park project as follows:

Section 1. Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project if the grant is awarded; and

Section 2. Certifies that if the project is awarded, the Applicant has or will have sufficient funds to operate and maintain the project, and

Section 3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and

Section 4. Delegates the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope; and

Section 5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Section 6. Will consider promoting inclusion per Public Resources Code §80001(b)(8 A-G).

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October, 2019, by Council Member _____ who moved the adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS - PACHECO PARK REVITALIZATION PROJECT

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos City Council hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, Pacheco Park Revitalization Project was evaluated and determined to be categorically exempt from the provisions of CEQA – Article 19, Section 15301(c)(d)(e), 15302(b), 15303(e), and 15304(b). The project consists of minor alterations to pedestrian walkways and street trees, restoration/rehabilitation of deteriorated structures to meet current public health and safety standards, minor additions to existing facilities, the replacement of existing structures, installation of small new facilities or structures, and new landscaping.

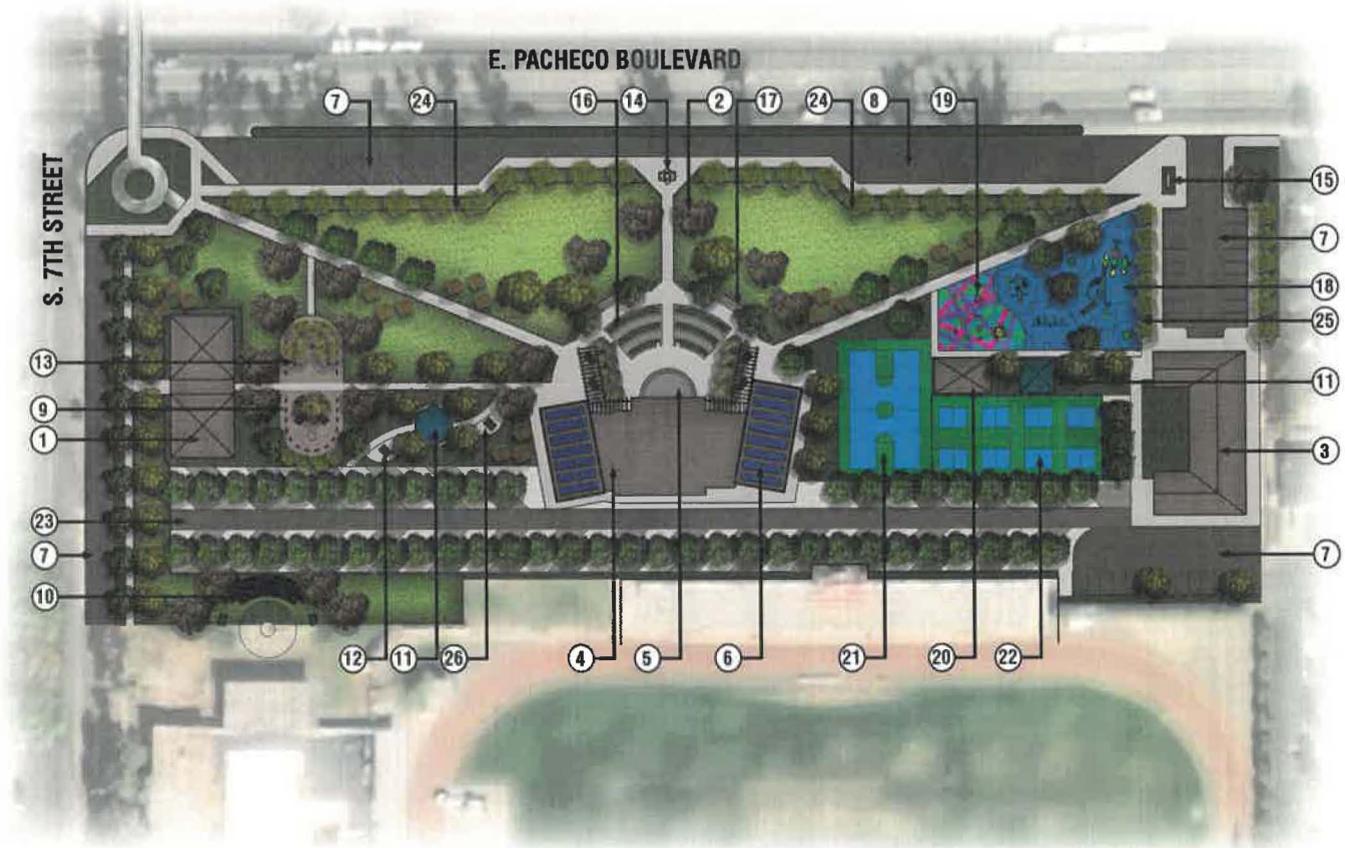
The proposed project includes no expansion of an existing use, meaning structures replaced will be located on the same project site as existing structures and will have the same purpose and capacity. The proposed project will not involve the removal of healthy or scenic trees. Additionally, the proposed project is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, or other limiting factors that would make the exemption inapplicable based on the proposed project's scope.

2. Pacheco Park Revitalization Project was considered at a public meeting on October 2, 2019.
3. No further environmental documentation is required as the Project was contemplated and adequately analyzed in the initial review.
4. Prior to considering the proposed Project, the City Council considered the Categorical Exemption.

PACHECO PARK

LEGEND

- ① CITY OF LOS BANOS LIBRARY
- ② CALIFORNIA HISTORICAL MARKER AND EDUCATIONAL SIGNAGE
- ③ MILLIKEN MUSEUM
- ④ COMMUNITY BUILDING
- ⑤ STAGE AREA
- ⑥ PHOTO VOLTAIC PANELS
- ⑦ PARKING LOT
- ⑧ BUS PARKING
- ⑨ VETERANS MEMORIAL WALLS
- ⑩ SHADE ARBOR
- ⑪ SHADE STRUCTURE
- ⑫ PICNIC TABLE
- ⑬ BENCH
- ⑭ DIGITAL SIGN
- ⑮ GRANT SIGN
- ⑯ RAISED PLANTER SEATING
- ⑰ STEPPED SEAT WALLS
- ⑱ PLAYGROUND
- ⑲ SPLASH PAD
- ⑳ RESTROOM
- ㉑ BASKETBALL COURT
- ㉒ PICKLEBALL COURTS
- ㉓ DECORATIVE CONCRETE PEDESTRIAN WALKING PLAZA WITH PARKING ABILITIES
- ㉔ SPLIT RAIL FENCE
- ㉕ TUBULAR STEEL FENCE
- ㉖ BBQ/PICNIC AREA



CONCEPTUAL MASTER PLAN

08/02/2019

NOTE: THIS DOCUMENT IS FOR CONCEPTUAL PLANNING PURPOSES ONLY. THIS DOCUMENT IS MARKED PRELIMINARY AND NOT TO BE USED FOR CONSTRUCTION PURPOSES. ANY IMAGES SHOWN ARE TO CONVEY CONCEPT ONLY. CONSTRUCTION PLANS WILL VARY DEPENDING ON BUDGET, CLIENT DIRECTION, COMMUNITY INPUT AND FINAL MATERIALS SELECTION.





City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC *em*
City Clerk/Human Resources Director

DATE: October 2, 2019

TYPE OF REPORT: Consent Agenda

SUBJECT: Closure of Non-Essential City Offices

Recommendation:

Approve closure of non-essential City offices on Tuesday, December 24, 2019, Tuesday, December 31, 2019.

Background:

City policy provides a paid holiday to City employees for Christmas Day and New Years Day; however, the days before Christmas and New Years Day holidays are regular business days for City staff. With Christmas Day and New Years Day falling on a Wednesday, it is reasonably certain that the preceding Tuesdays will be exceptionally slow business days. Thus, it is a good opportunity to close all non-essential functions in an effort to realize energy cost savings.

Discussion:

Under this scenario, all offices located at 520 J Street, 411 Madison Avenue, 645 7th Street, and 1015 F Street would be closed on December 24 and 31, 2019. All non-essential functions outside of these offices (Police and Fire) would also be closed and departments may reduce staffing in other areas that are necessary for the provision of essential services.

Employees affected by the closures may utilize accrued leave balances such as Vacation and Compensatory Time Off (CTO) which is accrued by overtime eligible employees in lieu of accepting actual cash payment for overtime. As a result, the City may realize additional cost savings by reducing the long-term liability associated with these accrued leaves.

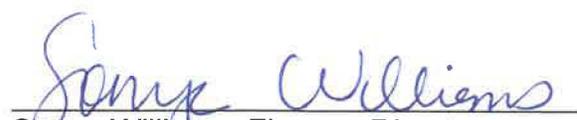
Fiscal Impact:

The City will realize cost savings through reduced energy usage on the business closure days and reduce the unfunded liability associated with the accrued leave balances.

Reviewed by:



Alex Terrazas, City Manager



Senya Williams, Finance Director

Attachments:

Resolution

RESOLUTION NO. __

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING CLOSURE OF
NON-ESSENTIAL CITY OFFICES ON TUESDAY,
DECEMBER 24, 2019 AND TUESDAY, DECEMBER
31, 2019**

WHEREAS, the City Manager has approved staff's recommendation to close non-essential City offices on Christmas Eve, Tuesday, December 24, 2019, and the day New Year's Eve, Tuesday, December 31, 2019 allowing employees to utilize accrued leave balances such as Vacation or Compensatory Time Off (CTO).

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve the closure of all non-essential City offices on Tuesday, December 24, 2019 and Tuesday, December 31, 2019.

BE IT FURTHER RESOLVED that employees may utilize accrued leave balances such as Vacation or Compensatory Time Off (CTO).

The foregoing Resolution was introduced at an adjourned meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member __ who moved its adoption, which motion was duly seconded by Council Member __ and the Resolution adopted by the following vote:

AYES: Council Members

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Stacy Souza Elms, Community and Economic Development Director *js*

DATE: October 2, 2019

TYPE OF REPORT: Public Hearing

SUBJECT: Formation of the Proposed Los Banos Downtown Property and Business Improvement District; and Resolution Forming the Los Banos Downtown Property and Business Improvement District, Approving the Assessment Formula and Levying the Assessments

Recommendation:

1. The City Council conduct and conclude a public hearing and direct the City Clerk to tabulate the ballots;

Note: If the vote is successful to support 50% or more of the property owner assessments towards establishing a PBID, the City Council is asked to adopt the following:

2. The City Council adopt a resolution forming the Los Banos Downtown Property and Business Improvement District ("LBDPBID"), approving the assessment formula, and levying the assessments.

Background:

The proposed LBDPBID is a benefit assessment district whose main goal is to provide improvements and activities which constitute and convey a special benefit to assessed parcels. This approach has been used successfully in other cities throughout the

country to provide special benefits to property owners, namely increased sales, attraction of new tenants, increased occupancies, and specifically increased property values.

LBDPBID property owners decided to pursue establishment of the LBDPBID in order to create a revenue source devoted to providing special benefits to assessed property owners. If established, the LBDPBID would generate approximately \$146,357.75 on an annual basis for maintenance and general security, marketing and placemaking, and small infrastructure improvements and services that are above and beyond those provided by the City and other government agencies.

On August 7, 2019, the Los Banos City Council adopted Resolution No. 6115 authorizing the City Manager to sign a petition and assessment ballot regarding the City properties within the Los Banos Downtown Property and Business Improvement District. The City Council then adopted Resolution No. 6116 declaring its intention to form the Los Banos Downtown Property and Business Improvement District, which began the notice and proposition 218 process.

The City Council at this time is being asked to conduct a public hearing to receive public input related to the LBDPBID formation. Sealed ballots of property owners will be accepted by the City Clerk before the close of the October 2, 2019, public hearing.

The assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. Ballots will be weighted according to the financial obligation of the owners of the affected properties.

Discussion:

To initiate the process, a Management District Plan (Attachment 1) has been prepared that includes the boundary map, a service plan, assessment methodology, proposed means of governance, and an Engineer’s Report.

As described in the Management District Plan, the services and activities within the LBDPBID include:

- Maintenance and General Security
- Marketing and Placemaking
- Small Infrastructure
- Operations

The proposed LBDPBID will have a five (5) year life beginning January 1, 2020 and ending December 31, 2024. Near the end of the term, the petition, ballot, and City Council hearing process must be repeated for the LBDPBID to be renewed.

The assessment will be collected by the County on an annual basis from each assessed property owner, and forwarded to the City. The City shall forward the assessments to

the Los Banos Downtown Property Owners Association which will have the responsibility of managing LBDPBID programs as provided in the Management District Plan.

Annual assessments are based upon an allocation of program costs and a calculation of parcel square footage.

DISTRICT FORMATION PROCESS

August 7, 2019 **RESOLUTION OF INTENTION HEARING (COMPLETED)**
Upon the submission of a written petition, signed by the property owners in the proposed district who will pay more than fifty percent (50%) of the assessments proposed to be levied, the City Council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

Petition Status: Petitions in favor of LBDPBID formation were submitted by 25 property owners, which represent 51.4% of the total LBDPBID assessment. This majority petition allowed the Council to initiate proceedings for LBDPBID formation at the August 7, 2019 meeting.

August 16, 2019 **NOTICE & PROPOSITION 218 BALLOT (COMPLETED)**
The Property and Business Improvement District Law of 1994 and Proposition 218 require the City mail written notice and assessment ballots to the owners of all property proposed to be assessed within the LBDPBID. Mailing the notice and assessment ballot begins a mandatory forty-five (45) day period in which owners may cast ballots.

October 2, 2019 **FINAL PUBLIC HEARING**
Council will open a public hearing and receive public testimony. At the end of testimony, Council will close the public hearing and direct tabulation of assessment ballots submitted and not withdrawn to determine whether there is a majority protest against the assessment. A majority protest exists if the ballots in opposition to the proposed assessment exceed the ballots in support of the proposed assessment, weighted by the amount each owner will pay. If there is no majority protest, Council may adopt a resolution declaring the results of the majority protest proceedings and forming the LBDPBID.

Fiscal Impact:

Article XIID of the California State Constitution (Proposition 218) states that no parcel is exempt from assessments if that parcel receives benefit from the improvements and

activities, which includes government and public use parcels. The City of Los Banos and any other government owned parcels within the LBDPBID boundary will pay their assessment based on the special benefits conferred to those parcels.

The proposed LBDPBID will have a five-year (5) term. The annual assessment for City-owned property within the proposed district for Fiscal Year 2019-2020 is \$17,744.20. If the Council adopts the Resolution of Formation to establish the LBDPBID, a Budget Amendment will be included to increase expenditures to the Community and Economic Development Department to \$14,474.20 in account 100-419-100-259 for Downtown Promotions. With the passage of the LBDPBID, the City will no longer cover the cost of seasonal banners, and those funds would be applied towards the City's on-going portion of the PBID assessment.

Annual assessments may increase no more than 2.5% per year, consistent with the increase in consumer price index (CPI) and increases in program costs. The determination of annual adjustments in assessment rates will be subject to the review and approval of the PBID Owners' Association Board of Directors. When established the Board will represent a cross section of property owners but will also include businesses, government and others paying the PBID assessment.

Reviewed by:



Alex Terrazas, City Manager


Sonya Williams, Finance Director

Attachments:

1. Resolution of Formation
2. LBDPBID Management District Plan and Engineer's Report
3. Public Haring Notice

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS ESTABLISHING THE LOS
BANOS DOWNTOWN PROPERTY AND
BUSINESS IMPROVEMENT DISTRICT,
APPROVING THE ASSESSMENT FORMULA
AND LEVYING THE ASSESSMENTS**

WHEREAS, the Property and Business Improvement District Law of 1994, Streets and Highways Code §36600 et seq. authorizes cities to establish property and business improvement districts upon petition by a weighted majority of property owners within the proposed district and affirmative ballot; and

WHEREAS, a majority of the property owners subject to assessment, weighted according to the amount of assessment to be paid by each property owner, have petitioned the City Council to form the proposed Los Banos Downtown Property and Business Improvement District (“LBDPBID”); and

WHEREAS, on August 7, 2019, the City Council adopted Resolution No. 6116, which was the Resolution of Intention to form the LBDPBID; and

WHEREAS, on October 2, 2019, the City Council conducted a public hearing at 7:00 PM at City Hall, Council Chambers, with respect to the formation of the LBDPBID; and

WHEREAS, all written and oral protests made or filed were duly heard, evidence for and against the proposed action was received, and a full, fair and complete hearing was granted and held; and

WHEREAS, pursuant to California Constitution Article XIII D, ballots were mailed to property owners within the boundaries of the LBDPBID, and, among those ballots returned to the City, a weighted majority of the property owners within the LBDPBID have approved formation of the LBDPBID; and

WHEREAS, a detailed engineer’s report prepared by a registered professional engineer certified by the State of California, Stacey Lynch, in support of the District’s assessments, has been prepared, is incorporated in the Management District Plan, and is on file with the Office of the City Clerk and is incorporated herein by this reference. (“Engineer’s Report”); and

WHEREAS, the City Council of the City of Los Banos may adjust the overall appropriation levels in each fund at any time during the Fiscal Year by action to amend the budget; and

WHEREAS, the proposed budget increase is \$14,474.20 in expenditures for the Community and Economic Development Department, Downtown Promotions account (100-419-100-259); and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby ordain as follows:

1. The recitals set forth herein are true and correct.
2. The Los Banos Downtown Property and Business Improvement District is hereby formed and the annual assessment is hereby levied for each year of the entire term of the LBDPBID. The initial annual assessment will total approximately \$146,357.76.
3. The Management District Plan and the Engineer's Report are hereby approved.
4. The assessment shall be imposed on properties within the LBDPBID. The boundaries of the district generally include parcels in the downtown area of the City of Los Banos.
5. Assessment rates are as follows:

Initial Parcel Assessment Rates	
Parcel Type	Parcel Size (sq. ft.)
Standard	\$0.270
Government	\$0.200

6. The assessments shall be collected in accordance with Section 36631 of the Streets and Highways Code.
7. The assessment levied for the LBDPBID shall be applied towards economic revitalization and maintenance programs, including maintenance and general security, marketing and placemaking, and small infrastructure.
8. Bonds shall not be issued.
9. Properties within the District are subject to any amendments to Part 7 (commencing with Section 36600) to Division 18 of the Streets and Highways Code.
10. The improvements and activities to be provided in the District will be funded by the levy of the assessments specified in the assessment roll. The revenue from the levy of such assessments shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the Resolution of Intention and Management District Plan.

11. All property within the District will be benefited specially and directly by the improvements and activities funded by the assessments proposed to be levied.
12. The City Clerk is directed to take all necessary actions to complete the establishment of the LBDPBID. The City Clerk is directed to record in the County Recorder's Office a notice and assessment diagram as required by Streets and Highways Code section 36627.
13. If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the resolution. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declares invalid or unconstitutional.
14. That the City Council of the City of Los Banos hereby amends the 2019-2020 Fiscal Year Budget to include an increase of \$14,474.20 to expenditures account 100-419-100-259.
15. This resolution shall take effect immediately.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
 NOES:
 ABSENT:

APPROVED:

 Michael Villalta, Mayor

ATTEST:

 Lucille L. Mallonee, City Clerk

2020-2024



**LOS BANOS DOWNTOWN PROPERTY AND
BUSINESS IMPROVEMENT DISTRICT
MANAGEMENT DISTRICT PLAN AND ENGINEER'S REPORT**

*Prepared pursuant to the Property and Business Improvement District Law of
1994, Streets and Highways Code section 36600 et seq.*

July 1, 2019

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Prepared by Civitas with the assistance of SS Consulting



I. OVERVIEW

Developed by a growing coalition of property owners, the Los Banos Downtown Property and Business Improvement District (LBDPBID) is a benefit assessment district whose main goal is to provide improvements and activities which constitute and convey a special benefit to assessed parcels. This approach has been used successfully in other cities throughout the country to provide special benefits to property owners, namely increased sales, attraction of new tenants, increased occupancies, and specifically increased property values. As required by state law, property owners have created this Management District Plan (Plan) to form the LBDPBID.

Location: The LBDPBID generally includes parcels in the downtown area of the City of Los Banos, as show on the map in Section IV.

Purpose: The purpose of the LBDPBID is to provide activities and improvements which constitute and convey a special benefit to assessed parcels. The LBDPBID will provide maintenance and general security, marketing and placemaking, and small infrastructure programs directly and only to assessed parcels within its boundaries.

Budget: The LBDPBID annual assessment budget for the initial year of its five (5) year operation is anticipated to be \$146,357.76. The annual budget may be subject to an increase in assessment rates of no more than two and one half of one percent (2.5%) per year. The assessment funds will be supplemented by non-assessment funds (such as grants and event income), so that the total budget for the initial year is estimated at \$158,587.84.

Cost: The assessment rate (cost to the parcel owner) is based on parcel type and parcel square footage. The initial annual rate to each parcel is shown in the table below. Assessment rates may be subject to an increase of no more than two and one half of one percent (2.5%) per year.

Initial Parcel Assessment Rates	
Parcel Type	Parcel Size (sq. ft.)
Standard	\$0.270
Government	\$0.200

Formation: LBDPBID formation requires submittal of petitions from property owners representing more than fifty percent (50%) of the total assessment. The “Right to Vote on Taxes Act” (also known as Proposition 218) requires a ballot vote in which more than fifty percent (50%) of the ballots received, weighted by assessment, be in support of the LBDPBID.

Duration: The LBDPBID will have a five (5) year life beginning January 1, 2020 and ending December 31, 2024. Near the end of the term, the petition, ballot, and City Council hearing process must be repeated for the LBDPBID to be renewed.

Management: The Los Banos Downtown Property Owners Association (LBDPOA) will serve as the Owners’ Association for the LBDPBID.

II. IMPETUS

There are several reasons why now is the time to form the LBDPBID. The most compelling reasons are as follows.

1. The Need to be Proactive in Determining the Future of Los Banos.

In order to protect their investment, parcel owners must be partners in the process that determines the level and frequency of services, and how new improvements and development projects are implemented. The LBDPBID will allow these owners to lead and shape future services and improvements through the LBDPBID.

2. The Need to Attract New Business and Investment Throughout Los Banos.

If Los Banos is to compete as a successful commercial district it must develop its own well-financed, proactive strategy to retain businesses and tenants as well as attract new business and investment. The LBDPBID provides the financial resources to develop and implement a focused strategy that will work to prevent and fill vacancies and attract new tenants to all areas of Los Banos.

3. An Opportunity to Create a Private/Public Partnership with a Unified Voice for Los Banos.

Because parcel owners would be investing financial resources through the LBDPBID, they will be looked upon as a strong partner in negotiations with the City. This partnership will have the ability to leverage the parcel owner's investment with additional public investment in Los Banos.

4. An Opportunity to Establish Private Sector Management and Accountability.

A non-profit, private organization formed for the sole purpose of improving Los Banos will manage the services provided and the LBDPBID. Annual LBDPBID work plans and budgets are developed by a board composed of stakeholders that own property in the Los Banos. Improvements and activities provided by the LBDPBID are subject to private sector performance standards, controls, and accountability.

III. BACKGROUND

The International Downtown Association estimates that more than 1,500 Property and Business Improvement Districts (PBIDs) currently operate throughout the United States and Canada. PBIDs are a time-tested tool for property owners who wish to come together and obtain collective services which benefit their properties.

PBIDs provide supplemental services in addition to those provided by local government. They may also finance physical and capital improvements. These improvements and activities are concentrated within a distinct geographic area and are funded by a special parcel assessment. Services and improvements are only provided to those who pay the assessment.

Although funds are collected by the local government, they are then directed to a private nonprofit. The nonprofit implements services and provides day-to-day oversight. The nonprofit is managed by a Board of Directors representing those who pay the assessment, to help ensure the services meet the needs of property owners and are responsive to changing conditions within the PBID.

PBIDs all over the globe have been proven to work by providing services that improve the overall viability of commercial districts, resulting in higher property values, lease rates, occupancy rates, and sales volumes.

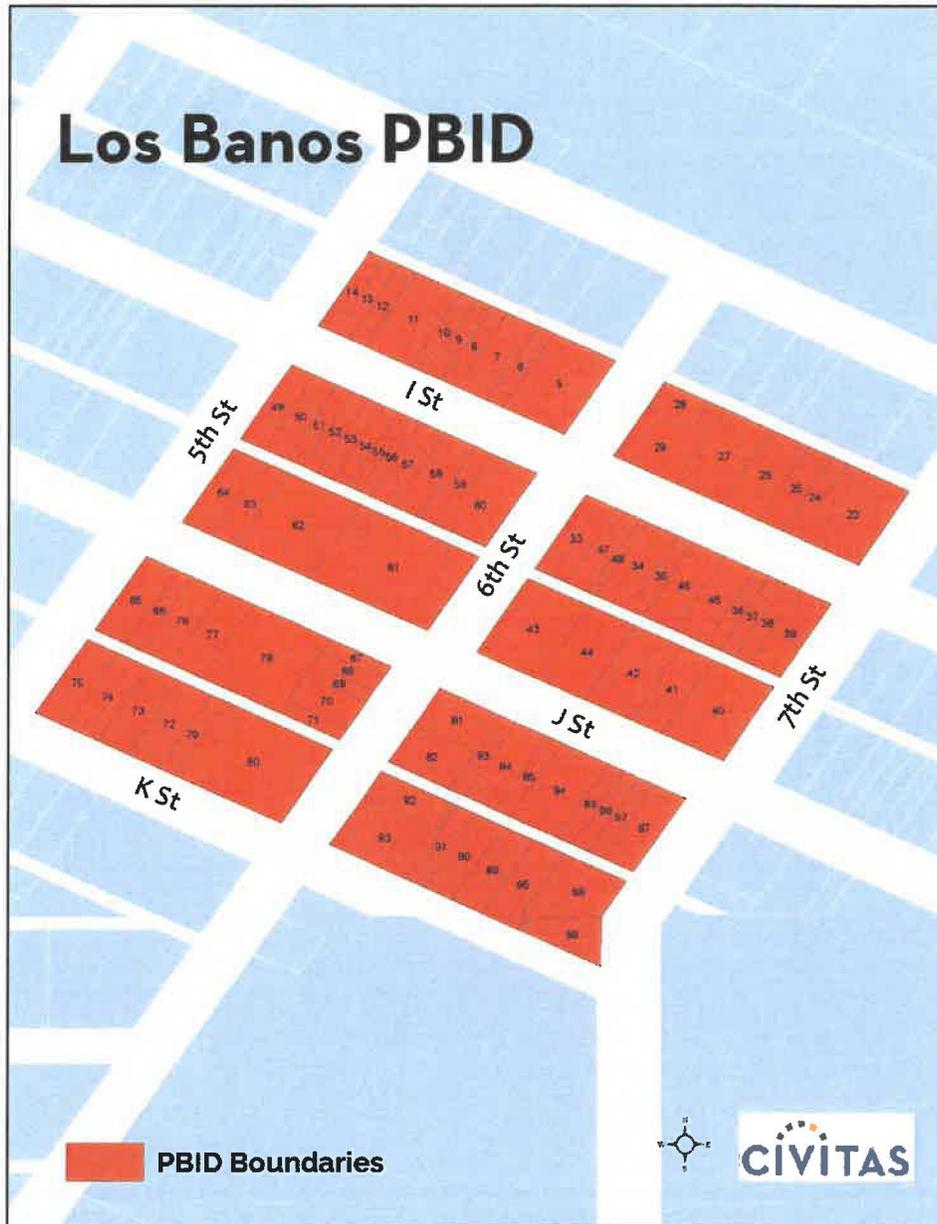
The LBDPBID will be formed pursuant to a state law that took effect in January of 1995. The “Property and Business Improvement District Law of 1994,” which was signed into law by Governor Pete Wilson, ushered in a new generation of Property and Business Improvement Districts in California. Key provisions of the law include:

- Allows a wide variety of services which are tailored to meet specific needs of assessed properties in each individual PBID;
- Requires property owner input and support throughout the formation process;
- Requires written support on both a petition and ballot from property owners paying 50% of proposed assessments;
- Allows for a designated, private nonprofit corporation to manage funds and implement programs, with oversight from property owners and the City;
- Requires limits for assessment rates to ensure that they do not exceed the amount owners are willing to pay; and
- Requires the PBID be renewed after a certain time period, making it accountable to property owners.

The “Property and Business Improvement Business District Law of 1994” is provided in Appendix 1 of this document.

IV. BOUNDARIES

The LBDBPID generally includes parcels in the downtown area of the City of Los Banos, as show on the map below. The service area includes approximately eighty-three (83) parcels with sixty-one (61) parcel owners. The LBDBPID boundary is illustrated by the map below. A larger map is available on request by calling (916) 437-4300 or (800) 999-7781.



V. SERVICE PLAN & BUDGET

A. Establishment

Property and business owners in Los Banos have been concerned about the need for coordinated supplemental services in the area for several years. City services and efforts in the area have been welcomed, but limited resources have not allowed for a more comprehensive approach to managing the commercial area.

A service plan to provide special benefits to assessed properties was developed using several methods. A series of property owner meetings, a survey of property owners, an analysis of current property conditions and needs, and an intercept survey of visitors were all conducted. The primary needs identified were: maintenance, security, marketing, promotional materials, branding, and infrastructure improvements. To meet those needs, the LBDPBID will provide a maintenance and general security, marketing and placemaking, and small infrastructure programs to assessed parcels within its boundaries.

B. Improvements and Activities

The LBDPBID will provide supplemental improvements and activities that are above and beyond those provided by the City and other government agencies. None of the services to be provided by the LBDPBID are provided by the City or other government agencies. The improvements and activities will be provided directly and only to assessed parcels; they will not be provided to parcels that are not assessed. Each and every service is unique to the LBDPBID, thus the benefits provided are particular and distinct to each assessed parcel.

1. Maintenance and General Security

The maintenance and general security programs will be designed to maintain and increase usability of assessed parcels for the benefit of assessed parcels. The maintenance programs will focus on providing a cleaner, more accessible, and more attractive environment for potential tenants and customers. The security programs will aim to increase safety and address issues which discourage property owners, tenants, and customers from visiting the LBDPBID. The maintenance and security program will include, but is not limited to:

- Pressure washing sidewalks;
- Litter removal services, including garbage, debris and leaves, and enhanced solid waste and recycling infrastructure needs throughout the LBDPBID;
- Graffiti removal services;
- Landscape improvements and maintenance, including the trimming and planting of trees and flowers;
- Contracting with private security patrols to surveil the LBDPBID and respond to incidents occurring on assessed parcels; and
- Coordination with the Los Banos Police Department to support crime prevention throughout the LBDPBID.

2. Marketing and Placemaking

Marketing and placemaking efforts will highlight the LBDPBID as a unique destination in an effort to increase visitor activity and sales that directly benefit the assessed parcels. Marketing may include, but is not limited to: promotions and marketing of the LBDPBID as a destination area, special events to attract visitors, the maintenance of a LBDPBID brand package and website, promotional materials, visitor guides, maps, press releases and newsletters. It is the intent of this

program to allow the public to view the LBDPBID as a single destination with a rich collection of attractions, events and services.

3. Small Infrastructure

The small infrastructure portion of the budget will be used to fund tangible items that will better the area of the LBDPBID to help with promoting and improving the look and feel of the LBDPBID. Infrastructure may include, but are not limited to: the addition of pole banners, wayfinding signage, park benches, trash receptacles, bike racks, planters, public art and other similar initiatives.

4. Operations

The administration portion of the budget will be utilized for administrative costs associated with providing the services. Those costs may include rent, telephone charges, legal fees, accounting fees, postage, administrative staff, insurance, and other general office expenses.

C. Annual Budget

A projected five (5) year budget for the LBDPBID is provided below. The overall budget shall remain consistent with this Plan. In the event of a legal challenge, assessment funds may be used to defend the LBDPBID. The annual budget is based on the following assumptions and guidelines:

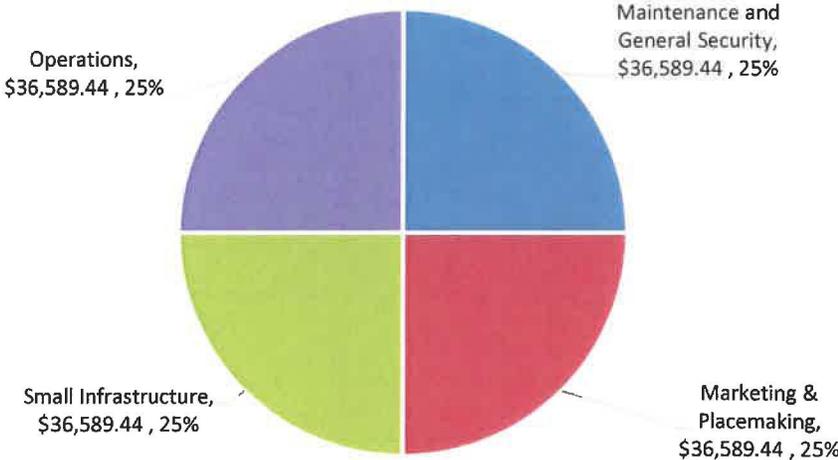
1. The cost of providing improvements and activities may vary depending upon the market cost for those improvements and activities. Expenditures may require adjustment up or down to continue the intended level of improvements and activities. The LBDPOA shall annually have the ability to re-allocate up to ten percent (10%) of the budget allocation by line item within the budgeted categories. Any change will be approved by the LBDPOA and submitted with the Annual Report.
2. Funds not spent in any given year may be rolled over to the next year.
3. The assessment rate may be subject to annual increases that will not exceed two and one half of one percent (2.5%) per year. Increases will be determined by the LBDPOA and will vary each year. The projections below illustrate the maximum annual two and one half of one percent (2.5%) increase for all budget items.
4. Each budget category includes all costs related to providing that service, in accordance with Generally Accepted Accounting Procedures (GAAP). For example, the marketing and placemaking budget includes the cost of staff time dedicated to overseeing and implementing the security program. Staff time dedicated purely to administrative tasks is allocated to the administration portion of the budget. The costs of an individual staff member may be allocated to multiple budget categories, as appropriate in accordance with GAAP. The staffing levels necessary to provide the LBDPBID services will be determined by the LBDPOA on an as-needed basis.

D. Assessment Budget

The total improvement and activity budget for 2020 that is funded by property assessments is \$146,357.76. In addition to the assessment revenue, the programs will be supplemented by non-assessment funds. The total of non-assessment funds, and the determination of special and general benefit, is included in the Engineer's Report. The total of assessment and non-assessment funds is provided in Appendix 4. Below is an illustration of the estimated total budget allocations for each budget category for the five (5) year life of the LBDPBID. The allocation of the assessment funds is governed

by Section E below. Non-assessment funds may be shifted between budget categories as needed by the LBDPOA Board.

Initial Year Assessment Budget - \$146,357.76



E. Annual Maximum Budget

The budget below assumes the maximum annual increase of two and one half of one percent (2.5%) is enacted and that there are no changes to the categorical budget allocations.

Year	Maintenance & General Security	Marketing & Placemaking	Small Infrastructure	Operations	Total
2020	\$36,589.44	\$36,589.44	\$36,589.44	\$36,589.44	\$146,357.76
2021	\$37,504.18	\$37,504.18	\$37,504.18	\$37,504.18	\$150,016.72
2022	\$38,441.78	\$38,441.78	\$38,441.78	\$38,441.78	\$153,767.12
2023	\$39,402.82	\$39,402.82	\$39,402.82	\$39,402.82	\$157,611.28
2024	\$40,387.89	\$40,387.89	\$40,387.89	\$40,387.89	\$161,551.56
Total	\$192,326.11	\$192,326.11	\$192,326.11	\$192,326.11	\$769,304.44

VI. GOVERNANCE

A. Owners' Association

The District shall be governed by the Los Banos Downtown Property Owners Association, with oversight from the Los Banos City Council. The Los Banos Downtown Property Owners Association (LBDPOA) shall serve as the Owners' Association described in the Streets and Highways Code §36651. The Board of Directors of the LBDPOA and its staff are charged with the day-to-day operations of the LBDPBID.

B. Brown Act & Public Records Act Compliance

An Owners' Association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. The Owners' Association is, however, subject to government regulations relating to transparency, namely the Ralph M. Brown Act and the California Public Records Act. These regulations are designed to promote public accountability. The Owners' Association must act as a legislative body under the Ralph M. Brown Act (Government Code §54950 et seq.). Thus, meetings of the LBDPOA Board of Directors and certain committees must be held in compliance with the public notice and other requirements of the Brown Act. The Owners' Association is also subject to the record keeping and disclosure requirements of the California Public Records Act.

C. Annual Report

The LBDPOA shall present an annual report at the end of each year of operation to the City Council pursuant to Streets and Highways Code §36650 (see Appendix 1). The annual report is a prospective report for the upcoming year and must include:

1. Any proposed changes in the boundaries of the LBDPBID or in any benefit zones or classification of property within the district;
2. The improvements, maintenance, and activities to be provided for that fiscal year;
3. The estimated cost of providing the improvements, maintenance, and activities to be provided for that fiscal year;
4. The method and basis of levying the assessment in sufficient detail to allow each real property owner to estimate the amount of the assessment to be levied against his or her property for that fiscal year;
5. The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year; and
6. The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this Plan.

VII. ENGINEER'S REPORT

The LBDPBID's parcel assessments will be imposed in accordance with the provisions of Article XIID of the California Constitution. Article XIID provides that "only special benefits are assessable,"¹ and requires the City to "separate the general benefits from the special benefits conferred on a parcel."² Special benefits are a "particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public-at-large."³ Conversely, a general benefit is "conferred on real property located in the district or to the public-at-large."⁴ Assessment law also mandates that "no assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."⁵

The Engineer determined the total cost of the improvements and activities, quantified the general benefit accruing to the public-at-large and non-assessed parcels adjacent to and within the LBDPBID, and separated that amount from the special benefit accruing to the assessed parcels. Then, the Engineer determined the proportional special benefit derived by each parcel and allocated the special benefit value of the improvements and activities accordingly. The Engineer's determinations and detailed calculations are summarized in this report.

A. Boundary Description and Rationale

The LBDPBID boundaries include parcels in the downtown area of the City of Los Banos. The LBDPBID boundaries include eighty-three (83) parcels with sixty-one (61) parcel owners.

Boundaries were carefully developed to ensure all and only those parcels which will receive special benefits from the proposed activities and improvements are included. This boundary was chosen because it includes parcels within the downtown area of the City Los Banos that will receive special benefits from LBDPBID improvements and activities and generally excludes residential parcels that are statutorily exempt from LBDPBID assessments.

B. Separation of General and Special Benefits

Each of the improvements and activities, and the associated costs and assessments within the LBDPBID, were reviewed, identified, and allocated based on special and general benefits pursuant to Article XIID of the California Constitution. The assessment has been apportioned based on the proportional special benefits conferred to the assessed parcels located within the LBDPBID boundaries as determined below.

1. General Benefits

Unlike special benefits, which are conferred directly and only upon assessed parcels, a general benefit is conferred on the general public or non-assessed parcels. Existing City and other public services, which are provided to every person and parcel, everywhere within the City, are an example of a general benefit. Although the LBDPBID's boundaries have been narrowly drawn and programs have been carefully designed to provide special benefits, and activities and improvements will only be provided directly to assessed parcels, it is acknowledged that there will be general benefits as a result of the LBDPBID's activities and improvements.

¹ Cal. Const, art XIII D, §4(a)

² Cal. Const, art XIII D, §4(a)

³ Id, §2(i)

⁴ Cal Const, art XIII D §2(i)

⁵ Cal. Const, art XIII D, §4(a)

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The California Constitution mandates that “only special benefits are assessable, and an agency shall separate the general benefits from the special benefits.”⁶ “Generally, this separation and quantification of general and special benefits must be accomplished by apportioning the cost of a service or improvement between the two and assessing property owners only for the portion of the cost representing special benefits.”⁷ The first step that must be undertaken to separate general and special benefits provided by the LBDPBID’s activities and improvements is to identify and quantify the general benefits. There are two bodies who can receive general benefits: the public-at-large within the LBDPBID, and non-assessed parcels within and surrounding the LBDPBID.

a. General Benefit to the Public-at-Large

Although the activities and improvements are narrowly designed and carefully implemented to specially benefit the assessed parcels, and only provided directly to assessed parcels, they will generate a general benefit to the public-at-large within the LBDPBID. State law indicates that “Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed.”⁸ However, “the mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.”⁹ Further, “the value of any incidental or collateral effects that arise from the improvements, maintenance or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.”¹⁰ Thus, although there may be some incidental benefit to persons engaged in business on the assessed parcels, that incidental benefit is not considered general benefit because it is inherently produced by activities and improvements that provide special benefits to the assessed parcels. There is, however, a general benefit to persons not engaged in business on the assessed parcels.

Intercept surveys conducted in similar districts have found that approximately 97.3% of pedestrian traffic within PBID boundaries is engaged in business on assessed parcels, while the remaining approximately 2.7% is simply passing through and not engaging in business on the assessed parcels¹¹. The 2.7% of traffic passing through does not have any connection to the assessed parcels, and therefore does not represent a special benefit to the assessed parcels. The 2.7% will, however, receive a derivative and indirect general benefit as a result of the activities and improvements being provided in the LBDPBID. Therefore, it is estimated that 2.7% of the benefit created by the LBDPBID’s services is general benefit provided to the public-at-large. To ensure that the assessment dollars do not fund general benefits to the public-at-large, that portion of the cost of activities and improvements will be paid for with funds not obtained through assessments. Using the 2.7% figure, based on the initial year activity and improvement budget, the value of this general benefit to the public-at-large is \$4,281.88 ($\$158,587.84 * 0.027$).

b. General Benefit to Non-Assessed Parcels

Although they are only provided directly to the assessed parcels, the LBDPBID’s activities and improvements may also confer general benefits upon non-assessed parcels within and surrounding the LBDPBID. One study examining property values in PBID areas found “no evidence of spill-over

⁶ Cal. Const, art XIII D §4(a)

⁷ Golden Hill Neighborhood Association v. City of San Diego (2011) 199 Cal.App.4th 416

⁸ Streets and Highways Code section 36601(h)(2)

⁹ Ibid

¹⁰ Streets and Highways Code Section 36622(k)(2)

¹¹ Surveys conducted in: North Park, San Diego (January 2015); Mack Road, Sacramento (July 2014); and Sunrise MarketPlace, Citrus Heights (December 2013)

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impacts (either good or bad) on commercial properties located just outside the BID’s boundaries;”¹² however, the California Court of Appeals has stated that “services specifically intended for assessed parcels concomitantly confer collateral general benefits to surrounding properties.”¹³ It is reasonable to conclude that activities and improvements within the LBDPBID will have an incidental impact on non-assessed parcels surrounding or within the LBDPBID’s boundaries. Although the legislature has indicated that “the value of any incidental or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall *not* be deducted from the entirety of the cost of any special benefit,”¹⁴ the California Court of Appeals has noted that “the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement...or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement.”¹⁵ Those derivative and indirect impacts are considered general benefits and will be quantified and separated.

In this Engineer’s opinion, because activities and improvements are provided only within the LBDPBID and on its perimeter, parcels separated from the LBDPBID by either at least one intervening parcel or an impassable physical barrier such as a wall, railroad track, freeway, or ditch will not receive spill over benefits. Parcels separated from the LBDPBID will not benefit because they are physically removed from the actual location of activities and improvements provided, and do not face serviced parcels. Therefore, this analysis considers non-assessed parcels within the LBDPBID’s boundaries and surrounding parcels that are immediately adjacent to and accessible from the LBDPBID’s boundaries.

The total LBDPBID activity and improvement budget for the first year is \$158,587.84. After reducing the activity and improvement budget by the general benefit to the public-at-large (\$4,281.88), the remaining benefit to parcels is \$154,305.96. This benefit has been distributed to both assessed and non-assessed parcels using the following methodology. The general benefit to the public-at-large has been proportionally allocated to the LBDPBID’s activity and improvement categories as shown in the following table.

Category	Benefit to Parcels	Benefit to Public-at-Large	Total
Maintenance & General Security	\$38,576.47	\$1,070.47	\$39,646.94
Marketing & Placemaking	\$38,178.95	\$1,059.44	\$39,238.39
Small Infrastructure	\$38,974.05	\$1,081.50	\$40,055.55
Operations	\$38,576.49	\$1,070.47	\$39,646.96
TOTAL	\$154,305.96	\$4,281.88	\$158,587.84

To determine the general benefit to parcels, the Engineer assigned each parcel group a benefit factor, determined the appropriate parcel characteristic to use in the calculation, multiplied the benefit factor by the benefit characteristic to determine the benefit units attributable to each parcel group, and apportioned the remaining service cost (service cost minus general benefit to the public) in accordance with the benefit units derived by each parcel group.

¹² Furman Center for Real Estate & Urban Policy; The Impact of Business Improvement Districts on Property Values: Evidence from New York City (2007) p. 4

¹³ Beutz v. Riverside (2010) 184 Cal.App.4th 1516

¹⁴ Streets and Highways Code section 36622(k)(2)

¹⁵ Tiburon v. Bonander (2009) 180 Cal.App.4th 1057, 1077

i. Benefit Factors

All parcels within and adjacent to the LBDPBID have been assigned a benefit factor to mathematically represent the proportional special and general benefit and quantify the value of each. The determination of benefit factors for each type of activity follows.

Improvements

The improvements to be provided by the LBDPBID provide two types of special benefits:

Improvement – The primary special benefit provided by the LBDPBID’s improvements is the improvements themselves, which are available to tenants and customers of assessed parcels.

Proximity – The LBDPBID’s improvements also provide the special benefit of being in proximity to a parcel that is benefitting from an improvement, as parcels will enjoy the spillover benefits of neighboring parcels utilizing the improvements.

The majority of the benefit is the improvements themselves; proximity is a lesser benefit. It is this Engineer’s estimation that eighty-five percent (85%) of the special benefit from the LBDPBID’s improvements is the improvement, while the presence and proximity special benefits each account for fifteen percent (15%) of the special benefit. Assessed parcels will receive both benefits; non-assessed parcels within and adjacent to the LBDPBID will not be directly improved, and therefore only receive the general benefit of proximity.

Tangible Activities

The tangible activities (those that are physically provided via a person or people working throughout the district) to be provided by the LBDPBID generate three types of special benefits:

Service – The primary special benefit provided by the LBDPBID’s physical activities is the actual service.

Presence – the LBDPBID’s physical activities also provide the special benefit of an individual’s presence on the assessed parcel as the activities are provided, which can have a deterrent effect and creates a positive impression that the area is well-maintained and safe. The “Disneyland effect” is the benefit the parcels receive from the observation that parcels are being maintained. There are studies which link the perception of cleanliness to a perception of increased security.

Proximity – the LBDPBID’s physical activities also provide the special benefit of being in proximity to a cleaner, safer parcel. Neighboring parcels enjoy the spillover benefits of being adjacent to increased safety and cleanliness.

The majority of the benefit received by the parcels is the results of the LBDPBID’s services; onsite presence and proximity are lesser benefits. It is this Engineer’s estimation that seventy-five percent (75%) of the special benefit from the LBDPBID’s physical activities is the service, while the presence and proximity benefits each account for twelve and one-half percent (12.5% presence, 12.5% proximity) of the special benefit. Assessed parcels will receive all three benefits; non-assessed parcels within and adjacent to the LBDPBID will not be directly serviced and therefore only receive the general benefit of proximity.

Intangible Activities

Some of the LBDPBID’s activities, such as marketing, are distinct in that they are not provided to a targeted area within the LBDPBID, rather they are provided via Internet, radio, and other forms of

media and targeted at an audience outside the LBDPBID in an effort to bring the audience into the LBDPBID. These activities provide two types of special benefits:

Direct Exposure – The primary special benefit provided by the LBDPBID’s intangible activities is exposure. The intangible activities increase awareness of the LBDPBID as a commercial and business destination and lead to increased patronage.

Incidental Exposure – The LBDPBID’s intangible activities will also have a secondary special benefit of incidental exposure, such as word-of-mouth exposure, that results from the direct exposure and increases awareness of the LBDPBID as a commercial and business destination.

The majority of the benefit from these activities is the direct exposure; the incidental exposure is a lesser benefit. It is this Engineer’s estimation that ninety percent (90%) of the special benefit from the intangible activities is direct exposure, while ten percent (10%) is incidental exposure. Assessed parcels will receive both as special benefits; non-assessed parcels within and adjacent to the LBDPBID will not be directly marketed and therefore only receive the general benefit of incidental exposure.

Factors Determined

Based on the foregoing analysis, all assessed parcels within the LBDPBID specially benefit from the LBDPBID’s activities and improvements, and have been assigned a benefit factor of 1.0. Parcels that are not assessed have been assigned benefit factors based on the portion of the benefit they will receive, as described above. The non-assessed parcels will benefit from 15% of the improvements, 12.5% of the tangible activities, and 10% of the intangible activities; therefore, they have been assigned benefit factors of 0.15, 0.125, and 0.10, respectively.

ii. Non-Assessed Benefit Characteristics

There are two types of parcels that are not assessed; those within the LBDPBID and those immediately adjacent to and accessible from the LBDPBID. Because they generally benefit in a differing manner, distinct parcel characteristics are used to quantify the general benefit to each type.

Inside – Non-assessed parcels inside of the LBDPBID are surrounded by parcels that are assessed and receiving the full special benefits; they will, therefore, receive the general benefits of proximity and indirect exposure. These parcels are impacted on more than one side by the LBDPBID’s activities and improvements, marketing has a direct impact all around them, and activities and improvements are provided all around them. Because these parcels are surrounded by specially benefitted parcels, it is appropriate that parcel square footage be used to measure the general benefit they receive.

Adjacent – Adjacent parcels are those that are immediately adjacent to or directly across the street from specially benefitted parcels, and accessible from specially benefitted parcels. These parcels generally benefit differently than those inside the LBDPBID, because these parcels are adjacent to, rather than surrounded by, specially benefitted parcels. Square footage is not an appropriate measure of benefit to these parcels. Because the parcels are not surrounded by serviced parcels, a long, shallow parcel with the same square footage as a deep, narrow parcel will receive a different level of general benefit. Likewise, two parcels with the same depth but a different width adjacent to serviced parcels will benefit differently. To account for this difference, it is appropriate that parcel linear frontage be used to measure the general benefit the adjacent parcels receive.

iii. Calculations

To quantify and separate the general benefit to non-assessed parcels, the following calculations were undertaken for each budget category.

1. The total service budget for each category was determined and the amount of general benefit to the public-at-large was subtracted from the category budget.
2. To determine the amount of general benefit to adjacent parcels, the parcel linear front footage of parcels within the District was compared to the parcel linear front footage of adjacent parcels. Assessed parcels within the District were assigned a benefit factor of 1.0 because they are the recipients of District services. The benefit factor applicable to each activity or improvement for non-assessed parcels was multiplied by the parcel linear frontage to determine the number of benefit units for each parcel group. The benefit units for the parcel groups were summed, and the percentage of benefit units attributable to each parcel group was calculated. The percentage of benefit units for each parcel group was used to apportion the general benefits to non-assessed parcels adjacent to the District (less the general benefit to the public-at-large) for each category.
3. The remaining activity and improvement budget, less the general benefit to the public-at-large and general benefit to the adjacent parcels, was allocated to inside assessed parcels and inside non-assessed parcels based upon parcel square footage. Inside assessed parcels were assigned a benefit factor of 1.0 because they are the recipients of District services. The benefit factor applicable to each activity or improvement was multiplied by the parcel square frontage to determine the number of benefits units for each parcel group:
4. The special and general benefit resulting from the operations portions of the budget was determined based on the proportional allocation of benefits derived from activities and improvements.

Maintenance & General Security

The maintenance & general security budget (\$39,646.94), minus the amount of general benefit to the public-at-large (\$1,070.47), is \$38,576.47. The calculations below determine the amount of general benefit to parcels adjacent to the LBDPBID. The maintenance & general security budget category contains tangible activities; the Engineer used the 0.125 benefit factor to quantify the general benefit.

Parcel Type	Parcel Linear Footage	Benefit Factor	Benefit Units	Benefit Percent	Adjacent Benefit
Inside Assessed (LF)	6,684	1.000	6,684	94.89%	\$0.00
Inside Non-Assessed (LF)	375	0.125	47	0.67%	\$0.00
Adjacent Non-Assessed (LF)	2,506	0.125	313	4.45%	\$1,715.22
Subtotal	9,565		7,044	100.00%	\$1,715.22

The maintenance & general security budget, minus the amount of general benefit to the public-at-large (\$38,576.47) minus general benefit to parcels adjacent to the LBDPBID (\$1,715.22), is \$36,861.25. The calculations below determine general benefit to non-assessed parcels within the LBDPBID and special benefit to the assessed parcels.

Parcel Type	Parcel Square Footage	Benefit Factor	Benefit Units	Benefit Percent	Inside Non-Assessed Benefit	Special Benefit
Inside Assessed (SF)	567,861	1.000	567,861	99.26%	\$0.00	\$36,589.44
Inside Non-Assessed (SF)	33,748	0.125	4,219	0.74%	\$271.81	\$0.00
Subtotal	601,609		572,080	100.00%	\$271.81	\$36,589.44

Therefore, the allocation of the maintenance & general security budget is as follows:

General Benefit – Public-At-Large	\$1,070.47
General Benefit – Adjacent Parcels	\$1,715.22
General Benefit – Inside Parcels	\$271.81
Special Benefit	\$36,589.44
Total	\$39,646.94

Marketing & Placemaking

The marketing & placemaking budget (\$39,238.39), minus the amount of general benefit to the public-at-large (\$1,059.44), is \$38,178.95. The calculations below determine the amount of general benefit to parcels adjacent to the LBDPBID. The marketing & placemaking budget category contains intangible activities; the Engineer used the 0.10 benefit factor to quantify the general benefit.

Parcel Type	Parcel Linear Footage	Benefit Factor	Benefit Units	Benefit Percent	Adjacent Benefit
Inside Assessed (LF)	6,684	1.00	6,684	95.87%	\$0.00
Inside Non-Assessed (LF)	375	0.100	38	0.54%	\$0.00
Adjacent Non-Assessed (LF)	2,506	0.100	251	3.59%	\$1,372.06
Subtotal	9,565		6,972	100.00%	\$1,372.06

The marketing & placemaking budget, minus the amount of general benefit to the public-at-large (\$38,178.95) minus general benefit to parcels adjacent to the LBDPBID (\$1,372.06), is \$36,806.89. The calculations below determine general benefit to non-assessed parcels within the LBDPBID and special benefit to the assessed parcels.

Parcel Type	Parcel Square Footage	Benefit Factor	Benefit Units	Benefit Percent	Inside Non-Assessed Benefit	Special Benefit
Inside Assessed (SF)	567,861	1.00	567,861	99.41%	\$0.00	\$36,589.44
Inside Non-Assessed (SF)	33,748	0.100	3,375	0.59%	\$217.45	\$0.00
Subtotal	601,609		571,236	100.00%	\$217.45	\$36,589.44

Therefore, the allocation of the marketing & placemaking budget is as follows:

General Benefit – Public-At-Large	\$1,059.44
General Benefit – Adjacent Parcels	\$1,372.06
General Benefit – Inside Parcels	\$217.45
Special Benefit	\$36,589.44
Total	\$39,238.39

Small Infrastructure

The small infrastructure budget (\$40,055.55), minus the amount of general benefit to the public-at-large (\$1,081.5), is \$38,974.05. The calculations below determine the amount of general benefit to parcels adjacent to the LBDPBID. The small infrastructure budget category contains improvements; the Engineer used the 0.150 benefit factor to quantify the general benefit.

Parcel Type	Parcel Linear Footage	Benefit Factor²	Benefit Units³	Benefit Percent⁴	Adjacent Benefit
Inside Assessed (LF)	6,684	1.00	6,684	93.93%	\$0.00
Inside Non-Assessed (LF)	375	0.150	56	0.79%	\$0.00
Adjacent Non-Assessed (LF)	2,506	0.150	376	5.28%	\$2,058.43
Subtotal	9,565		7,116	100.00%	\$2,058.43

The small infrastructure budget, minus the amount of general benefit to the public-at-large (\$38,974.05) minus general benefit to parcels adjacent to the LBDPBID (\$2,058.43), is \$36,915.62. The calculations below determine general benefit to non-assessed parcels within the LBDPBID and special benefit to the assessed parcels.

Parcel Type	Parcel Front Footage	Benefit Factor²	Benefit Units³	Benefit Percent⁴	Inside Non-Assessed Benefit	Special Benefit
Inside Assessed (SF)	567,861	1.00	567,861	99.12%	\$0.00	\$36,589.44
Inside Non-Assessed (SF)	33,748	0.150	5,062	0.88%	\$326.18	\$0.00
Subtotal	601,609		572,923	100.00%	\$326.18	\$36,589.44

Therefore, the allocation of the small infrastructure budget is as follows:

General Benefit – Public-At-Large	\$1,081.50
General Benefit – Adjacent Parcels	\$2,058.43
General Benefit – Inside Parcels	\$326.18
Special Benefit	\$36,589.44
Total	\$40,055.55

Operations

The operations budget line item relates to the activities and improvements provided. These costs have been allocated proportionally based on the special and general benefit provided by each category.

Service Provided	Special Benefit Value to Parcels	General Benefit Value to Parcels	Total Benefit to Parcels
Maintenance & General Security	\$36,589.44	\$1,987.03	\$38,576.47
Marketing & Placemaking	\$36,589.44	\$1,589.51	\$38,178.95
Small Infrastructure	\$36,589.44	\$2,384.61	\$38,974.05
TOTAL	\$109,768.32	\$5,961.15	\$115,729.47
% of Benefit to Parcels	94.85%	5.15%	100.00%
TOTAL	\$36,589.44	\$1,987.05	\$38,576.49

iv. Total Benefits

Based on the foregoing calculations, the total benefits to assessed parcels, non-assessed parcels, and the general public are:

Service Provided	General Benefit to Public	General Benefit to Parcels	Special Benefit to Parcels	Total Budget
Maintenance & General Security	\$1,070.47	\$1,987.03	\$36,589.44	\$39,646.94
Marketing & Placemaking	\$1,059.44	\$1,589.51	\$36,589.44	\$39,238.39
Small Infrastructure	\$1,081.50	\$2,384.61	\$36,589.44	\$40,055.55
Operations	\$1,070.47	\$1,987.05	\$36,589.44	\$39,646.96
TOTAL	\$4,281.88	\$7,948.20	\$146,357.76	\$158,587.84

c. Non-Assessment Funding

The programs funded by the LBDPBID receive additional non-assessment funding in the form of grants, corporate sponsorships, event income, and other miscellaneous funds. These funding sources are anticipated to equal or exceed the amount of general benefit conferred annually by the LBDPBID’s activities and improvements, \$12,230.08. These non-assessment funds will be used to pay for the general benefit provided by the LBDPBID’s activities and improvements, ensuring that parcel assessments will only be used to provide special benefits.

2. Special Benefit

The activities and improvements to be provided by the LBDPBID constitute and convey special benefits directly to the assessed parcels. Assessment law requires that “the proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided.”¹⁶ Further, “no assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit

¹⁶ Cal. Const., art XIII D §4(a)
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conferred on that parcel.”¹⁷ Special benefit “includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed.”¹⁸

To determine the total special benefit value to be conveyed to the assessed parcels, we deduct the general benefit value (\$12,230.08) from the total value of the activities and improvements (\$158,587.84). The remaining \$146,357.76 is considered the special benefit to assessed parcels (the “Total Assessment”). The Total Assessment represents the total value of the special benefit to be provided by the activities and improvements. The Total Assessment has been proportionally divided among the assessed parcels so that no assessment exceeds the reasonable cost of the proportional special benefit conferred on a parcel. The assessment rate has been designed to ensure that “properties that receive the same proportionate special benefit pay the same assessment.”¹⁹

Service Provided	Total Benefit Value	General Benefit Value to Public	Benefit Value to Parcels (Special & General)	Special Benefit to Parcels
Maintenance & General Security	\$39,646.94	\$1,070.47	\$38,576.47	\$36,589.44
Marketing & Placemaking	\$39,238.39	\$1,059.44	\$38,178.95	\$36,589.44
Small Infrastructure	\$40,055.55	\$1,081.50	\$38,974.05	\$36,589.44
Operations	\$39,646.96	\$1,070.47	\$38,576.49	\$36,589.44
TOTAL	\$158,587.84	\$4,281.88	\$154,305.96	\$146,357.76

C. Assessment Methodology

1. Base Formula

Each parcel will be assessed based on proportional special benefits received. The variables used for determining the annual assessment formula is parcel type and parcel size. These variables are an appropriate measure of the proportional special benefit because the need for services, level of services, and quantity of services are all relative to these variables; thus, the special benefit provided to each parcel by the services can be proportionally measured using these variables.

Determination of Assessment Rates

“Because not all parcels in the district are identical in size...some will receive more special benefit than others.” Each of the variables used relates directly to the service level and special benefit provided to each parcel. Parcel square footage is the size of the parcel, measured in square feet. Size is an appropriate measure of proportional special benefit because it relates directly to the quantity of services provided to the parcel, the highest and best use of a parcel, and reflects the long-term value implications of the LBDPBID. The larger a parcel, the more services and benefit the parcel will receive.

Because not all parcels in the LBDPBID are identical in use, some will receive more special benefit than others. For example, a government parcel will benefit to a lesser degree than a standard parcel, because it will not enjoy the benefits of increased commerce resulting from the services. Further detail

¹⁷ Ibid

¹⁸ Streets and Highways Code section 36615.5

¹⁹ *Tiburon v. Bonander* (2009) 180 Cal.App.4th 1057

on the benefit to each parcel type is in the following pages. To determine the assessment rates, the assessed parcels were classified by the estimated benefit each type of parcel receives, the estimated special benefit value of the activities and improvements provided to each type was determined based on approximate cost of service provision, and an assessment rate that is proportional to the estimated proportional benefit received by each parcel type was determined.

To determine the assessment rates, the estimated special benefit value for each parcel type was divided by the total assessable parcel square footage as shown in the tables below.

Parcel Type

Parcel types were categorized based on the typical amount of foot and vehicle traffic on the various standard and government parcels. Parcels with heavy traffic, such as standard parcels, will receive the highest level of services. Parcels with lower traffic, such as government parcels, will receive a lower level of services. The approximate cost of services by parcel type was determined. Then, the cost of services by type was divided by the parcel square footage of those parcels to determine the assessment rates.

Parcel Size

The LBDPBID’s services will benefit each assessed parcel as a whole. The service budget, which in this Engineer’s estimation, represents special benefits to the parcels, has been allocated based on parcel size.

Parcel Type	Initial Parcel Size Budget	Parcel Square Footage	Initial Parcel Assessment Rate (\$/sqft/yr)
Standard	\$153,322.47 ÷	468,365 =	\$0.270
Government	\$153,322.47	99,496	\$0.200

Summary of Assessment Rates

Therefore, for the initial year, the maximum annual assessment rates to parcels are as shown below and in Appendix 1. Maximum annual assessment rates may be subject to an increase of no more than two and one-half of one percent (2.5%) percent per year as shown in Appendix 1.

Initial Parcel Assessment Rates	
Parcel Type	Parcel Size (sq. ft.)
Standard	\$0.270
Government	\$0.200

Parcel assessment calculations are shown in Appendix 3.

2. Standard Parcels

Standard parcels will receive and benefit from all LBDPBID activities and improvements, and will therefore be assessed the full rate.

3. Government Parcels

The California Constitution, in Article XIII D, provides that “parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.” No public agency owning parcels in the district has made such a

demonstration However, because they do not have a for-profit commercial component, they will be assessed at a reduced rate commensurate with the special benefit they receive.

4. Non-Assessed Parcels

There are six (6) parcels within the LBDPBID that will not be assessed. These parcels are not standard parcels and will not specially benefit from or directly receive the LBDPBID's activities and improvements. These parcels are accounted for in the analysis of general benefit provided to non-assessed parcels within the LBDPBID. These parcels have the following uses:

Residential. The state legislature has determined that "properties zoned exclusively for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and services funded through these assessments, and shall not be subject to any assessment."²⁰ The activities and improvements to be provided are designed to specially benefit standard parcels via increased commerce, occupancy, and lease rates. None of these benefits apply to residential parcels, which will not be serviced or benefit from the LBDPBID's activities and improvements. Residential parcels are those parcels with four family units or less, residential common areas, residential condos and planned unit development of single-family residences. There are six (6) residential parcels within the LBDPBID that will not be assessed.

5. Changes in Data

It is the intent of this Plan and Engineer's Report that each parcel included in the LBDPBID can be clearly identified. Every effort has been made to ensure that all parcels included in the LBDPBID are consistent in the boundary map and the assessment calculation table. However, if inconsistencies arise, the order of precedence shall be: 1) the assessment calculation table and 2) the boundary map.

If the parcel size or type of parcel changes during the LBDPBID's term, the assessment calculation may be modified accordingly.

D. Assessment Notice

During the hearing process, an Assessment Ballot will be sent to owners of each parcel in the LBDPBID. The Assessment Ballot provides an estimated assessment. The final individual assessment for any particular parcel may change, up or down, if the parcel square footage or type differ from those used to calculate the amount shown on the notice, which can be found in Appendix 3.

E. Time and Manner for Collecting Assessments

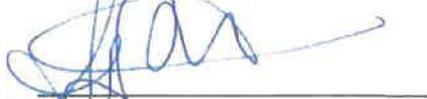
As provided by State Law, the the LBDPBID assessment will appear as a separate line item on annual property tax bills prepared by the County of Merced. Property tax bills are generally distributed in the fall, and payment is expected by lump sum or installment. The County of Merced shall distribute funds collected to the LBDPOA. Existing laws for enforcement and appeal of property taxes, including penalties and interest, apply to the LBDPBID assessments.

²⁰ Streets and Highways Code § 36632(c)

F. Engineer's Certification

I hereby certify, to the best of my knowledge and experience, that each of the identified assessed parcels located within the Los Banos Downtown Property and Business Improvement District will receive a special benefit over and above the general benefits conferred and that the amount of the assessment is no greater than the proportional special benefits conferred on each parcel, as described in this Engineer's Report.

Review of this Los Banos Downtown Property and Business Improvement District Management District Plan and preparation of the Engineer's Report was completed by:



Stacey Lynch
State of California
July 6, 2019
Date



This Engineer's Report is intended to be distributed as part of the Management District Plan in its entirety, including the Assessment Calculation Table (Appendix 3) and the Boundary Map. Reproduction and distribution of only Section VII of this Management District Plan violates the intent of this stamp and signature.

APPENDIX 1 – MAXIMUM ANNUAL ASSESSMENT RATES

The table below illustrates the maximum annual assessment rate with the assumption that the rates will be increased annually by two and one half of one percent (2.5%) with approval of the LBDPOA. The maximum rates listed are a required disclosure and not the anticipated course of action.

Maximum Parcel Assessment Rates		
Year	Standard	Government
2020	\$0.270	\$0.200
2021	\$0.277	\$0.205
2022	\$0.284	\$0.210
2023	\$0.291	\$0.215
2024	\$0.298	\$0.221

APPENDIX 2 – PBID LAW

*** THIS DOCUMENT IS CURRENT THROUGH THE 2019 SUPPLEMENT ***
(ALL 2018 LEGISLATION)

**STREETS AND HIGHWAYS CODE
DIVISION 18. PARKING
PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994**

CHAPTER 1. General Provisions

ARTICLE 1. Declarations

36600. Citation of part

This part shall be known and may be cited as the “Property and Business Improvement District Law of 1994.”

36601. Legislative findings and declarations; Legislative guidance

The Legislature finds and declares all of the following:

(a) Businesses located and operating within business districts in some of this state’s communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow business districts to fund business related improvements, maintenance, and activities through the levy of assessments upon the businesses or real property that receive benefits from those improvements.

(d) Assessments levied for the purpose of conferring special benefit upon the real property or a specific benefit upon the businesses in a business district are not taxes for the general benefit of a city, even if property, businesses, or persons not assessed receive incidental or collateral effects that benefit them.

(e) Property and business improvement districts formed throughout this state have conferred special benefits upon properties and businesses within their districts and have made those properties and businesses more useful by providing the following benefits:

(1) Crime reduction. A study by the Rand Corporation has confirmed a 12-percent reduction in the incidence of robbery and an 8-percent reduction in the total incidence of violent crimes within the 30 districts studied.

(2) Job creation.

(3) Business attraction.

(4) Business retention.

(5) Economic growth.

(6) New investments.

(f) With the dissolution of redevelopment agencies throughout the state, property and business improvement districts have become even more important tools with which communities can combat blight, promote economic opportunities, and create a clean and safe environment.

(g) Since the enactment of this act, the people of California have adopted Proposition 218, which added Article XIII D to the Constitution in order to place certain requirements and restrictions on the formation of, and activities, expenditures, and assessments by property-based districts. Article XIII D of the Constitution provides that property-based districts may only levy assessments for special benefits.

(h) The act amending this section is intended to provide the Legislature’s guidance with regard to this act, its interaction with the provisions of Article XIII D of the Constitution, and the determination of special benefits in property-based districts.

(1) The lack of legislative guidance has resulted in uncertainty and inconsistent application of this act, which discourages the use of assessments to fund needed improvements, maintenance, and activities in property-based districts, contributing to blight and other underutilization of property.

(2) Activities undertaken for the purpose of conferring special benefits upon property to be assessed inherently produce incidental or collateral effects that benefit property or persons not assessed.

Therefore, for special benefits to exist as a separate and distinct category from general benefits, the incidental or collateral effects of those special benefits are inherently part of those special benefits. The mere fact that special benefits produce incidental or collateral effects that benefit property or persons not assessed does not convert any portion of those special benefits or their incidental or collateral effects into general benefits.

(3) It is of the utmost importance that property-based districts created under this act have clarity regarding restrictions on assessments they may levy and the proper determination of special benefits. Legislative clarity with regard to this act will provide districts with clear instructions and courts with legislative intent regarding restrictions on property-based assessments, and the manner in which special benefits should be determined.

36602. Purpose of part

The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within property and business improvement districts, to ensure that those assessments conform to all constitutional requirements and are determined and assessed in accordance with the guidance set forth in this act. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Preemption of authority or charter city to adopt ordinances levying assessments

Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36603.5. Part prevails over conflicting provisions

Any provision of this part that conflicts with any other provision of law shall prevail over the other provision of law, as to districts created under this part.

36604. Severability

This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

ARTICLE 2. Definitions

36606. "Activities"

"Activities" means, but is not limited to, all of the following that benefit businesses or real property in the district:

- (a) Promotion of public events.
- (b) Furnishing of music in any public place.
- (c) Promotion of tourism within the district.
- (d) Marketing and economic development, including retail retention and recruitment.
- (e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.
- (f) Other services provided for the purpose of conferring special benefit upon assessed real property or specific benefits upon assessed businesses located in the district.

36606.5. "Assessment"

"Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and providing activities that will provide certain benefits to properties or businesses located within a property and business improvement district.

36607. “Business”

“Business” means all types of businesses and includes financial institutions and professions.

36608. “City”

“City” means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county, or the State of California.

36609. “City council”

“City council” means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36609.4. “Clerk”

“Clerk” means the clerk of the legislative body.

36609.5. “General benefit”

“General benefit” means, for purposes of a property-based district, any benefit that is not a “special benefit” as defined in Section 36615.5.

36610. “Improvement”

“Improvement” means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.
- (c) Trash receptacles and public restrooms.
- (d) Lighting and heating facilities.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.
- (h) Planting areas.
- (i) Closing, opening, widening, or narrowing of existing streets.
- (j) Facilities or equipment, or both, to enhance security of persons and property within the district.
- (k) Ramps, sidewalks, plazas, and pedestrian malls.
- (l) Rehabilitation or removal of existing structures.

36611. “Management district plan”; “Plan”

“Management district plan” or “plan” means a proposal as defined in Section 36622.

36612. “Owners’ association”

“Owners’ association” means a private nonprofit entity that is under contract with a city to administer or implement improvements, maintenance, and activities specified in the management district plan. An owners’ association may be an existing nonprofit entity or a newly formed nonprofit entity. An owners’ association is a private entity and may not be considered a public entity for any purpose, nor may its board members or staff be considered to be public officials for any purpose. Notwithstanding this section, an owners’ association shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all records relating to activities of the district.

36614. “Property”

“Property” means real property situated within a district.

36614.5. “Property and business improvement district”; “District”

“Property and business improvement district,” or “district,” means a property and business improvement district established pursuant to this part.

36614.6. “Property-based assessment”

“Property-based assessment” means any assessment made pursuant to this part upon real property.

36614.7. “Property-based district”

“Property-based district” means any district in which a city levies a property-based assessment.

36615. “Property owner”; “Business owner”; “Owner”

“Property owner” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. “Business owner” means any person recognized by the city as the owner of the business. “Owner” means either a business owner or a property owner. The city council has no obligation to obtain other information as to the ownership of land or businesses, and its determination of ownership shall be final and conclusive for the purposes of this part. Wherever this part requires the signature of the property owner, the signature of the authorized agent of the property owner shall be sufficient. Wherever this part requires the signature of the business owner, the signature of the authorized agent of the business owner shall be sufficient.

36615.5. “Special benefit”

“Special benefit” means, for purposes of a property-based district, a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

36616. “Tenant”

“Tenant” means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

ARTICLE 3. Prior Law

36617. Alternate method of financing certain improvements and activities; Effect on other provisions

This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. Establishment

36620. Establishment of property and business improvement district

A property and business improvement district may be established as provided in this chapter

36620.5. Requirement of consent of city council

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Initiation of proceedings; Petition of property or business owners in proposed district

- (a) Upon the submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property or a business owned by the same property or business owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property or business owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.
- (b) The petition of property or business owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:
 - (1) A map showing the boundaries of the district.
 - (2) Information specifying where the complete management district plan can be obtained.
 - (3) Information specifying that the complete management district plan shall be furnished upon request.
- (c) The resolution of intention described in subdivision (a) shall contain all of the following:
 - (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities, and the location and extent of the proposed district.
 - (2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall be consistent with the requirements of Section 36623.

36622. Contents of management district plan

The management district plan shall include, but is not limited to, all of the following:

- (a) If the assessment will be levied on property, a map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district. If the assessment will be levied on businesses, a map that identifies the district boundaries in sufficient detail to allow a business owner to reasonably determine whether a business is located within the district boundaries. If the assessment will be levied on property and businesses, a map of the district in sufficient detail to locate each parcel of property and to allow a business owner to reasonably determine whether a business is located within the district boundaries.
- (b) The name of the proposed district.
- (c) A description of the boundaries of the district, including the boundaries of benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected property and businesses included, which may be made by reference to any plan or map that is on file with the clerk. The boundaries of a proposed property assessment district shall not overlap with the boundaries of another existing property assessment district created pursuant to this part. This part does not prohibit the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law, including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. This part does not prohibit the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.
- (d) The improvements, maintenance, and activities proposed for each year of operation of the district and the maximum cost thereof. If the improvements, maintenance, and activities proposed for each year of operation

are the same, a description of the first year's proposed improvements, maintenance, and activities and a statement that the same improvements, maintenance, and activities are proposed for subsequent years shall satisfy the requirements of this subdivision.

(e) The total annual amount proposed to be expended for improvements, maintenance, or activities, and debt service in each year of operation of the district. If the assessment is levied on businesses, this amount may be estimated based upon the assessment rate. If the total annual amount proposed to be expended in each year of operation of the district is not significantly different, the amount proposed to be expended in the initial year and a statement that a similar amount applies to subsequent years shall satisfy the requirements of this subdivision.

(f) The proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan also shall state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) (1) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof.

(2) In a property-based district, the proportionate special benefit derived by each identified parcel shall be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities. An assessment shall not be imposed on any parcel that exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and a property-based district shall separate the general benefits, if any, from the special benefits conferred on a parcel. Parcels within a property-based district that are owned or used by any city, public agency, the State of California, or the United States shall not be exempt from assessment unless the governmental entity can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit. The value of any incidental, secondary, or collateral effects that arise from the improvements, maintenance, or activities of a property-based district and that benefit property or persons not assessed shall not be deducted from the entirety of the cost of any special benefit or affect the proportionate special benefit derived by each identified parcel.

(l) In a property-based district, the total amount of all special benefits to be conferred upon the properties located within the property-based district.

(m) In a property-based district, the total amount of general benefits, if any.

(n) In a property-based district, a detailed engineer's report prepared by a registered professional engineer certified by the State of California supporting all assessments contemplated by the management district plan.

(o) Any other item or matter required to be incorporated therein by the city council.

36623. Procedure to levy assessment

(a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is

interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business or the authorized representative. A written protest that does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners or authorized representatives of businesses in the proposed district that will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(c) If a city council proposes to conduct a single proceeding to levy both a new or increased property assessment and a new or increased business assessment, the notice and protest and hearing procedure for the property assessment shall comply with subdivision (a), and the notice and protest and hearing procedure for the business assessment shall comply with subdivision (b). If a majority protest is received from either the property or business owners, that respective portion of the assessment shall not be levied. The remaining portion of the assessment may be levied unless the improvement or other special benefit was proposed to be funded by assessing both property and business owners.

36624. Changes to proposed assessments

At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements, maintenance, and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from the boundaries of the proposed property and business improvement district that will exclude territory that will not benefit from the proposed improvements, maintenance, and activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36627.

36625. Resolution of formation

(a) If the city council, following the public hearing, decides to establish a proposed property and business improvement district, the city council shall adopt a resolution of formation that shall include, but is not limited to, all of the following:

- (1) A brief description of the proposed improvements, maintenance, and activities, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property, businesses, or both within the district, a statement on whether bonds will be issued, and a description of the exterior boundaries of the proposed district, which may be made by reference to any plan or map that is on file with the clerk. The descriptions and statements need not be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements, maintenance, and activities and the location and extent of the proposed district.
- (2) The number, date of adoption, and title of the resolution of intention.
- (3) The time and place where the public hearing was held concerning the establishment of the district.
- (4) A determination regarding any protests received. The city shall not establish the district or levy assessments if a majority protest was received.
- (5) A statement that the properties, businesses, or properties and businesses in the district established by the resolution shall be subject to any amendments to this part.
- (6) A statement that the improvements, maintenance, and activities to be conferred on businesses and properties in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements, maintenance, or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district. Notwithstanding the foregoing, improvements and activities that must be provided outside the district boundaries to create a special or specific benefit to the assessed parcels or businesses may be provided, but shall be limited to marketing or signage pointing to the district.
- (7) A finding that the property or businesses within the area of the property and business improvement district will be benefited by the improvements, maintenance, and activities funded by

the proposed assessments, and, for a property-based district, that property within the district will receive a special benefit.

(8) In a property-based district, the total amount of all special benefits to be conferred on the properties within the property-based district.

(b) The adoption of the resolution of formation and, if required, recordation of the notice and map pursuant to Section 36627 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

36627. Notice and assessment diagram

Following adoption of the resolution establishing district assessments on properties pursuant to Section 36625 or Section 36626, the clerk shall record a notice and an assessment diagram pursuant to Section 3114. No other provision of Division 4.5 (commencing with Section 3100) applies to an assessment district created pursuant to this part.

36628. Establishment of separate benefit zones within district; Categories of businesses

The city council may establish one or more separate benefit zones within the district based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone. If the assessment is to be levied on businesses, the city council may also define categories of businesses based upon the degree of benefit that each will derive from the improvements or activities to be provided within the district and may impose a different assessment or rate of assessment on each category of business, or on each category of business within each zone.

36628.5. Assessments on businesses or property owners

The city council may levy assessments on businesses or on property owners, or a combination of the two, pursuant to this part. The city council shall structure the assessments in whatever manner it determines corresponds with the distribution of benefits from the proposed improvements, maintenance, and activities, provided that any property-based assessment conforms with the requirements set forth in paragraph (2) of subdivision (k) of Section 36622.

36629. Provisions and procedures applicable to benefit zones and business categories

All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones or categories of business. The city council shall, to establish, modify, or disestablish a benefit zone or category of business, follow the procedure to establish, modify, or disestablish a property and business improvement district.

36630. Expiration of district; Creation of new district

If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and the district may be renewed pursuant to this part.

CHAPTER 3. Assessments

36631. Time and manner of collection of assessments; Delinquent payments

The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution levying the assessment. Assessments levied on real property may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment. All delinquent payments for assessments levied pursuant to this part may be charged interest and penalties.

36632. Assessments to be based on estimated benefit; Classification of real property and businesses; Exclusion of residential and agricultural property

(a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses within the property and business improvement district. The city council may classify businesses for purposes of determining the benefit to the businesses of the improvements and activities provided pursuant to this part.

(c) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36633. Time for contesting validity of assessment

The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36626. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36634. Service contracts authorized to establish levels of city services

The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

36635. Request to modify management district plan

The owners' association may, at any time, request that the city council modify the management district plan. Any modification of the management district plan shall be made pursuant to this chapter.

36636. Reflection of modification in notices recorded and maps

(a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public hearing.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public hearing, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

36637. Reflection of modification in notices recorded and maps

Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100), in a manner consistent with the provisions of Section 36627.

CHAPTER 3.5. Financing

36640. Bonds authorized; Procedure; Restriction on reduction or termination of assessments

July 1, 2019

Los Banos Downtown PBID Management District Plan

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(a) The city council may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of some or all of the proposed improvements described in the resolution of formation adopted pursuant to Section 36625, if the resolution of formation adopted pursuant to that section provides for the issuance of bonds, under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500)) or in conjunction with Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code). Either act, as the case may be, shall govern the proceedings relating to the issuance of bonds, although proceedings under the Bond Act of 1915 may be modified by the city council as necessary to accommodate assessments levied upon business pursuant to this part.

(b) The resolution adopted pursuant to subdivision (a) shall generally describe the proposed improvements specified in the resolution of formation adopted pursuant to Section 36625, set forth the estimated cost of those improvements, specify the number of annual installments and the fiscal years during which they are to be collected. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years.

(c) Notwithstanding any other provision of this part, assessments levied to pay the principal and interest on any bond issued pursuant to this section shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

CHAPTER 4. Governance

36650. Report by owners' association; Approval or modification by city council

(a) The owners' association shall cause to be prepared a report for each fiscal year, except the first year, for which assessments are to be levied and collected to pay the costs of the improvements, maintenance, and activities described in the report. The owners' association's first report shall be due after the first year of operation of the district. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, including any categories of business, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefit zones or classification of property or businesses within the district.

(2) The improvements, maintenance, and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements, maintenance, and activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property or business owner, as appropriate, to estimate the amount of the assessment to be levied against his or her property or business for that fiscal year.

(5) The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The estimated amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the owners' association or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36635 and 36636.

The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments, including any commitment to pay principal and interest on any bonds issued on behalf of the district.

36651. Designation of owners' association to provide improvements, maintenance, and activities

The management district plan may, but is not required to, state that an owners' association will provide the improvements, maintenance, and activities described in the management district plan. If the management district plan designates an owners' association, the city shall contract with the designated nonprofit corporation to provide services.

CHAPTER 5. Renewal

36660. Renewal of district; Transfer or refund of remaining revenues; District term limit

(a) Any district previously established whose term has expired, or will expire, may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed district. If the renewed district includes additional parcels or businesses not included in the prior district, the remaining revenues shall be spent to benefit only the parcels or businesses in the prior district. If the renewed district does not include parcels or businesses included in the prior district, the remaining revenues attributable to these parcels shall be refunded to the owners of these parcels or businesses.

(c) Upon renewal, a district shall have a term not to exceed 10 years, or, if the district is authorized to issue bonds, until the maximum maturity of those bonds. There is no requirement that the boundaries, assessments, improvements, or activities of a renewed district be the same as the original or prior district.

CHAPTER 6. Disestablishment

36670. Circumstances permitting disestablishment of district; Procedure

(a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment.

(2) During the operation of the district, there shall be a 30-day period each year in which assesses may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners or authorized representatives of real property or the owners or authorized representatives of businesses in the district who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment.

(b) The city council shall adopt a resolution of intention to disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The notice of the hearing on disestablishment required by this section shall be given by mail to the property owner of each parcel or to the owner of each business subject to assessment in the district, as appropriate. The city shall conduct the public hearing not less than 30 days after mailing the notice to the property or business owners. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention.

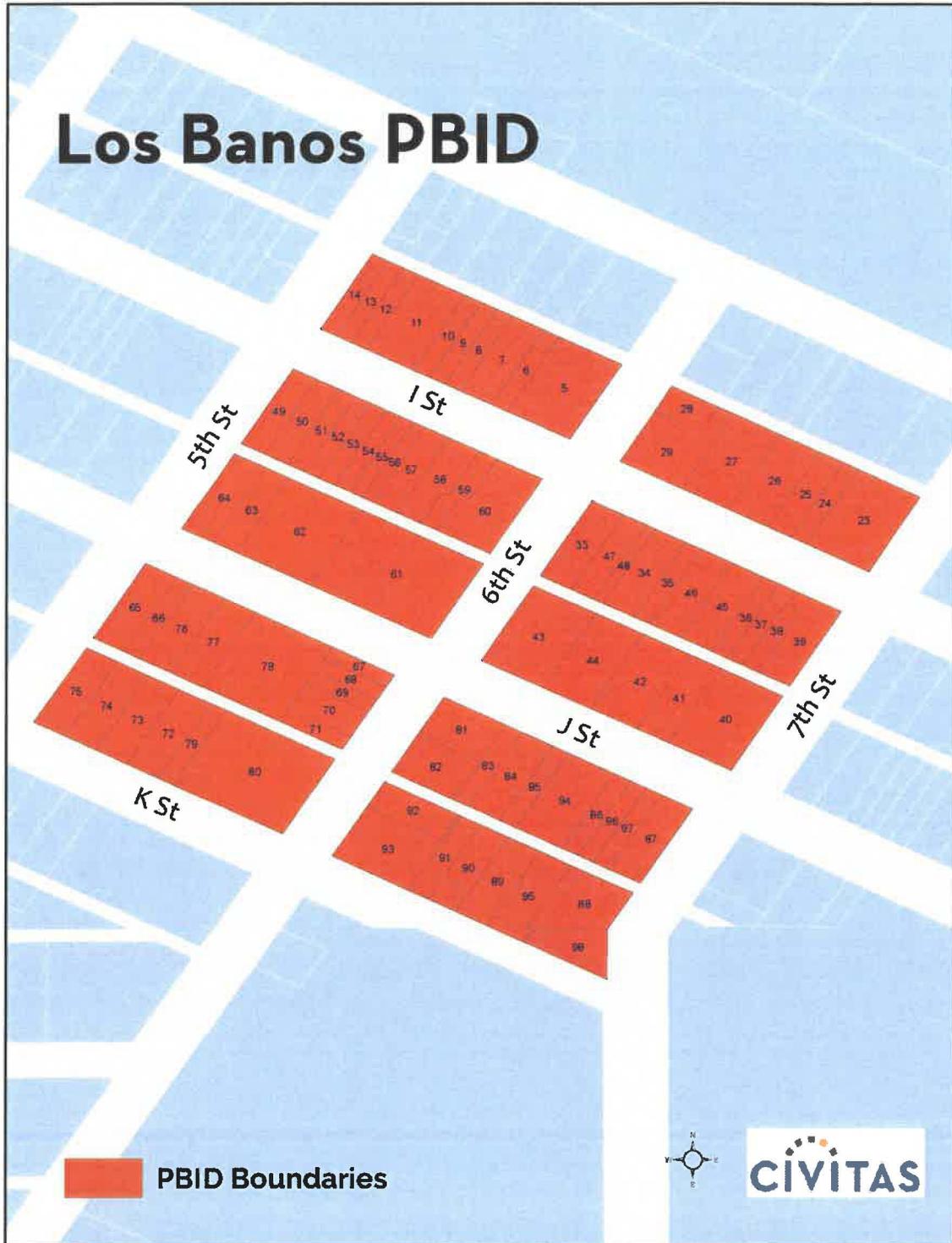
36671. Refund of remaining revenues upon disestablishment or expiration without renewal of district; Calculation of refund; Use of outstanding revenue collected after disestablishment of district

(a) Upon the disestablishment or expiration without renewal of a district, any remaining revenues, after all outstanding debts are paid, derived from the levy of assessments, or derived from the sale of assets acquired with the revenues, or from bond reserve or construction funds, shall be refunded to the owners of the property or businesses then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district

is disestablished or expires. All outstanding assessment revenue collected after disestablishment shall be spent on improvements and activities specified in the management district plan.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund.

APPENDIX 3 – MAP



APPENDIX 4 – TOTAL ESTIMATED MAXIMUM COST OF IMPROVEMENTS, MAINTENANCE, AND ACTIVITIES

The estimated maximum cost of the line items below was developed based on the estimated costs of providing services in the proposed LBDBID. The costs below are estimated, the actual line item costs will fluctuate. The table below shows expenditures from assessment and non-assessed funds. Assessment funds are governed by Section V. There is no limit on reallocation of non-assessment funds by the LBDPOA. The total maximum budget may exceed the maximum listed in this table if parcel ownership changes results in parcels being assessed at a higher rate due to a higher estimated benefit.

Year	Maintenance & General Security	Marketing & Placemaking	Small Infrastructure	Operations	Total
2020	\$39,646.94	\$39,238.39	\$40,055.55	\$39,646.96	\$158,587.84
2021	\$40,638.11	\$40,219.35	\$41,056.94	\$40,638.13	\$162,552.54
2022	\$41,654.07	\$41,224.83	\$42,083.36	\$41,654.09	\$166,616.35
2023	\$42,695.42	\$42,255.45	\$43,135.45	\$42,695.44	\$170,781.76
2024	\$43,762.80	\$43,311.84	\$44,213.83	\$43,762.83	\$175,051.30
Total	\$208,397.34	\$206,249.87	\$210,545.13	\$208,397.45	\$833,589.79

APPENDIX 5 – PARCEL ASSESSMENT CALCULATIONS

MAP KEYS	APN	OWNERNAME	LOT SQFT	ASSESSMENT	CATEGORY
5	025-191-011-000	BANK OF AMERICA NT&SA	15,000	\$4,050.00	COMMERCIAL
6	025-191-012-000	IDA LEWIS TOSCANO	3,750	\$1,012.50	COMMERCIAL
7	025-191-013-000	ELAINE CORY	7,499	\$2,024.73	COMMERCIAL
8	025-191-014-000	MILTON J MEDINA	3,749	\$1,012.23	COMMERCIAL
9	025-191-015-000	IMELDA YERA CORTES	3,749	\$1,012.23	COMMERCIAL
10	025-191-016-000	DAVID & MARILU M NIETO	3,750	\$1,012.50	COMMERCIAL
11	025-191-017-000	SERRETA PROPERTIES LP	11,249	\$3,037.23	COMMERCIAL
12	025-191-018-000	LOS BANOS ARTS COUNCIL INC	3,750	\$1,012.50	COMMERCIAL
13	025-191-019-000	MICHAEL G & LESLIE VILLALTA	3,749	\$1,012.23	COMMERCIAL
14	025-191-020-000	MICHAEL G & LESLIE VILLALTA	3,749	\$1,012.23	COMMERCIAL
23	025-201-008-000	A & L PARTIDA LLC	14,999	\$4,049.73	COMMERCIAL
24	025-201-009-000	DANIEL HARRISON EAKINS	3,750	\$1,012.50	COMMERCIAL
25	025-201-010-000	REDEVELOPMENT AGENCY OF CITY OF LOS BANOS	5,625	\$1,125.00	GOVERNMENT
26	025-201-011-000	CITY OF LOS BANOS	9,375	\$1,875.00	GOVERNMENT
27	025-201-012-000	CITY OF LOS BANOS	11,249	\$2,249.80	GOVERNMENT
28	025-201-013-000	CITY OF LOS BANOS	3,750	\$750.00	GOVERNMENT
29	025-201-014-000	THOMAS EDWARD KALJIAN	11,249	\$3,037.23	COMMERCIAL
33	025-231-001-000	LYNNE JAMES	7,500	\$2,025.00	COMMERCIAL
34	025-231-003-000	JESUS O & YOLANDA N MURILLO	7,500	\$2,025.00	COMMERCIAL
35	025-231-004-000	JESUS O & YOLANDA N MURILLO	3,750	\$1,012.50	COMMERCIAL
36	025-231-006-000	JOSE & ANA MARIA FLORES	3,749	\$1,012.23	COMMERCIAL
37	025-231-007-000	REYNALDO GARIBAY	3,749	\$1,012.23	COMMERCIAL
38	025-231-008-000	REYNALDO GARIBAY	3,750	\$1,012.50	COMMERCIAL
39	025-231-009-000	DAVID R & CATHLEEN GOULD	7,500	\$2,025.00	COMMERCIAL
40	025-231-010-000	CITY OF LOS BANOS	14,999	\$2,999.80	GOVERNMENT
41	025-231-011-000	WOLFSEN PROPERTIES L L C	7,499	\$2,024.73	COMMERCIAL
42	025-231-012-000	LAWRENCE J & DAINE M WOLFSEN	11,250	\$3,037.50	COMMERCIAL
43	025-231-015-000	LODGE MOUNTAIN BROW NO 82 IOOF HALL ASSN	14,999	\$4,049.73	COMMERCIAL
44	025-231-016-000	MOUNTAIN BROW HALL ASSN OF THE IOOF	11,249	\$3,037.23	COMMERCIAL
45	025-231-017-000	RAYMOND B & MARIA C RAZO	7,499	\$2,024.73	COMMERCIAL
46	025-231-018-000	RADHAKRISHNAN SHARMA	7,499	\$2,024.73	COMMERCIAL
47	025-231-019-000	DAVID H DIECKMANN	5,497	\$1,484.19	COMMERCIAL
48	025-231-020-000	JOSE G & SOCORRO GUTIERREZ	2,002	\$540.54	COMMERCIAL
49	025-241-001-000	TADESSE ADEFERIS	5,625	\$1,518.75	COMMERCIAL
50	025-241-002-000	TADESSE ADEFERIS	5,624	\$1,518.48	COMMERCIAL
51	025-241-003-000	MANUEL AVILA	3,750	\$1,012.50	COMMERCIAL
52	025-241-004-000	CARMEN A LOPEZ	3,749	\$1,012.23	COMMERCIAL
53	025-241-005-000	FRANK L & MARIA L VIERRA	3,750	\$1,012.50	COMMERCIAL
54	025-241-006-000	LULU MICHELOTTI	3,749	\$1,012.23	COMMERCIAL
55	025-241-007-000	LULU MICHELOTTI	2,850	\$769.50	COMMERCIAL
56	025-241-008-000	WINDECKER ENTERPRISES LLC	2,774	\$748.98	COMMERCIAL
57	025-241-009-000	FRED M & MARY H SUBEGA	5,624	\$1,518.48	COMMERCIAL
58	025-241-010-000	JOSEPH A & JEANNETTE M CARDINALE	6,818	\$1,840.86	COMMERCIAL

MAP KEYS	APN	OWNERNAME	LOT SQFT	ASSESSMENT	CATEGORY
59	025-241-011-000	MARLENE FARNHAM	3,990	\$1,077.30	COMMERCIAL
60	025-241-012-000	ESCALLIER - KALJIAN LLC	11,691	\$3,156.57	COMMERCIAL
61	025-241-013-000	ADITI INVESTORS L L C	29,250	\$7,897.50	COMMERCIAL
62	025-241-014-000	CITY OF LOS BANOS	17,625	\$3,525.00	GOVERNMENT
63	025-241-015-000	CITY OF LOS BANOS	5,625	\$1,125.00	GOVERNMENT
64	025-241-016-000	CITY OF LOS BANOS	7,499	\$1,499.80	GOVERNMENT
65	026-052-001-000	OSCAR & CLARA PEREZ	7,500	\$2,025.00	COMMERCIAL
66	026-052-002-000	STEPHEN WILLIAM SLOAN	3,749	\$1,012.23	COMMERCIAL
67	026-052-006-000	HARDIAL & SARNJIT SINGH	2,499	\$674.73	COMMERCIAL
68	026-052-007-000	HARDIAL & SARNJIT K SINGH	2,500	\$675.00	COMMERCIAL
69	026-052-008-000	SHAWN MATHEW & JASMINE GEORGE	2,500	\$675.00	COMMERCIAL
70	026-052-009-000	SAN LUIS WATER DISTRICT	5,000	\$1,000.00	GOVERNMENT
71	026-052-010-000	PSV LLC	2,499	\$674.73	COMMERCIAL
72	026-052-013-000	WOLFSEN PROPERTIES L L C	7,500	\$2,025.00	COMMERCIAL
73	026-052-014-000	FRANKLIN H & MARIA NIVEA OLIVEIRA	7,500	\$0.00	NONASSESSED
74	026-052-015-000	LEROY & LYDIA WENTZ	7,499	\$0.00	NONASSESSED
75	026-052-016-000	DONNA GONSALVES	7,499	\$0.00	NONASSESSED
76	026-052-017-000	PIEDRAZUL INVESTMENTS LLC	7,500	\$2,025.00	COMMERCIAL
77	026-052-019-000	WILLIAM A VAUGHN	7,499	\$2,024.73	COMMERCIAL
78	026-052-021-000	CITY OF LOS BANOS	18,749	\$3,749.80	GOVERNMENT
79	026-052-023-000	MONICA M BARTON	3,749	\$1,012.23	COMMERCIAL
80	026-052-024-000	BENJAMIN H SWIG	26,250	\$7,087.50	COMMERCIAL
81	026-053-001-000	JOHN O GERMINO	7,500	\$2,025.00	COMMERCIAL
82	026-053-002-000	FELIX GIUSSEPPE & KATHLEEN NINO GASTELLO	7,500	\$2,025.00	COMMERCIAL
83	026-053-003-000	WOLFSEN PROPERTIES LLC	3,749	\$1,012.23	COMMERCIAL
84	026-053-004-000	WOLFSEN PROPERTIES L L C	7,500	\$2,025.00	COMMERCIAL
85	026-053-005-000	JOHN O GERMINO	3,749	\$1,012.23	COMMERCIAL
86	026-053-008-000	DELFINO OLVERA RUIZ	3,750	\$0.00	NONASSESSED
87	026-053-010-000	BRUCE L & LINDA M VOGT	7,499	\$2,024.73	COMMERCIAL
88	026-053-011-000	GWENETTE A BENDER	10,206	\$2,755.62	COMMERCIAL
89	026-053-013-000	SUNSET HILLS DEVELOPMENT LLC	7,500	\$2,025.00	COMMERCIAL
90	026-053-014-000	EMIL D ERRECA	6,750	\$1,822.50	COMMERCIAL
91	026-053-015-000	TAYLOR CHRISTIAN WOLFSEN	4,500	\$1,215.00	COMMERCIAL
92	026-053-016-000	TRAJAN SOARES	6,000	\$1,620.00	COMMERCIAL
93	026-053-017-000	TAYLOR CHRISTIAN WOLFSEN	12,750	\$3,442.50	COMMERCIAL
94	026-053-019-000	WILLIAM V & BEVERLY STENBERG	11,250	\$3,037.50	COMMERCIAL
95	026-053-020-000	SUNSET HILLS DEVELOPMENT LLC	7,685	\$2,074.95	COMMERCIAL
96	026-053-021-000	DELFINO OLVERA RUIZ	3,750	\$0.00	NONASSESSED
97	026-053-022-000	DELFINO OLVERA RUIZ	3,750	\$0.00	NONASSESSED
98	026-123-001-000	EUGENE J & CAROLYN D VIERRA	6,254	\$1,688.58	COMMERCIAL
Total	83		601,609	\$146,357.75	

**NOTICE OF PROPOSED ASSESSMENT
FOR THE PROPOSED LOS BANOS DOWNTOWN PROPERTY AND BUSINESS
IMPROVEMENT DISTRICT (LBDPBID)**

**A PUBLIC HEARING ON THE PBID FORMATION IS SCHEDULED FOR
OCTOBER 2, 2019, AT 7:00 PM,
CITY HALL, COUNCIL CHAMBERS,
520 J STREET, LOS BANOS, CA 93635**

NOTICE IS HEREBY GIVEN that on August 7, 2019, the City Council (the "Council") of the City of Los Banos (the "City") adopted a Resolution of Intention to form the LBDPBID to provide certain improvements and activities and convey special benefits to assessed parcels within the proposed LBDPBID to be funded with assessments on property in the LBDPBID as set forth in said Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that 7:00 PM on October 2, 2019, at the Council Chambers, 520 J Street, Los Banos, CA 93635 has been set as the time, date and place for a public hearing at which testimony may be given regarding the formation of the LBDPBID and the levy of assessments.

NOTICE IS HEREBY FURTHER GIVEN that the enclosed assessment ballot may be mailed or hand-delivered to the address shown thereon after its execution by the owner receiving notice and his or her indication of support or opposition to the proposed assessment. At the conclusion of the public hearing the Council shall cause the returned ballots to be tabulated and if, upon conclusion of the hearing, assessment ballots submitted in opposition to the assessment exceed the assessment ballots submitted in favor of the assessment, the Council shall not impose the assessment. The assessment ballots shall be weighted according to the proportional financial obligation of the affected property.

NOTICE IS HEREBY FURTHER GIVEN that the legal records of the County of Merced indicate that you own a parcel of real property within the proposed LBDPBID. The Merced County Assessor's parcel number(s) and the proposed 2020 assessment to be assessed against said parcel(s) for the proposed LBDPBID are as indicated on your assessment ballot.

Developed by a coalition of property owners, the Los Banos Downtown Property and Business Improvement District (PBID) is a special benefit assessment district to improve and convey special benefits to properties located in the area. The PBID would provide the improvements and activities summarized below, above and beyond those currently provided by the City of Los Banos.

Location: The LBDPBID generally includes parcels in the downtown area of the City of Los Banos.

Services: The purpose of the LBDPBID is to provide activities and improvements which constitute and convey a special benefit to assessed parcels. The LBDPBID will provide maintenance and general security, marketing and placemaking, and small infrastructure programs directly and only to assessed parcels within its boundaries.

Budget: The LBDPBID annual assessment budget for the initial year of its five (5) year operation is anticipated to be \$146,357.76. The annual budget may be subject to an increase in assessment rates of no more than two and one half of one percent (2.5%) per year. The assessment funds will be supplemented by non-assessment funds (such as grants and event income), so that the total budget for the initial year is estimated at \$158,587.84.

Cost: The assessment rate (cost to the parcel owner) is based on parcel type and parcel square footage. The initial annual rate to each parcel is shown in the table below. Assessment rates may be subject to an increase of no more than two and one half of one percent (2.5%) per year.

Initial Parcel Assessment Rates	
Parcel Type	Parcel Size (sq. ft.)
Standard	\$0.270
Government	\$0.200

Duration: The LBDPBID will have a five (5) year life beginning January 1, 2020 and ending December 31, 2024. Near the end of the term, the petition, ballot, and City Council hearing process must be repeated for the LBDPBID to be renewed.

The assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with the ballots weighted according to the proportional financial obligation of the affected property.

The Property Owner Ballot included in this packet contains important information concerning its completion, return, and tabulation, and the effect of casting ballots in support or in protest of the assessment. For more information on the documents in this packet, please call the Stacy Souza Elms at (209) 827-2433. For more information about the PBID, please call Civitas at (916) 437-4300.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Stacy Souza Elms, Community and Economic Development Director
William A. Vaughn, City Attorney

SEE

DATE: October 2, 2019

TYPE OF REPORT: Public Hearing

SUBJECT: Density Bonus and other Affordable Housing Development Incentives Ordinance

Recommendation:

That the City Council adopt the following Ordinance:

AN ORDINANCE OF THE CITY COUNCIL OF THE CIYT OF LOS BANOS AMENDING AND RESTATING ARTICLE 34 CHAPTER 3 OF TITLE 9 OF THE LOS BANOS MUNICIPAL CODE REGARDING DENSITY BONUSES AND OTHER AFFORDABLE HOUSING DEVELOPMENT INCENTIVES

Background:

Pursuant to Government Code Section 65915(a)(1), all local governments are required to adopt local ordinances that are consistent with State law. The City of Los Banos last amended its local Density Bonus ordinance in 2010; since that time a series of legislative updates *have* been adopted at the state level concerning affordable housing and in particular density bonus'.

Therefore, the City's current ordinance is in need of updating to ensure that it is in full compliance with state law.

The following provides a brief summary of each piece of adopted legislation followed by the recommended revisions to the City's density bonus ordinance. The full text of the proposed ordinance revisions are provided within Attachment 1. Staff has also included the full text of Government Code Sections 65915 and 65915.7 as Attachments 2 and 3 respectively, and the summary sheet for each adopted bill as Attachment 4.

The Los Banos Planning Commission held a public hearing on September 11, 2019 for the purpose of considering the above mentioned Ordinance. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended adoption of the ordinance specified above.

Discussion:

Assembly Bill 2222, effective January 1, 2015

In September, 2014, Assembly Bill (AB) 2222 was signed into law to amend *several* aspects of the state density bonus law. Prior to the bill, affordable units provided to qualify for density bonuses were subject to affordable income restrictions for a period of 30 years; AB 2222 extended the affordability term to 55 years.

Additionally, AB 2222 introduced an affordable-unit replacement requirement in an effort to help address the potential displacement of existing tenants. The bill requires that projects using a density bonus replace rental units that *have* been occupied by *very* low or low-income households within the *five-year* period preceding the development application.

Applicants could elect to either:

- provide replacement units of equivalent or greater number to units that are occupied by lower income households or subject to a rent or price control; or
- ensure that units are affordable to *very* low-, or low-income households.

The replacement provisions contained in AB 2222 were substantially expanded and clarified in the January, 2017 amendments adopted through AB 2556

Proposed Ordinance Amendments:

Section 9-3.3404(d) has been added to reflect the new required term of 55 years. Section 9-3.3403(b) has been added to clarify eligibility requirements for proposed housing developments involving property containing existing affordable housing units.

Assembly Bill 744, effective January 1, 2016

Assembly Bill 744 was adopted in 2015. The bill required that local governments, upon request from an applicant developing a rental housing project that is density bonus

eligible, grant further reductions in parking requirements depending on the project's proximity to transit. The provisions of AB 744 expand the parking reduction options available to developers that were provided in the state density bonus law.

Jurisdictions may however require higher parking ratios for housing near transit if the City has completed a parking study within the last seven years that supports the need for more parking.

Proposed Ordinance Amendments:

Sections 9-3.3412 of the proposed Ordinance has been revised to reflect the parking allowances outlined in AB 744. Also, the definition of "Major Transit Stop" (as defined in Public Resources Code Section 21064.3) has been added to Section 9-3.3402 of the proposed Ordinance.

Assembly Bill 1934, effective January 1, 2017

AB 1934 expanded the state law to provide incentives for commercial developers to contribute to affordable housing through creation of Government Code Section 65915.7.

The bill provided a bonus for commercial developers that enter an agreement with a housing developer to provide affordable units in a joint mixed-use project, or as two separate but related projects. Commercial developers must define how they are contributing to the affordable housing development; three options are recognized by the state law.

- The commercial developer may directly build the units.
- The commercial developer may donate a portion of the development site, or property located elsewhere, to the housing developer to build affordable housing.
- The commercial developer may make a cash payment to the housing developer to offset the construction cost for affordable housing.

To qualify for the density bonus, the proposed affordable units must contain a prescribed number of low- or very-low income units: at least 30% of the total units proposed shall be for low-income households, or at least 15% shall be for very low-income households. If the affordable units are to be constructed off-site (separate) from the non-residential development, the units must be located on a site that is:

- within the local jurisdiction;
 - near public amenities, including schools and employment centers;
- and
- located within one-half mile of a major transit stop.

The provisions of AB 1934 do not prevent an affordable housing developer from utilizing the density bonus, concession or incentives, waivers or reductions that are available through the state law. Furthermore, the amendments did not reduce or waive affordable housing impact fees that may apply to commercial projects in the jurisdiction. The provisions of AB 1934 are subject to a sunset clause of January 1, 2022.

Proposed Ordinance Amendments:

Definitions for "Commercial Development Bonus", was added to reflect the provisions outlining partnered housing in Government Code Section 65915.7. Section 9-3.3415 provides the requirements for a commercial developer to participate in the commercial development bonus mandated by Government Code Section 65915.7.

Assembly Bill 2442, effective January 1, 2017

Assembly Bill 2442 amends Section 65915(b) to include additional categories of specialized housing that would qualify a project for a density bonus. If at least 10% of the proposed units in a project are designated for very-low income households for a period of 55 years, and are targeted to the following specialized housing types, they may qualify for a density bonus:

- transitional foster youth as defined in Education Code Section 66025.9
- disabled veterans as defined in Government Code Section 18541
- homeless persons as defined in 42 U.S.C. Sec. 11301 et seq.

The density bonus for these projects is 20% of the provided specialized housing units.

Proposed Ordinance Amendments:

Definitions for "Transitional Foster Youth", "Disabled Veteran", and "Homeless Persons" were added to Section 9-3.3402. The required reservation requirement was outlined in Section 9-3.3404, and the amount of density bonus granted for qualifying projects has been added to Section 9-3.3403.

Assembly Bill 2501, effective January 1, 2017

AB 2501 streamlines density bonus application processing in recognition of the financial implications for developers caused by permitting delays. Streamlining changes are described in Government Code Section 65915(a)(3); these changes require that local jurisdictions:

- Adopt procedures and timelines for processing density bonus applications.

- Provide a list of all information required to be submitted with the density bonus application for the density bonus application to be deemed complete.
- Issue completeness determinations on applications within 30 days in compliance with Government Code Section 65943.

AB 2501 includes several additional clarifications and procedural amendments to aid in the application and enforcement of the state law.

- Local governments are prohibited from conditioning the submission, review, or approval of a density bonus application on additional reports or studies that are not described in the state law. Cities can however require "reasonable documentation" to establish eligibility for incentives or concessions, waivers or reductions, or reduced parking ratios.
- The burden of proof for denying a requested concession or incentive is placed more directly on local jurisdictions, with clarifying language on determining whether a concession or incentive results in cost reductions in support of affordable housing development. The bill amends Section 65915(d)(1)(A), the first finding of fact to deny a requested concession or incentive. Local jurisdictions must grant the requested concession or incentive unless it "does not result in identifiable and actual cost reductions," to provide for affordable housing. The revised language clarifies that jurisdiction shall determine whether a concession or incentive is financially sufficient.

Proposed Ordinance Amendments:

Section 9-3.3413 has been updated to include specific application requirements related to a requested density bonus, incentive, waiver, parking reduction, or commercial development bonus. Section 9-3.3410(c) has been revised to reflect the required finding associated with identifiable and actual cost reductions.

Assembly Bill 2556, effective January 1, 2017

As described above, AB 2222 amended the state law in 2014 to preserve existing affordable housing units by prohibiting an applicant from receiving a density bonus, incentive, concession, waiver or reduction, if a development removed units that at any time in the five-year period preceding the application were occupied by lower-income households or subject to a form of rent control. AB 2222 is reflected in the Government Code Section 65915(c), and includes the stipulation that projects may overcome this restriction by replacing affordable units with units of equivalent affordability, size and/or type. AB 2222 failed to clarify how replacement unit requirements should be determined if resident income levels were not verifiable.

AB 2556 (2017) provides clarifying language to satisfy the replacement unit requirements in the State Law, including:

- Projects shall provide at least an equal number of replacement units of equivalent size and affordability. Equivalent size means providing at least the same total number of bedrooms.
- For currently-occupied units that would be removed, if the income level of the household is not known, it shall be presumed that the building is occupied by the same proportion of lower income renter households to all renter households as is the case for the jurisdiction as a whole.
- For buildings vacated or demolished within five (5) years of the development application, if the income level of the last occupants in previously existing units is not known it shall be presumed that very low- and low-income households occupied the units in the same proportion of very low- and low-income renter households to all renter households in the jurisdiction.

Proposed Ordinance Amendments:

The definition of "Equivalent Size" has been included in Section 9-3.3402. The proposed application submittal requirements for projects seeking a density bonus, outlined in Section 9-3.3413, includes the requirement to submit a description and tenant income information of all occupied or .previously occupied dwelling units at the proposed project site for the five-year period preceding submittal of the density bonus application.

Senate Bill 1227, effective January 1, 2019

SB 1227 allows developers to request a 35% density bonus for development with at least 20% of units reserved for lower income students in a dedicated student housing project.

Proposed Ordinance Amendments:

Reservation requirements, consistent with the requirements outlined in Government Code Section 65915, have been included in Section 9-3.3403 for student housing projects. The amount of density bonus for student housing projects meeting the required reservation requirements has been included in Section 9-3.3405.

Assembly Bill 2753, effective January 1, 2019

AB 2753 Requires cities to provide an applicant with a determination as to the amount of density bonus and any parking ratios requested by the applicant for which the

development is eligible and whether the applicant has provided adequate information to make a determination as to any incentives, concessions, or waivers or reductions to development standards requested by the applicant.

Proposed Ordinance Amendments:

The application requirements for density bonus requests outlined in Section 9-3.3413, requires the applicant to provide the relevant information for the City to make a determination on their request on a particular provision afforded under the density bonus provisions.

Assembly Bill 2797, effective January 1, 2019

AB 2979 requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law be permitted in a manner that is consistent with that law and the California Coastal Act of 1976.

Proposed Ordinance Amendments:

Not applicable to the City.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Ordinance
2. Resource Materials
3. Public Hearing Notice

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AMENDING AND RESTATING ARTICLE 34 CHAPTER 3 OF TITLE 9 OF THE LOS BANOS MUNICIPAL CODE REGARDING DENSITY BONUSES AND OTHER AFFORDABLE HOUSING DEVELOPMENT INCENTIVES

WHEREAS, California Government Code Title 7, Division 1, Chapter 4.3 requires cities to provide density bonuses and other incentives for qualifying affordable housing projects. California Government Code Section 65915(a)(1) requires cities to adopt an ordinance that specifies how compliance will be implemented; and

WHEREAS, Los Banos Municipal Code Article 34 provides process and criteria for considering density bonus requests; and

WHEREAS; the California legislature has amended the state density bonus law numerous times since the adoption of the City's density's bonus Article. Future amendments are expected; and

WHEREAS, the City Council wishes to update its density bonus ordinance to comply with the provisions of state law; and

WHEREAS, the Los Banos 2030 General Plan, and 2014-2023 Housing Element updates included policies and programs to support and create affordable housing, a diverse range of housing types; and

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, 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 may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, the Planning Commission held a public hearing on September 11, 2019 and recommended approval of the proposed Ordinance with findings of General Plan consistency, and

WHEREAS, the City Council conducted a duly noticed public hearing on the on October 2, 2019 and October 16, 2019 at which time all individuals desiring to comment on the proposed amendments were heard; and

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1: Article 34 of Chapter 3 of Title 9 of the Los Banos Municipal Code shall be amended and restated in its entirety to read as follows:

TITLE 9 PLANNING AND ZONING
CHAPTER 3 ZONING
ARTICLE 34 DENSITY BONUSES AND
OTHER AFFORDABLE HOUSING INCENTIVES

Sec. 9-3.3401 Purpose and intent.

This Article is intended to provide density bonuses and incentives or concessions for the production of housing that is affordable to the types of households and qualifying residents identified in this Article in accordance with Sections 65915 through 65918 of the California Government Code, as amended or superseded. In enacting these provisions, it is the intent of the City of Los Banos to facilitate the development of affordable housing and to implement the requirements of Government Code Section 65915 et. seq. and the goals, objectives, and policies of the Housing Element of the City's General Plan. Where regulations are not specifically addressed in this Article or where there are conflicts between these provisions and the provisions of California Government Code sections 65915 through 65918, the provisions of California Government Code, as they may be amended over time, shall apply.

Sec. 9-3.3402 Definitions.

For the purpose of this Article, the following meanings and definitions shall apply:

(a) "Affordable rent" has the definition and meaning set forth in California Health and Safety Code section 50053.

(b) "Affordable housing cost" has the definition and meaning set forth in California Health and Safety Code Section 50052.5.

(c) "Child care facility" means a facility other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers as defined by California Government Code Section 65915(h).

(d) "Commercial development bonus" means a modification of development standards mutually agreed upon by the City and a commercial developer that is provided to a commercial development eligible for such a bonus pursuant to Section 9-3.3414.

(e) "Concession" or "Incentive" has the definition and meaning set forth in California Government Code Section 65915(k) and means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code section 65915(c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the City, that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code section 65915(c).

This definition does not limit or require the provision of direct financial incentives for a housing development, including the provision of publicly owned land, by the City or the waiver of fees or dedication requirements.

(f) "Common interest development" has the definition and meaning set forth in California Civil Code Section 1351.

(g) "Density bonus," means a density increase over the otherwise maximum allowable gross residential density under the applicable zoning code provisions and the land use element of the general plan as of the date of application by the applicant to the City.

(h) "Density bonus housing agreement" means a legally binding agreement between a developer and the City to ensure that the requirements of this Article are satisfied. The agreement, among other things, shall establish: the number of target units, their size, location, terms and conditions of affordability, and production schedule.

(i) "Density bonus units" means those residential units granted pursuant to the provisions of this Article, which exceed the otherwise maximum residential density of the underlying land use designation and zoning district for the development site.

(j) "Development standard" means the site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, or other city condition, law, policy, resolution or regulation including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio as defined by California Government Code Section 65915(o).

(k) "Disabled veteran" has the definition and meaning set forth in California Government Code Section 18541.

(l) "Equivalent Size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced as defined by California Government Code Section 65915(c)(3)(D).

(m) "Homeless person" has the definition and meaning set forth in 42 U.S.C. Section 11301 et.seq.

(n) "Housing cost" means the sum of actual or projected monthly payments for all of the following associated with for-sale target units: principal and interest on a mortgage loan, including any loan insurance fees, property taxes and assessments, fire and casualty insurance, property maintenance and repairs, homeowner association fees, and a reasonable allowance for utilities.

(o) "Housing development" means any construction projects consisting of five (5) or more residential units, including single-family, multi-family, and mobile homes for sale or rent, pursuant to this Article.

(p) "Lower income households" has the definition and meaning set and meaning forth in Section 50079.5 of the California Health and Safety Code.

(q) "Major transit stop" has the definition set forth in California Public Resources Code Section 21155.

(r) "Maximum residential density" means the maximum number of residential units permitted by the City's General Plan Land Use Element and Zoning Ordinance at the time of application, excluding the provisions of this Article. If the housing development is within a planned development overlay zone, the maximum residential density shall be determined on the basis of the general plan and the maximum density of the underlying zone.

(s) "Moderate income households" has the definition and meaning set forth in Section 50093 of the California Health and Safety Code.

(t) "Non-restricted unit" means all units within a housing development excluding the target units.

(u) "Qualifying resident" means senior citizens or other persons eligible to reside in senior citizen housing.

(v) "Senior citizen housing development" has the definition and meaning set forth in California Civil Code Section 51.3.

(w) "Specific Adverse Impact", as defined in the California Government Code Section 65589.5(d)(2), means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact on public health or safety.

(x) "Target unit" means a dwelling unit within a housing development which will be reserved for sale or rent, and is made available at an affordable rent or affordable ownership cost, to very low, lower, or moderate income households, or is a unit in a senior citizen housing development, or is intended to serve transitional foster youth, disabled veterans, or homeless persons, and which qualifies the housing development for a density bonus and incentives pursuant to Section 9-3.3403 or qualifies a commercial development for a commercial development bonus pursuant to Section 9-3.3413.

(y) "Transitional foster youth" has the definition and meaning set forth in California Education Code Section 66025.9.

(z) "Very low income households" has the definition and meaning set forth in Section 50105 of the California Health and Safety Code.

Sec. 9-3.3403 Eligibility for density bonus, incentives, or concessions.

(a) The City shall grant a density bonus, in the amount specified in Section 9-3405, to an applicant who proposes a housing development consisting of five (5) or more residential units and meeting at least one (1) of the following criteria:

(1) At least ten percent (10%) of the total units of the housing development as target units affordable to lower income households, as defined in California Health and Safety Code Section 50079.5; or

(2) At least five percent (5%) of the total units of the housing development as target units affordable to very low income households, as defined in California Health and Safety Code Section 50105; or

(3) The project is a senior citizen housing development as defined in California Civil Code Sections 51.3 and 51.12, or is a mobile home park that limits residency based on age requirements for housing older persons in compliance with California Civil Code Sections 798.76 and 799.5; or

(4) At least ten percent (10%) of the total dwelling units in a common interest development are for persons and families of moderate income, as defined in California Health and Safety Code Section 50093; provided, that all units in the development are offered to the public for purchase; or

(5) At least ten percent (10%) of the total number of proposed units of housing for transitional foster youth, as defined in Section 66025.9 of the California Education Code, disabled veterans, as defined in Section 18541 of the California Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act; or

(6) At least twenty percent (20%) of the total number of proposed units for lower income students in a student housing development that meets the requirements, as defined by California Government Code Section 65915.

(b) An applicant is not eligible for a density bonus, or any other incentives or concessions under this Article, for a proposed housing development involving a property containing existing affordable housing, unless:

(1) The proposed housing development replacement units of equivalent size for the existing affordable housing units; and

(2) Either:

(A) The proposed housing development, inclusive of the replacement units at the percentages set forth in this Section; or

(B) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

Section 9-3.3404 Requirements; Continued Affordability.

In addition to any other applicable requirements set forth in this Article the following requirements shall apply to all developments receiving a density bonus pursuant to this Article.

(a) A target unit shall be restricted and affordable to the designated income group qualifying the development for a density bonus pursuant to Section 9-3.3403.

(b) The affordable units must be proportional to the overall project in terms of unit mix, floor plan, square footage, and exterior design. For the purposes of this Section, the project's income restricted units would be considered proportional to square footage if they are at least eighty percent (80%) of the average square footage of all market rate units in the development with the same bedroom count. Further, the range of affordable units must be reasonably dispersed throughout the development.

(c) Target units shall be constructed concurrently with market-rate units or pursuant to a schedule included in the density bonus housing agreement. No temporary or permanent certificate of occupancy for any new market-rate unit in a housing development or for commercial space in a commercial development shall be issued until permanent certificates of occupancy have been issued for the required target units unless explicitly permitted by the density bonus housing agreement or partnered housing agreement. If a development project is to be phased, the target units shall be phased in the same proportion as the market rate units, or as set forth in a schedule included in the density bonus housing agreement or partnered housing agreement.

(d) The time period of availability to the intended population shall be for at least fifty five (55) years. A longer period of availability may be required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

(e) The maximum allowable rents shall be determined by a formula designated by the State Department of Housing and Community Development based on the area median income. This formula is indicated in Section 65915(c) of the California Government Code.

(f) Owner occupied units shall be available at affordable housing costs, as defined in Section 50052.5 of the California Health and Safety Code.

(g) For sale affordable units may be subject to an equity sharing agreement, in the event that public subsidies are involved in the construction and/or purchase of said units.

(h) The owner of the affordable units for which a density bonus was granted must provide to the City a yearly accounting of the total units occupied, the total units vacant, the total units occupied by lower or very low income households, the total number of units occupied by Senior Citizens and the total units required to be set aside under all applicable affordability covenants.

Section 9-3.3405 Calculation of density bonus.

(a) A housing development that complies with the eligibility requirements in Section 9-3.3403 shall be entitled to a density bonus as follows, unless a lesser percentage is proposed by the applicant:

(1) Bonus for units for lower income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(1) (ten percent (10%) of units for lower income households) shall be entitled to a density bonus calculated as follows:

**BONUS FOR LOWER INCOME
HOUSEHOLDS**

Percentage Lower Income Units Proposed	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) Bonus for units for very low income households. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(2) (five percent (5%) of units for very low-income households) shall be entitled to a density bonus calculated as follows:

**BONUS FOR VERY LOW INCOME
HOUSEHOLDS**

Percentage Very Low Income Units Proposed	Percentage Density Bonus
5	20
6	22.5

**BONUS FOR VERY LOW INCOME
HOUSEHOLDS**

Percentage Very Low Income Units Proposed	Percentage Density Bonus
7	25
8	27.5
9	30
10	32.5
11	35

(3) Bonus for senior citizen development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(3) (senior citizen development or mobile home park) shall be entitled to a density bonus of twenty percent (20%).

(4) Bonus for moderate-income units in common interest development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(4) (ten percent (10%) of units in a common interest development for persons and families of moderate income) shall be entitled to a density bonus calculated as follows:

**BONUS FOR MODERATE INCOME
HOUSEHOLDS**

Percentage Moderate Income Units Proposed	Percentage Density Bonus
10	5
11	6
12	7
13	8

**BONUS FOR MODERATE INCOME
HOUSEHOLDS**

Percentage Moderate Income Units Proposed	Percentage Density Bonus
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28

**BONUS FOR MODERATE INCOME
HOUSEHOLDS**

Percentage Moderate Income Units Proposed	Percentage Density Bonus
34	29
35	30
36	31
37	32
38	33
39	34
40	35

(5) Bonus for transitional foster youth, disabled veterans, or homeless persons development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(5) (transitional foster youth, disabled veterans, or homeless persons) shall be entitled to a density bonus of twenty percent (20%).

(6) Bonus for lower income students in a student housing development. A housing development that is eligible for a bonus in compliance with the criteria in Section 9-3.3403(a)(6) (lower income students in student housing) shall be entitled to a density bonus of thirty-five percent (35%).

(b) All density calculations resulting in fractional units shall be rounded up to the next whole number, unless otherwise indicated.

(c) The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

(d) An applicant may elect to accept a lesser percentage of density bonus.

(e) The calculations herein are in accordance with Government Code Section 65915 and are subject to any subsequent amendments or revisions thereto.

(f) Each housing development is entitled to only one density bonus mandated by this Section. If a housing development qualifies for a density bonus under more than one income category or additionally as senior housing or as housing intended to serve

transitional foster youth, disabled veterans, or homeless persons, the applicant shall select the category under which the density bonus is granted. Density bonuses from more than one category may not be combined.

Sec. 9-3.3406 Additional density bonus for land donation.

(a) When an applicant for a tentative subdivision map, parcel map, or other residential zoning entitlement development donates land to the City for the purpose of constructing affordable housing, the applicant shall be entitled to a fifteen (15%) percent increase above the maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development as follows:

BONUS FOR LAND DONATION

Percentage Very Low-Income Units Proposed	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28

BONUS FOR LAND DONATION

Percentage Very Low-Income Units Proposed	Percentage Density Bonus
24	29
25	30
26	31
27	32
28	33
29	34
30	35

(b) The increase in density set forth in this Section for land donation shall be in addition to any increase in density mandated by Section 9-3.3403 up to a maximum combined mandated density increase of thirty-five (35%) percent, if an applicant seeks both density increases.

(c) Nothing in this Section shall be construed to enlarge or diminish the authority of the City to require a developer to donate land as a condition of development.

(d) An applicant shall be eligible for the increased density bonus described in this Section if all of the following conditions are met:

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than ten percent (10%) of the number of residential units of the proposed development.

(3) The transferred land is at least one (1) acre in size or of sufficient size to permit development of at least forty (40) units and required amenities, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and

infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.

(4) No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing units on the transferred land, except that the City may subject the proposed development to subsequent design review to the extent authorized by California Government Code Section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer.

(5) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with Section 9-3.3404, which shall be recorded on the property at the time of dedication.

(6) The land is transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to the developer.

(7) The transferred land shall be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development.

Sec. 9-3.3407 Additional density bonus and incentives for developments with childcare facilities.

(a) When an applicant proposes to construct a housing development that conforms to the density bonus requirements of Section 9-3403, and includes a child care facility other than a large or small family day care home that will be located on the premises of, as part of, or adjacent to the project, the development shall be eligible for the following additional bonus and incentives.

(b) City shall grant to eligible housing developments either of the following:

(1) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility;
or

(2) An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(c) The City shall require, as a condition of approving the housing development that the following occur:

(1) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable.

(2) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low-income households, lower income households, or families of moderate income pursuant to the density bonus requirements of Section 9-3.3403.

(d) Notwithstanding the above requirements, the City shall not be required to provide a density bonus or concession for a child care facility in compliance with this Section if it finds, based upon substantial evidence, that the community has adequate child care facilities.

Sec. 9-3408 Condominium conversions.

(a) The City shall grant either a density bonus or other incentives of equivalent financial value if the applicant for a condominium conversion agrees to provide thirty-three percent (33%) of the total units of the proposed condominium project as target units affordable to lower or moderate income households, or to provide fifteen percent (15%) of the total units in the condominium conversion project as target units affordable to lower income households, and to provide any replacement affordable units required by Section 9-3.3403. All such target units shall remain affordable for the period specified in Section 9-3.3404.

(b) For purposes of this Section, a "density bonus" means an increase in units of twenty-five percent (25%) over the number of apartments to be provided within the existing structure or structures proposed for conversion. "Other incentives of equivalent financial value" shall not be construed to require the City to provide a cash transfer payment or other monetary compensation of any type but may include, at the City's discretion, modification of requirements that the City might otherwise apply as conditions of approval.

(c) No condominium conversion shall be eligible for a density bonus if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were previously provided pursuant to this Article or California Government Code Section 65915.

(d) Nothing in this section shall be construed to require the City to approve a condominium conversion.

Sec. 9-3.3409. City discretion

(a) Nothing in this Article shall be construed to prohibit the City from granting a density bonus greater than what is described in this Article for a development that

meets the requirements of this Article, or from granting a proportionately lower density bonus than what is required by this Article for developments that do not meet the requirements of this Article.

(b) Circumstances may arise in which the public interest would be served by allowing some or all of the target units associated with one housing development to be produced and operated at an alternative development site. Where the developer and the City form such an agreement, the resulting linked developments shall be considered a single housing development for purposes of this Article. Under these circumstances, the developer shall be subject to the same requirements of this Article for the target units to be provided on the alternative site.

Sec. 9-3.3410 Incentives and concessions.

(a) An applicant for a density bonus in compliance with this Article may submit to the City a proposal for the specific incentives or concessions listed in subsection (c) of this Section that the applicant requests in compliance with this Section, and may request a meeting with the Community and Economic Director or his or her designee. The applicant may file a request either before filing an application for City approval of a proposed project or concurrently with an application for project approval.

(b) The applicant shall receive the following number of incentives or concessions:

(1) One incentive or concession. One incentive or concession for a project that includes at least ten percent (10%) of the total units for lower income households, at least five percent (5%) for very low-income households, or at least ten percent (10%) for persons and families of moderate income in a common interest development.

(2) Two (2) incentives or concessions. Two (2) incentives or concessions for a project that includes at least twenty percent (20%) of the total units for lower-income households, at least ten percent (10%) for very low-income households, or at least twenty percent (20%) for persons and families of moderate income in a common interest development.

(3) Three (3) incentives or concessions. Three (3) incentives or concessions for a project that includes at least thirty percent (30%) of the total units for lower income households, at least fifteen percent (15%) for very low income households, or at least thirty percent (30%) for persons and families of moderate income in a common interest development.

(c) The City shall grant an incentive or concession request that complies with this Section unless the City makes either of the following findings in writing, based upon substantial evidence:

(1) The concession or incentive does not result in identifiable and actual cost reductions, consistent with Government Code 65915(k), to provide for affordable

housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code 65915(c) and this Article.

(2) The incentive or concession would have a specific adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health and safety or the physical environment, or on any real property listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(3) The concession or incentive would be contrary to state or federal law.

(d) This Section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the City, or the waiver of fees or dedication requirements.

(e) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, Zoning Map amendment, or other discretionary approval.

Sec. 9-3.3411 Waiver or reductions of development standards.

(a) An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of 9-3.3403 at the densities or with the concessions or incentives permitted under this Article, and may request a meeting with the City.

(b) Nothing in this Section shall be interpreted to require the City to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in California Government Code Section 65589.5(d)(2), upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

(c) Nothing in this Section shall be interpreted to require the City to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(d) A proposal for the waiver or reduction of development standards pursuant to this Section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to this Article.

Sec.9-3.3412 Parking adjustment/modification in density bonus projects.

(a) Upon the request of the applicant, the City will not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of Section 9-3.3403 that exceeds the following ratios:

- (1) Zero to one bedrooms: one onsite parking space.
- (2) Two to three bedrooms: two onsite parking spaces.
- (3) Four and more bedrooms: two and one-half parking spaces.

(b) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .5 onsite parking spaces per bedroom, for a development meeting the criteria of Section 9-3.3403, that is located within .5 miles of a major transit stop, and has unobstructed access to the major transit stop.

(c) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .5 onsite parking spaces per unit for a development that consists solely of rental units (exclusive of a manager's unit) with an affordable housing cost to lower income households, and is either:

(1) Located within .5 miles of a major transit stop, and has unobstructed access to the major transit stop; or

(2) A for rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the California Civil Code, and has either paratransit service, or unobstructed access to a fixed bus route service that is within .5 miles and operates at least eight times per day.

(d) The applicant may apply for a vehicular parking ratio, inclusive of handicapped and guest parking, that does not exceed .3 onsite parking spaces per unit, for a development that consists solely of rental units (exclusive of a manager's unit) with an affordable housing cost to lower income households, and is a special needs housing development, and has either paratransit service, or unobstructed access to a fixed bus route service that is within .5 miles and operates at least eight (8) times per day.

(e) If the total number of parking spaces required for a development is other than a whole number, the number will be rounded up to the next whole number. For purposes of this Section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

(f) This section applies to a development that meets the requirements of Section 9-3.3403, but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this Section, subject to Section 9-3.3410.

(g) Notwithstanding sub sections (b) (c) and (d) , if the City or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven (7) years, then the City may impose a higher vehicular parking ratio, not to exceed the ratio described in subsection (a), based upon substantial evidence found in the parking study that includes an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low and very low income individuals, including seniors and special needs individuals. The City will pay the costs of any new study. The City may make findings, based on a parking study completed in conformity with this Section, supporting the need for the higher parking ratio.

Sec. 9-3.3413 Application and review.

(a) An application for a density bonus, incentive, concession, waiver, modification, modified parking standard, or commercial development bonus pursuant to this Article shall be submitted with the first application for approval of a housing development or commercial development and processed concurrently with all other applications required for the housing development or commercial development. An applicant shall be informed whether the application is complete consistent with Government Code Section 65943.

(b) The application shall be submitted on a form prescribed by the City including all applicable fees for processing the application, and shall include at least the following information:

(1) Site plan drawn to scale showing total number of units, number and location of target units, and number and location of proposed density bonus units.

(2) Summary table showing the maximum number of units permitted by the zoning and general plan excluding any density bonus units, proposed target units by income level, proposed bonus percentage, number of bonus units proposed, and total number of dwelling units proposed on the site.

(3) Tenure (rental versus for-sale) of target units and proposals for ensuring affordability.

(4) A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period. If any dwelling units on the site are currently rented, the income and household size, if known, of all residents of currently occupied units. If any dwelling units on the site were rented in the five-year period but are not currently rented, the income and household size, if known, of residents occupying dwelling units when the site contained the maximum number of dwelling units.

(5) Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low or lower income households in the five-year period preceding the date of submittal of the application.

(6) Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards.

(7) For all incentives and concessions except mixed-use development, to establish eligibility for the requested incentives and concessions, the application shall include evidence that the requested incentives and concessions result in identifiable and actual cost reductions, including the actual cost reduction achieved through the incentive, and evidence that the cost reduction allows the applicant to provide affordable rents or affordable ownership costs.

(8) If a mixed-use building or project is proposed as an incentive, the applicant shall provide evidence that nonresidential land uses will reduce the cost of the residential project, and that the nonresidential land uses are compatible with the residential project and the existing or planned surrounding development.

(9) For waivers or modifications of development standards, the application shall provide evidence that the development standard for which the waiver is requested will have the effect of physically precluding the construction of the housing development with the density bonus and incentives requested.

(10) If a parking reduction is requested, a table showing parking required by the zoning ordinance and proposed parking. If a parking reduction provided by Section 9-3.3412(b) (c) or (d) is requested, evidence that the project is eligible for the requested parking reduction.

(11) If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 9-3.3406(d) can be made.

(12) If a commercial development bonus is requested for a commercial development, the application shall include the proposed partnered housing agreement, the proposed commercial development bonus, and evidence that each of the standards included in Section 9-3.3413(a) through (d) has been met.

(13) If a density bonus or concession is requested for a child care facility, the application shall show the location and square footage of the child care facilities and provide evidence that each of the findings included in Section 9-3.3407(c) can be made.

(14) If a density bonus or incentive is requested for a condominium conversion, the application shall provide evidence that all of the requirements found in Section 9-3.3408 can be met.

(c) In accordance with state law, neither the granting of a concession or incentive, nor the granting of a density bonus, shall be interpreted, in and of itself, to require a general plan amendment, zoning change, variance, or other discretionary approval.

(d) The review process for a density bonus project shall be the same as that required for associated discretionary permits. Discretionary actions on density bonus projects shall be subject to the same appeal process applied to associated discretionary permits.

(e) The application and approval of a density bonus and any associated incentives or concessions shall not require a separate permit or approval process from that otherwise required for the same project without a density bonus request.

(f) The granting of a density bonus shall not, in and of itself, require a general plan amendment, local coastal plan amendment, zone change, or other discretionary action, including the otherwise required conditional use permit necessary to exceed the base density of a given General Plan Land Use designation category or zoning district.

Sec. 9-3.3414 Density bonus housing agreement required.

(a) Applicants requesting a density bonus shall enter into a density bonus housing agreement with the City in a form approved by the City Attorney.

(b) Following execution of the agreement by all parties, the completed density bonus housing agreement, or memorandum thereof, shall be recorded and the conditions therefrom filed and recorded on the parcel or parcels designated for the construction of target units. The approval and recordation shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The density bonus housing agreement shall be binding to all future owners and successors in interest.

Section 9-3.3415 Commercial development density bonus.

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the City will grant the commercial developer a development bonus as described in this Section.

(b) The commercial developer must enter into an agreement for partnered housing between a commercial developer and a housing developer that is approved by the City, and identifies how the commercial developer will contribute affordable housing within the City. The commercial developer must partner with a housing developer partner that provides no less than either thirty percent (30%) of the total units for low-income households or fifteen percent (15%) of the total units for very low income households.

(c) The commercial developer may contribute affordable housing by directly building the affordable housing units, donating property to the affordable housing developer as a site for affordable housing, making a cash payment to the affordable housing developer for use towards the cost of constructing the affordable housing project.

(d) Housing must be constructed on the site of the commercial development or on a site that meets all of the following:

(1) Within the boundaries of the City;

(2) Within close proximity to public amenities, including schools and employment centers; and

(3) Within one-half mile of a major transit stop.

(e) The development bonus granted to the commercial developer means incentives, mutually agreed upon by the developer and the City, including any of the following:

(1) Up to a twenty percent (20%) increase in maximum allowable intensity in the General Plan.

(2) Up to a twenty percent (20%) increase in maximum allowable floor area ratio.

(3) Up to a twenty percent (20%) increase in maximum height requirements.

(4) Up to a twenty percent (20%) reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(f) If construction of the affordable units do not commence within the timelines specified by the agreement for partnered housing, then the City may withhold certificates of occupancy for the commercial development until the construction of the affordable housing units are complete.

Section 2. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 4. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

Section 5. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the ____ day of _____, 2019.

Passed on the ____ day of _____, 2019 by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

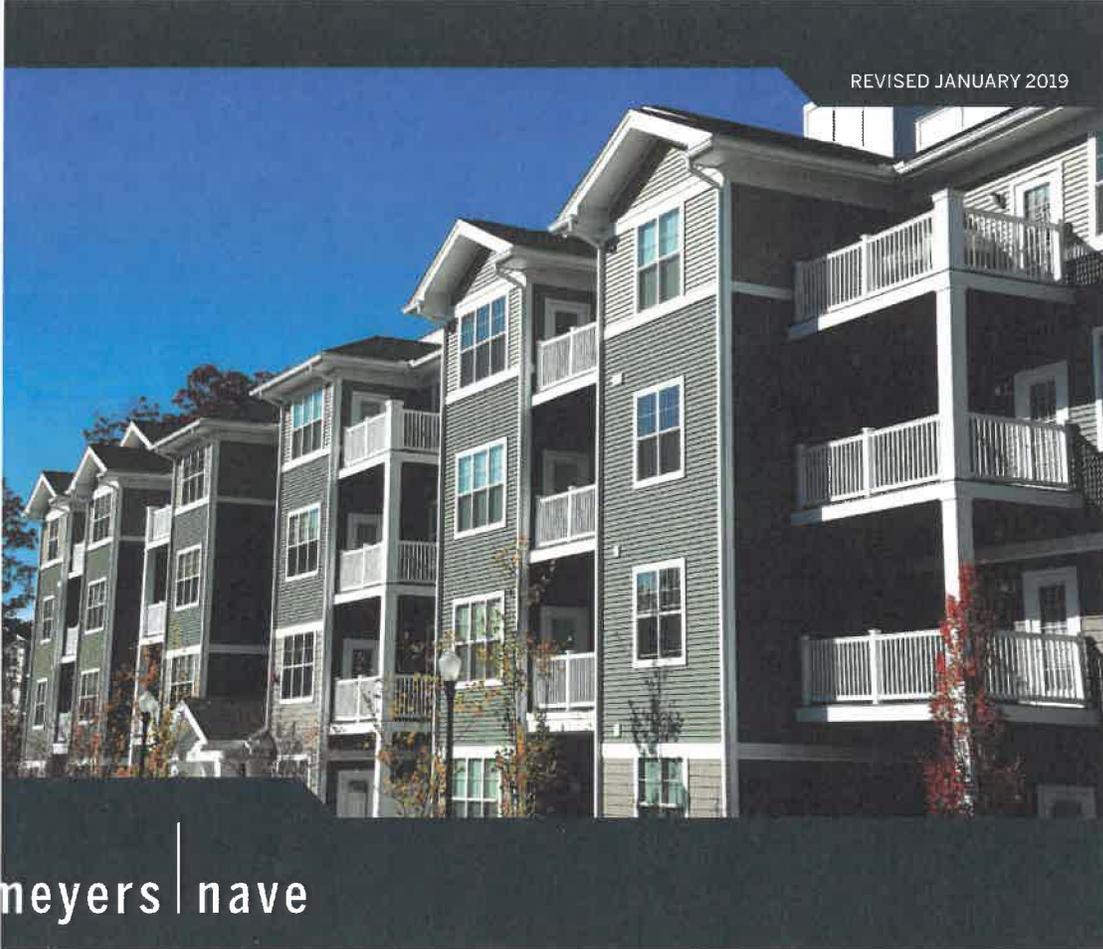
ATTEST:

Lucille L. Mallonee, City Clerk

Guide to the California Density Bonus Law

BY JON GOETZ AND TOM SAKAI

REVISED JANUARY 2019



meyers | nave

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Introduction and Overview

Savvy housing developers are taking advantage of California's Density Bonus Law, a mechanism which allows them to obtain more favorable local development requirements in exchange for offering to build or donate land for affordable or senior units. The Density Bonus Law (found in California Government Code Sections 65915 – 65918) provides developers with powerful tools to encourage the development of affordable and senior housing, including up to a 35% increase in project densities, depending on the amount of affordable housing provided. The Density Bonus Law is about more than the density bonus itself, however. It is actually a larger package of incentives intended to help make the development of affordable and senior housing economically feasible. Other tools include reduced parking requirements, and incentives and concessions such as reduced setback and minimum square footage requirements. Often these other tools are even more helpful to project economics than the density bonus itself, particularly the special parking benefits. Sometimes these incentives are sufficient to make the project pencil out, but for other projects financial assistance is necessary to make the project feasible.

In determining whether a development project would benefit from becoming a density bonus project, developers also need to be aware that:

- The Density Bonus is a state mandate. A developer who meets the requirements of the state law is entitled to receive the density bonus and other benefits as a matter of right. As with any state mandate, some local governments will resist complying with the state requirement. But many local governments favor the density bonus as a helpful tool to cut through their own land use requirements and local political issues.
- Use of a density bonus may be particularly helpful in those jurisdictions that impose inclusionary housing requirements for new developments.
- Special development bonuses are available for developers of commercial projects who partner with affordable housing developers to provide onsite or offsite affordable housing. Special bonuses are also available for condominium conversion projects and projects that include child care facilities.
- The Legislature has recently added density bonuses for housing developments for foster youth, disabled veterans, homeless persons and college students.

How the Density Bonus Works

PROJECTS ENTITLED TO A DENSITY BONUS

Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units are restricted to very low income residents.
- At least 10% of the housing units are restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents.
- At least 10% of the housing units are for transitional foster youth, disabled veterans or homeless persons, with rents restricted at the very low income level.
- At least 20% of the housing units are for low income college students in housing dedicated for full-time students at accredited colleges.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).
- The project is a mobilehome park age-restricted to senior citizens (no affordable units required).

DENSITY BONUS AMOUNT

The amount of the density bonus is set on a sliding scale, based upon the percentage of affordable units at each income level, as shown in the chart on the following page.



DENSITY BONUS CHART*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS	LAND DONATION DENSITY BONUS	SENIOR***	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	35%	23%	7%	17%	20%	20%	-
13%	35%	24.5%	8%	18%	20%	20%	-
14%	35%	26%	9%	19%	20%	20%	-
15%	35%	27.5%	10%	20%	20%	20%	-
16%	35%	27.5%	11%	21%	20%	20%	-
17%	35%	30.5%	12%	22%	20%	20%	-
18%	35%	32%	13%	23%	20%	20%	-
19%	35%	33.5%	14%	24%	20%	20%	-
20%	35%	35%	15%	25%	20%	20%	35%
21%	35%	35%	16%	26%	20%	20%	35%
22%	35%	35%	17%	27%	20%	20%	35%
23%	35%	35%	18%	28%	20%	20%	35%
24%	35%	35%	19%	29%	20%	20%	35%
25%	35%	35%	20%	30%	20%	20%	35%
26%	35%	35%	21%	31%	20%	20%	35%
27%	35%	35%	22%	32%	20%	20%	35%
28%	35%	35%	23%	33%	20%	20%	35%
29%	35%	35%	24%	34%	20%	20%	35%
30%	35%	35%	25%	35%	20%	20%	35%
31%	35%	35%	26%	35%	20%	20%	35%
32%	35%	35%	27%	35%	20%	20%	35%
33%	35%	35%	28%	35%	20%	20%	35%
34%	35%	35%	29%	35%	20%	20%	35%
35%	35%	35%	30%	35%	20%	20%	35%
36%	35%	35%	31%	35%	20%	20%	35%
37%	35%	35%	32%	35%	20%	20%	35%
38%	35%	35%	33%	35%	20%	20%	35%
39%	35%	35%	34%	35%	20%	20%	35%
40%	35%	35%	35%	35%	20%	20%	35%

*All density bonus calculations resulting in fractions are rounded up to the next whole number.

**Affordable unit percentage is calculated excluding units added by a density bonus.

***No affordable units are required for senior units.

REQUIRED INCENTIVES AND CONCESSIONS

In addition to the density bonus, the city or county is also required to provide one or more “incentives” or “concessions” to each project which qualifies for a density bonus (except that market rate senior citizen projects with no affordable units, and land donated for very low income housing, do not appear to be entitled to incentives or concessions). A concession or incentive is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions.

The number of required incentives or concessions is based on the percentage of affordable units in the project:

NO. OF INCENTIVES/ CONCESSIONS	VERY LOW INCOME PERCENTAGE	LOWER INCOME PERCENTAGE	MODERATE INCOME PERCENTAGE
1	5%	10%	10%
2	10%	20%	20%
3	15%	30%	30%

The city or county is required to grant the concession or incentive proposed by the developer unless it finds that the proposed concession or incentive does not result in identifiable and actual cost reductions, would cause a public health or safety problem, would cause an environmental problem, would harm historical property, or would be contrary to law. The Density Bonus Law restricts the types of information and reports that a developer may be required to provide to the local jurisdiction in order to obtain the requested incentive or concession. The local jurisdiction has the burden of proof in the event it declines to grant a requested incentive or concession. Financial incentives, fee waivers and reductions in dedication requirements may be, but are not required to be, provided by the city or county. The developer may be entitled to the incentives and concessions even without a request for a density bonus.

OTHER FORMS OF ASSISTANCE

A development qualifying for a density bonus also receives two additional forms of assistance which have important benefits for a housing project:

- **Waiver or Reduction of Development Standards.** If any other city or county development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced. The city or county is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The city or county is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. The waiver or reduction of a development standard does not count as an incentive or concession, and there is no limit on the number of development standard waivers that may be requested or granted. Development standards which have been waived or reduced utilizing this section include setback, lot coverage and open space requirements, and should apply to building height limits as well. This ability to force the locality to modify its normal development standards is sometimes the most compelling reason for the developer to structure a project to qualify for the density bonus.

- **Maximum Parking Requirements.** Upon the developer's request, the city or county may not require more than the following parking ratios for a density bonus project (inclusive of handicapped and guest parking):

Studio	1 space
1 Bedroom	1 space
2 Bedroom	2 spaces
3 Bedroom	2 spaces
4 Bedroom	2.5 spaces

- **Special Parking Requirements.** Lower parking ratios apply to specified projects (although local jurisdictions can require higher parking ratios if supported by a specified parking study):

Rental/sale projects with at least 11% very low income or 20% lower income units, within 1/2 mile of accessible major transit stop	0.5 spaces per bedroom
Rental projects 100% affordable to lower income, within 1/2 mile of accessible major transit stop	0.5 spaces per unit
Rental senior projects 100% affordable to lower income, with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0.5 spaces per unit
Rental special needs projects 100% affordable to lower income households, with paratransit service or within 1/2-half mile of accessible bus route (operating at least eight times per day)	0.3 spaces per unit

Onsite spaces may be provided through tandem or uncovered parking, but not onstreet parking. Requesting these parking standards does not count as an incentive or concession, but the developer may request further parking standard reductions as an incentive or concession. This is one of the most important benefits of the density bonus statute. In many cases, achieving a reduction in parking requirements may be more valuable than the additional permitted units. In higher density developments requiring the use of structured parking, the construction cost of structured parking is very expensive, costing upwards of \$20,000 per parking space. While this provision of the density bonus statute can be used to reduce excessive parking requirements, care must be taken not to impact the project's marketability by reducing parking to minimum requirements which lead to parking shortages.



AFFORDABLE HOUSING RESTRICTIONS

- **Rental Units.** Affordable rental units must be restricted by an agreement which sets maximum incomes and rents for those units. As of January 1, 2015, the income and rent restrictions must remain in place for a 55 year term for very low or lower income units (formerly only a 30 year term was required). Rents must be restricted as follows:
 - For very low income units, rents may not exceed 30% x 50% of the area median income for a household size suitable for the unit.

- For lower income units, rents may not exceed 30% x 60% of the area median income for a household size suitable for the unit.
- Area median income is determined annually by regulation of the California Department of Housing and Community Development, based upon median income regulations adopted by the U.S. Department of Housing and Urban Development.
- Rents must include a reasonable utility allowance.
- Household size appropriate to the unit means 1 for a studio unit, 2 for a one bedroom unit, 3 for a two bedroom unit, 4 for a three bedroom unit, etc.

In many cases, achieving a reduction in parking requirements may be more valuable than the additional permitted units.

- **For Sale Units.** Affordable for sale units must be sold to the initial buyer at an affordable housing cost. Housing related costs include mortgage loan payments, mortgage insurance payments, property taxes and assessments, homeowner association fees, reasonable utilities allowance, insurance premiums, maintenance costs, and space rent.
 - For very low income units, housing costs may not exceed 30% x 50% of the area median income for a household size suitable for the unit.
 - For lower income units, housing costs may not exceed 30% x 70% of the area median income for a household size suitable for the unit.
 - For moderate income units, housing costs may not exceed 35% x 110% of the area median income for a household size suitable for the unit.
 - Buyers must enter into an equity sharing agreement with the city or county, unless the equity sharing requirements conflict with the requirements of another public funding source or law. The equity sharing agreement does not restrict the resale price, but requires the original owner to pay the city or county a portion of any appreciation received on resale.
 - The city/county percentage of appreciation is the purchase price discount received by the original buyer, plus any down payment assistance provided by the city/county. (For example, if the original sales price is \$200,000, and the original fair market value is \$250,000, and there is no city/county down payment assistance, the city/county subsidy is \$50,000, and the city/county's share of appreciation is 20%).
 - The seller is permitted to retain its original down payment, the value of any improvements made to the home, and the remaining share of the appreciation.
 - The income and affordability requirements are not binding on resale purchasers (but if other public funding sources or programs are used, the requirements may apply to resales for a fixed number of years).



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LOCAL GOVERNMENT PROCESSING OF DENSITY BONUS APPLICATIONS

Under new legislation effective in 2019, local governments are now required to notify developers what information must be submitted for a complete density bonus application. Once a development application is determined to be complete, the local government must notify the developer the level of density bonus and parking ratio the development is eligible to receive. If the developer requests incentives, concessions, waivers or reductions of development standards, the local jurisdiction is required to notify the developer if it has submitted sufficient information necessary for the local government to make a determination on those issues.

HOW THE DENSITY BONUS WORKS FOR SENIOR PROJECTS

As shown in the Density Bonus Chart on page 4, a senior citizen housing development of at least 35 units meeting the requirements of Section 51.3 or 51.12 of the Civil Code qualifies for a 20% density bonus. This is a very desirable option for senior housing developments. In jurisdictions where the local ordinances do not reduce the parking requirements for senior housing developments, the reduced parking requirements alone may justify applying for a density bonus.

HOW THE DENSITY BONUS WORKS FOR STUDENT HOUSING PROJECTS

New legislation taking effect in 2019 requires cities and counties to grant a 35% density bonus for housing developments that will include at least 20% of the units for low income college students. The housing must be used exclusively for full-time students at accredited colleges, and must be subject to an operating agreement or master lease with one or more colleges. Unlike the maximum income requirements for other forms of affordable housing, resident income levels are determined through the student's eligibility for the state's Cal Grant financial aid program. Affordable rent levels are also specially tailored for a student population, with maximum rents established per bed for individual residents, rather than for the entire apartment unit. Homeless students receive priority for affordable units.

HOW THE DENSITY BONUS WORKS FOR COMMERCIAL PROJECTS

The Density Bonus Law requires that cities and counties provide a "development bonus" to commercial developers who partner with affordable housing developers for the construction of affordable housing on the commercial project site, or offsite within the jurisdiction located near schools, employment and a major transit stop. The commercial developer may participate through the donation of land or funds for the affordable housing, or direct construction of the housing units. The partnership between the commercial developer and the affordable developer can occur through a newly formed legal entity such as a corporation, LLC or partnership, or can take the shape of a contractual agreement between the parties. To be eligible for the development bonus, at least 30% of the housing units must be restricted to lower income residents or 15% of the housing units must be restricted to very low income residents. Unlike the primary Density Bonus Law, there is no fixed amount of increased density awarded to the developer. Instead, the development bonus can be any mutually agreeable incentive, including up to a 20% increase in development intensity, floor area ratio, or height limits, up to a 20% reduction in parking requirements, use of a limited use elevator, or an exception to a zoning ordinance or land use requirement. Commercial developers who need extra leverage to obtain more favorable development standards for their project may want to consider providing affordable housing in order to take advantage of the benefits of the development bonus.

HOW THE DENSITY BONUS WORKS FOR CONDOMINIUM CONVERSION PROJECTS

The density bonus statute provides for a density bonus of up to 25% for condominium conversion projects providing at least 33% for the total units to low or moderate income households or 15% of the units to lower income households. Many condominium conversion projects are not designed in a manner that allows them to take advantage of the opportunity to construct additional units, but some projects may find this helpful.

HOW THE DENSITY BONUS WORKS FOR CHILD CARE

Housing projects that provide child care are eligible for a separate density bonus equal to the size of the child care facility. The child care facility must remain in operation for at least the length of the affordability covenants. A percentage of the child care spaces must also be made available to low and moderate income families. A separate statute permits cities and counties to grant density bonuses to commercial and industrial projects of at least 50,000 square feet, when the developer sets aside at least 2,000 square feet in the building and 3,000 square feet of outside space for a child care facility.

HOW TO OBTAIN A DENSITY BONUS THROUGH LAND DONATION

Many market rate housing developers are uncomfortable with building and marketing affordable units themselves, whether due to their lack of experience with the affordable housing process or because of their desire to concentrate on their core market rate homes. Other developers may have sites that are underutilized in terms of project density. The Density Bonus Law contains a special sliding scale bonus for land donation which allows those developers to turn over the actual development of the affordable units to local agencies or experienced low income developers. The density bonus is available for the donation of at least an acre of fully entitled land, with all needed public facilities and infrastructure, and large enough for the construction of a high density very low income project containing 10% of the total homes in the development. The parcel must be located within the boundary of the proposed development or, subject to the approval of the jurisdiction, within one-fourth mile of the boundary of the proposed development. The more units that can be built on the donated land, the larger the density bonus. Because of the parcel size requirements, this option is only practical for larger developments. The land donation density bonus can be combined with the regular density bonus provided for the development of affordable units, up to a maximum 35% density bonus. A master planned community developer needs to carefully evaluate the land donation option as opposed to engaging an affordable housing developer to fulfill the project's affordable housing obligations. In many cases the master developer will prefer to control the affordable component of the project through a direct agreement with the affordable housing developer, rather than allowing the local government to control the project.

FLOOR AREA RATIO BONUSES

Under new legislation effective in 2019, a local jurisdiction is permitted to grant a floor area ratio bonus rather than a traditional density bonus to certain high density affordable housing projects adjacent to public transit. Eligible projects are also entitled to special parking ratios of one-tenth of a parking space per affordable unit and one-half space per market rate unit. To be eligible for the floor area ratio bonus, the project must restrict at least 20 percent of the units to very low income tenants, must be located within a transit priority area or near a major transit stop, and must be in compliance with local height limits.

How the Density Bonus Can Help in a Friendly Jurisdiction

While the Density Bonus Law is often used by developers to obtain more housing than the local jurisdiction would ordinarily permit, it can also be a helpful land use tool in jurisdictions which favor the proposed project and want to provide support. Planners in many cities and counties may be disposed by personal ideology or local policy to encourage the construction of higher density housing and mixed use developments near transit stops and downtown areas, but are hampered by existing general plan standards and zoning from approving these sorts of projects. Elected officials often support these projects too, but may find it politically difficult to oppose neighborhood and environmental groups over the necessary general plan amendments, zoning changes and CEQA approvals.

The density bonus can provide a useful mechanism for increasing allowable density without requiring local officials to approve general plan amendments and zoning changes. A project that satisfies the requirements of the Density Bonus Law often can obtain the necessary land use approvals through the

award of the density bonus units and requested concessions and incentives, without having to amend the underlying land use requirements. Friendly local officials may encourage the use of the density bonus to “force” the jurisdiction to approve a desired project.

How the Density Bonus Law Can Help in a Hostile Jurisdiction

It is important to know that the density bonus is a state law requirement which is mandatory on cities and counties, even charter cities which are free from many other state requirements. A developer who meets the law’s requirements for affordable or senior units is entitled to the density bonus and other assistance as of right, regardless of the locality’s desires (subject to limited health and safety exceptions). The density bonus statute can be used to achieve reductions in development standards or the granting of concessions or incentives from jurisdictions that otherwise would not be inclined to grant those items. Examples might include a reduction in parking standards if those standards are deemed excessive by the developer, or other reductions in development standards if needed to achieve the total density permitted by the density bonus.

Developers who nonetheless encounter hostility from local jurisdictions are provided several tools to ensure that a required density bonus is actually granted. Developers are entitled to an informal meeting with a local jurisdiction which fails to modify a requested development standard. If a developer successfully sues the locality to enforce the density bonus requirements, it is entitled to an award of its attorneys’ fees. The obligation to pay a developer’s attorneys’ fees is a powerful incentive for local jurisdictions to voluntarily comply with the state law density bonus requirements, even when the jurisdiction is not in favor of its effects on the project.



CEQA Issues in Density Bonus Projects

Although there is no specific density bonus exemption from the California Environmental Quality Act, many density bonus projects are likely candidates for urban infill and affordable housing exemptions from CEQA. One commonly invoked exemption is the Class 32 urban infill exemption found in CEQA Guidelines Section 15332. That exemption is available if the project is consistent with applicable general plan designation and zoning, the site is five acres or less and surrounded by urban uses, is not habitat for endangered, rare or threatened species, does not have any significant effects relating to traffic, noise, air quality or water quality, and is adequately served by utilities and public services. Other exemptions are available for high density housing projects near major transit stops (CEQA Guidelines Section 15195) and affordable housing projects of up to 100 units (CEQA Guidelines Section 15194).

A 2011 case, *Wollmer v. City of Berkeley*, clarified the use of the CEQA infill exemption for density bonus projects. In that case, an opponent of a Berkeley density bonus project challenged the City's use of the urban infill exemption on the grounds that the City's modifications and waivers of development standards, as required under the Density Bonus Law, meant that the project was not consistent with existing zoning. The court rejected that argument, finding that the modifications required by the Density Bonus Law did not disqualify the project from claiming the exemption.

Not all density bonus projects will qualify for one of these CEQA exemptions, however. Sometimes the additional density provided to non-exempt projects may bring the project out of the coverage of an existing CEQA approval for a general plan, specific plan or other larger project. For instance, if a previously approved environmental impact report analyzed a 100 unit project as the largest allowed under existing zoning, but the developer is able to qualify for 120 units with a density bonus, the existing EIR may not cover the larger project. The larger density bonus project may require additional CEQA analysis for approval.

Using the Density Bonus to Satisfy Inclusionary Housing Requirements

Many of California's cities and counties have adopted inclusionary housing ordinances, which typically require that a specified percentage of units in a new housing development be restricted as affordable units. The inclusionary requirements significantly reduce income from rental units and sales prices of for-sale homes. In today's tight housing market, compliance with local inclusionary requirements may make many projects economically infeasible. The density bonus provides one method for developers to improve the economics of their project while still complying with the inclusionary A 2013 case, *Latinos Unidos del Valle de Napa y Solano v. County of Napa*, held that inclusionary units qualify housing requirements as affordable units for purposes of the Density Bonus Law. The case confirmed that the density bonus is a financial tool available to help developers achieve city and county inclusionary housing requirements.

Density Bonus and Replacement Housing

Developers obtaining a density bonus are required to replace existing units which were previously occupied by very low or lower income households or subject to rent control, when those units have been demolished or vacated prior to the density bonus application. The housing development must also meet the applicable affordable housing standards, including the replacement units. As a result of uncertainty about how to apply these standards when the income levels of prior residents is unknown. The Density Bonus Law establishes a rebuttable presumption for the income level of the replacement unit when the income level of the actual prior resident is unknown.

Density Bonus in the Coastal Zone

When affordable housing is proposed in the coastal zone, the Density Bonus Law's focus on encouraging the development of affordable housing could clash with the California Coastal Act's focus on environmental protection. Legislation effective in 2019 now requires the density bonus to be administered in the Coastal

Zone in a manner that is consistent and harmonized with the California Coastal Act. This legislation overturns a 2016 appellate court ruling, *Kalnel Gardens, LLC v. City of Los Angeles*, which found that a proposed housing project that violates the Coastal Act as a result of a density bonus could be denied on that basis. The court in *Kalnel Gardens* held that the Density Bonus Law is subordinate to the Coastal Act, but the new language attempts to strike a balance between the state goals of promoting housing and protecting the coast.

Density Bonus – A Flexible Tool

The Density Bonus Law can be a powerful tool for different types of development projects, whether they are traditional affordable housing projects, predominantly market rate housing developments, or senior projects. Obtaining greater density can help the developer of any project bring costs and financing sources into line by putting more homes on the land, reducing the per unit land costs. Use of the favorable parking requirements can reduce the amount of costly land needed for parking. The incentives and concessions to be provided by the local government can provide a helpful way to modify development requirements which may stand in the way of a successful project. Of course there is a price to pay for these benefits—the affordable units needed to earn the density bonus. Developers need to make a cost-benefit determination whether the cost of compliance is worth the benefits. But the Density Bonus Law is unquestionably a useful option for housing developers trying to make financial sense of projects in today's economy.

Density Bonus Statutes
Government Code Sections 65915 – 65918.
Effective as of January 1, 2019

65915. (a) (1) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall comply with this section. A city, county, or city and county shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(2) A local government shall not condition the submission, review, or approval of an application pursuant to this chapter on the preparation of an additional report or study that is not otherwise required by state law, including this section. This subdivision does not prohibit a local government from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p).

(3) In order to provide for the expeditious processing of a density bonus application, the local government shall do all of the following:

(A) Adopt procedures and timelines for processing a density bonus application.

(B) Provide a list of all documents and information required to be submitted with the density bonus application in order for the density bonus application to be deemed complete. This list shall be consistent with this chapter.

(C) Notify the applicant for a density bonus whether the application is complete in a manner consistent with the timelines specified in Section 65943.

(D) (i) If the local government notifies the applicant that the application is deemed complete pursuant to subparagraph (C), provide the applicant with a determination as to the following matters:

(I) The amount of density bonus, calculated pursuant to subdivision (f), for which the applicant is eligible.

(II) If the applicant requests a parking ratio pursuant to subdivision (p), the parking ratio for which the applicant is eligible.

(III) If the applicant requests incentives or concessions pursuant to subdivision (d) or waivers or reductions of

development standards pursuant to subdivision (e), whether the applicant has provided adequate information for the local government to make a determination as to those incentives, concessions, or waivers or reductions of development standards.

(ii) Any determination required by this subparagraph shall be based on the development project at the time the application is deemed complete. The local government shall adjust the amount of density bonus and parking ratios awarded pursuant to this section based on any changes to the project during the course of development.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and, if requested by the applicant and consistent with the applicable requirements of this section, incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development, as defined in Section 4100 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(E) Ten percent of the total units of a housing development for transitional foster youth, as defined in Section 66025.9 of the Education Code, disabled veterans, as defined in Section 18541, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years and shall be provided at the same affordability level as very low income units.

(F) (i) Twenty percent of the total units for lower income students in a student housing development that meets the following requirements:

(I) All units in the student housing development will be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. In order to be eligible under this subclause, the developer shall, as a condition of receiving a certificate of occupancy, provide evidence to the city, county, or city or county that the developer has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing development with students from that institution or institutions. An operating agreement or master lease entered into pursuant to this subclause is not violated or breached if, in any subsequent year, there are not sufficient students enrolled in an institution of higher education to fill all units in the student housing development.

(II) The applicable 20-percent units will be used for lower income students. For purposes of this clause, "lower income students" means students who have a household income and asset level that does not exceed the level for Cal Grant A or Cal Grant B award recipients as set forth in paragraph (1) of subdivision (k) of Section 69432.7 of the Education Code. The eligibility of a student under this clause shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, as described in subclause (I), or by the California Student Aid Commission that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government shall be sufficient to satisfy this subclause.

(III) The rent provided in the applicable units of the development for lower income students shall be calculated at 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

(IV) The development will provide priority for the applicable affordable units for lower income students experiencing homelessness. A homeless service provider, as defined in paragraph (3) of subdivision (d) of Section 103577 of the Health and Safety Code, or institution of higher education that has knowledge of a person's homeless status may verify a person's status as homeless for purposes of this subclause.

(ii) For purposes of calculating a density bonus granted pursuant to this subparagraph, the term "unit" as used in this section means one rental bed and its pro rata

share of associated common area facilities. The units described in this subparagraph shall be subject to a recorded affordability restriction of 55 years.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), an applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1).

(3) For the purposes of this section, "total units," "total dwelling units," or "total rental beds" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market

value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be

rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall

be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons

and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(4) The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the

plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE VERY LOW-INCOME UNITS	PERCENTAGE DENSITY BONUS
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

(3) (A) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(B) For housing developments meeting the criteria of subparagraph (E) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that subparagraph.

(C) For housing developments meeting the criteria of subparagraph (F) of paragraph (1) of subdivision (b), the density bonus shall be 35 percent of the student housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

PERCENTAGE MODERATE-INCOME UNITS	PERCENTAGE DENSITY BONUS
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20

26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

26	31
27	32
28	33
29	34
30	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not require, or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

PERCENTAGE VERY LOW-INCOME	PERCENTAGE DENSITY BONUS
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

(E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on

the property at the time of the transfer.

(F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.

(h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means

a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(j) "Housing development," as used in this section, means a development project for five or more residential units, including mixed-use developments. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not require or be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, study, or other discretionary approval. For purposes of this subdivision, "study" does not include reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k). This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not require or be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and

Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division 20 (commencing with Section 30000) of the Public Resources Code.

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land

use element of the general plan, or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Except as provided in paragraphs (2) and (3) upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low-income or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower income families, as provided in Section 50052.5 of the Health and Safety Code, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds the following ratios:

(A) If the development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, the ratio shall not exceed 0.5 spaces per unit.

(B) If the development is a for-rent housing development for individuals who are 62 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed 0.5 spaces

per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) If the development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code, the ratio shall not exceed 0.3 spaces per unit. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

(7) Notwithstanding paragraphs (2) and (3), if a city, county, city and county, or an independent consultant has conducted an areawide or jurisdictionwide parking study in the last seven years, then the city, county, or city and county may impose a higher vehicular parking ratio not to exceed the ratio described in paragraph (1), based upon substantial evidence found in the parking study, that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low-income and very low income individuals, including seniors and special needs individuals. The city, county, or city and county shall pay the costs of any new study. The city, county, or city and county shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.

(8) A request pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(q) Each component of any density calculation, including base density and bonus density, resulting in

fractional units shall be separately rounded up to the next whole number. The Legislature finds and declares that this provision is declaratory of existing law.

(r) This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units.

65915.5.

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal

to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

65915.7.

(a) When an applicant for approval of a commercial development has entered into an agreement for partnered housing described in subdivision (c) to contribute affordable housing through a joint project or two separate projects encompassing affordable housing, the city, county, or city and county shall grant to the commercial developer a development bonus as prescribed in subdivision (b). Housing shall be constructed on the site of the commercial development or on a site that is all of the following:

- (1) Within the boundaries of the local government.
- (2) In close proximity to public amenities including schools and employment centers.
- (3) Located within one-half mile of a major transit stop,

as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(b) The development bonus granted to the commercial developer shall mean incentives, mutually agreed upon by the developer and the jurisdiction, that may include, but are not limited to, any of the following:

(1) Up to a 20-percent increase in maximum allowable intensity in the General Plan.

(2) Up to a 20-percent increase in maximum allowable floor area ratio.

(3) Up to a 20-percent increase in maximum height requirements.

(4) Up to a 20-percent reduction in minimum parking requirements.

(5) Use of a limited-use/limited-application elevator for upper floor accessibility.

(6) An exception to a zoning ordinance or other land use regulation.

(c) For the purposes of this section, the agreement for partnered housing shall be between the commercial developer and the housing developer, shall identify how the commercial developer will contribute affordable housing, and shall be approved by the city, county, or city and county.

(d) For the purposes of this section, affordable housing may be contributed by the commercial developer in one of the following manners:

(1) The commercial developer may directly build the units.

(2) The commercial developer may donate a portion of the site or property elsewhere to the affordable housing developer for use as a site for affordable housing.

(3) The commercial developer may make a cash payment to the affordable housing developer that shall be used towards the costs of constructing the affordable housing project.

(e) For the purposes of this section, subparagraph (A) of paragraph (3) of subdivision (c) of Section 65915 shall apply.

(f) Nothing in this section shall preclude any additional allowances or incentives offered to developers by local governments pursuant to law or regulation.

(g) If the developer of the affordable units does not commence with construction of those units in accordance with timelines ascribed by the agreement

described in subdivision (c), the local government may withhold certificates of occupancy for the commercial development under construction until the developer has completed construction of the affordable units.

(h) In order to qualify for a development bonus under this section, a commercial developer shall partner with a housing developer that provides at least 30 percent of the total units for low-income households or at least 15 percent of the total units for very low-income households.

(i) Nothing in this section shall preclude an affordable housing developer from seeking a density bonus, concessions or incentives, waivers or reductions of development standards, or parking ratios under Section 65915.

(j) A development bonus pursuant to this section shall not include a reduction or waiver of the requirements within an ordinance that requires the payment of a fee by a commercial developer for the promotion or provision of affordable housing.

(k) A city or county shall submit to the Department of Housing and Community Development, as part of the annual report required by Section 65400, information describing a commercial development bonus approved pursuant to this section, including the terms of the agreements between the commercial developer and the affordable housing developer, and the developers and the local jurisdiction, and the number of affordable units constructed as part of the agreements.

(l) For purposes of this section, "partner" shall mean formation of a partnership, limited liability company, corporation, or other entity recognized by the state in which the commercial development applicant and the affordable housing developer are each partners, members, shareholders or other participants, or a contract or agreement between a commercial development applicant and affordable housing developer for the development of both the commercial and the affordable housing properties.

(m) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

65916.

Where there is a direct financial contribution to a housing development pursuant to Section 65915 through participation in cost of infrastructure, write-down of land costs, or subsidizing the cost of construction, the city, county, or city and county shall assure continued availability for low- and moderate-income units for 30 years. When appropriate, the agreement provided for in Section 65915 shall specify the mechanisms and procedures necessary to carry out this section.

65917.

In enacting this chapter it is the intent of the Legislature that the density bonus or other incentives offered by the city, county, or city and county pursuant to this chapter shall contribute significantly to the economic feasibility of lower income housing in proposed housing developments. In the absence of an agreement by a developer in accordance with Section 65915, a locality shall not offer a density bonus or any other incentive that would undermine the intent of this chapter.

65917.2.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Eligible housing development" means a development that satisfies all of the following criteria:

(A) The development is a multifamily housing development that contains five or more residential units, exclusive of any other floor area ratio bonus or incentive or concession awarded pursuant to this chapter.

(B) The development is located within one of the following:

(i) An urban infill site that is within a transit priority area.

(ii) One-half mile of a major transit stop.

(C) The site of the development is zoned to allow residential use or mixed-use with a minimum planned density of at least 20 dwelling units per acre and does not include any land zoned for low density residential use or for exclusive nonresidential use.

(D) The applicant and the development satisfy the replacement requirements specified in subdivision (c) of Section 65915.

(E) The development includes at least 20 percent of the units, excluding any additional units allowed under a floor area ratio bonus or other incentives or concessions provided pursuant to this chapter, with an affordable housing cost or affordable rent to, and occupied by, persons with a household income equal to or less than 50 percent of the area median income, as determined pursuant to Section 50093 of the Health and Safety Code, and subject to an affordability restriction for a minimum of 55 years.

(F) The development complies with the height requirements applicable to the underlying zone. A development shall not be eligible to use a floor area ratio bonus or other incentives or concessions provided pur-

suant to this chapter to relieve the development from a maximum height limitation.

(2) "Floor area ratio" means the ratio of gross building area of the eligible housing development, excluding structured parking areas, proposed for the project divided by the net lot area. For purposes of this paragraph, "gross building area" means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

(3) "Floor area ratio bonus" means an allowance for an eligible housing development to utilize a floor area ratio over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city or county, calculated pursuant to paragraph (2) of subdivision (b).

(4) "Major transit stop" has the same meaning as defined in Section 21155 of the Public Resources Code.

(5) "Transit priority area" has the same meaning as defined in Section 21099 of the Public Resources Code.

(b) (1) A city council, including a charter city council or the board of supervisors of a city and county, or county board of supervisors may establish a procedure by ordinance to grant a developer of an eligible housing development, upon the request of the developer, a floor area ratio bonus, calculated as provided in paragraph (2), in lieu of a density bonus awarded on the basis of dwelling units per acre.

(2) In calculating the floor area ratio bonus pursuant to this section, the allowable gross residential floor area in square feet shall be the product of all of the following amounts:

(A) The allowable residential base density in dwelling units per acre.

(B) The site area in square feet, divided by 43,560.

(C) 2,250.

(c) The city council or county board of supervisors shall not impose any parking requirement on an eligible housing development in excess of 0.1 parking spaces per unit that is affordable to persons and families with a household income equal to or less than 120 percent of the area median income and 0.5 parking spaces per unit that is offered at market rate.

(d) A city or county that adopts a floor area ratio bonus ordinance pursuant to this section shall allow an applicant seeking to develop an eligible residential development to calculate impact fees based on square feet, instead of on a per unit basis.

(e) In the case of an eligible housing development that is zoned for mixed-use purposes, any floor area ratio requirement under a zoning ordinance or land use element of the general plan of the city or county applicable to the nonresidential portion of the eligible housing development shall continue to apply notwithstanding the award of a floor area ratio bonus in accordance with this section.

(f) An applicant for a floor area ratio bonus pursuant to this section may also submit to the city, county, or city and county a proposal for specific incentives or concessions pursuant to subdivision (d) of Section 65915.

(g) (1) This section shall not be interpreted to do either of the following:

(A) Supersede or preempt any other section within this chapter.

(B) Prohibit a city, county, or city and county from providing a floor area ratio bonus under terms that are different from those set forth in this section.

(2) The adoption of an ordinance pursuant to this section shall not be interpreted to relieve a city, county, or city and county from complying with Section 65915.

65917.5.

(a) As used in this section, the following terms shall have the following meanings:

(1) "Child care facility" means a facility installed, operated, and maintained under this section for the nonresidential care of children as defined under applicable state licensing requirements for the facility.

(2) "Density bonus" means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of a city, including a charter city, city and county, or county of:

(A) A maximum of five square feet of floor area for each one square foot of floor area contained in the child care facility for existing structures.

(B) A maximum of 10 square feet of floor area for each one square foot of floor area contained in the child care facility for new structures. For purposes of calculating the density bonus under this section, both indoor and outdoor square footage requirements for the child care facility as set forth in applicable state child care licensing requirements shall be included in the floor area of the child care facility.

(3) "Developer" means the owner or other person, including a lessee, having the right under the applicable

zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors to make an application for development approvals for the development or redevelopment of a commercial or industrial project.

(4) "Floor area" means as to a commercial or industrial project, the floor area as calculated under the applicable zoning ordinance of a city council, including a charter city council, city and county board of supervisors, or county board of supervisors and as to a child care facility, the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.

(b) A city council, including a charter city council, city and county board of supervisors, or county board of supervisors may establish a procedure by ordinance to grant a developer of a commercial or industrial project, containing at least 50,000 square feet of floor area, a density bonus when that developer has set aside at least 2,000 square feet of floor area and 3,000 outdoor square feet to be used for a child care facility. The granting of a bonus shall not preclude a city council, including a charter city council, city and county board of supervisors, or county board of supervisors from imposing necessary conditions on the project or on the additional square footage. Projects constructed under this section shall conform to height, setback, lot coverage, architectural review, site plan review, fees, charges, and other health, safety, and zoning requirements generally applicable to construction in the zone in which the property is located. A consortium with more than one developer may be permitted to achieve the threshold amount for the available density bonus with each developer's density bonus equal to the percentage participation of the developer. This facility may be located on the project site or may be located offsite as agreed upon by the developer and local agency. If the child care facility is not located on the site of the project, the local agency shall determine whether the location of the child care facility is appropriate and whether it conforms with the intent of this section. The child care facility shall be of a size to comply with all state licensing requirements in order to accommodate at least 40 children.

(c) The developer may operate the child care facility itself or may contract with a licensed child care provider to operate the facility. In all cases, the developer shall show ongoing coordination with a local child care resource and referral network or local governmental child care coordinator in order to qualify for the density bonus.

(d) If the developer uses space allocated for child care facility purposes, in accordance with subdivision (b), for purposes other than for a child care facility, an assessment based on the square footage of the

project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. If the developer fails to have the space allocated for the child care facility within three years, from the date upon which the first temporary certificate of occupancy is granted, an assessment based on the square footage of the project may be levied and collected by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors in accordance with procedures to be developed by the legislative body of the city council, including a charter city council, city and county board of supervisors, or county board of supervisors. The assessment shall be consistent with the market value of the space. A penalty levied against a consortium of developers shall be charged to each developer in an amount equal to the developer's percentage square feet participation. Funds collected pursuant to this subdivision shall be deposited by the city council, including a charter city council, city and county board of supervisors, or county board of supervisors into a special account to be used for child care services or child care facilities.

(e) Once the child care facility has been established, prior to the closure, change in use, or reduction in the physical size of, the facility, the city, city council, including a charter city council, city and county board of supervisors, or county board of supervisors shall be required to make a finding that the need for child care is no longer present, or is not present to the same degree as it was at the time the facility was established.

(f) The requirements of Chapter 5 (commencing with Section 66000) and of the amendments made to Sections 53077, 54997, and 54998 by Chapter 1002 of the Statutes of 1987 shall not apply to actions taken in accordance with this section.

(g) This section shall not apply to a voter-approved ordinance adopted by referendum or initiative.

65918.

The provisions of this chapter shall apply to charter cities.



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: September 20, 2019

Regarding: Notice of Public Hearing

Proposal: Density Bonus Ordinance

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider an Ordinance to amend and restate Article 34, Chapter 3 of Title 9 of the Los Banos Municipal Code regarding Density Bonuses and other affordable housing development incentives.

The Los Banos Planning Commission held a public hearing on September 11, 2019 for the purpose of considering the above mentioned project. At the completion of the public hearing, the Planning Commission duly considered all evidence presented and recommended adoption of the ordinance specified above.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos City Council on Wednesday, October 2, 2019 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Community and Economic Development Director, at City Hall or at (209) 827-2433.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Ordinance in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing per Government Code Section 65009.

Additional information may be obtained from Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Stacy Souza Elms
Community and Economic Development Director



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta & City Council Members

FROM: Stacy Souza Elms, Community and Economic Development Director
William A. Vaughn, City Attorney

SE

DATE: October 2, 2019

SUBJECT: Amendment Planning Commission Ordinance

TYPE OF REPORT: Regular Agenda

Recommendation:

Staff recommends that the City Council waive the first reading and introduce the Ordinance by title.

**AN ORDINANCE OF THE CITY OF LOS BANOS AMENDING TITLE 2
CHAPTER 2 ARTICLE 2 OF THE LOS BANOS MUNICIPAL CODE TO
CREATE PLANNING COMMISSION DISTRICTS; AMEND THE
NUMBER OF MEMBERS AND MANNER OF APPOINTMENT; LENGTH
OF TERMS; AND ABSENCES E LOS BANOS MUNICIPAL CODE
RELATING TO BUSINESS LICENSES**

Background:

At the City Council meeting on September 4, 2019, the City Council asked staff to bring back an ordinances that would (a) decrease the number of Planning Commissioners from seven (7) to five (5), and change the method of selection of Planning Commissioners to one (1) member from each electoral district of the City and one (1) at-large member, and strengthen the current process concerning commissioner absences.

Discussion:

The Planning Commission currently consists of seven members (7) members, appointed by the Mayor and confirmed by a majority vote of the entire City Council. The proposed ordinance (Attachment 1) decreases the Planning Commission to five (5) members and provides that there will be one Planning Commissioner for each electoral district of the City and one at-large member. Currently the City Council has a policy to have at least one member from all four (4) electoral districts. (Attachment 2).

Selection of district Commissioners. Pursuant to the proposed ordinance, the Council Member for each electoral district with the Mayor and the Community and Economic Development Director will form an ad hoc committee to interview the applicants for nomination and confirmation to the entire City Council. All appointments will be subject to approval of a majority vote of the entire City Council

Selection of at large Commissioner. Pursuant to the proposed ordinance, the Mayor with the mayor Pro Tem and the Community and Economic Development Director will form an ad hoc committee to interview the applicants for nomination and confirmation to the entire City Council. All appointments will be subject to approval of a majority vote of the entire City Council

Terms. Pursuant to the proposed ordinance, the terms of Planning Commissioners will expire shortly after the terms of their appointing Council Members or the Mayor (December 31st. such that, following each election, the newly elected Council Members and Mayor may nominate the Planning Commissioner for their districts and the at-large seat. This would make the at-large seat a two year term while the other seats would be for four years.

Current Planning Commissioners, district of residence, and term is set forth below:

NAME	TERM ENDING	DISTRICT
John Cates	12/31/2019	3
Thomas Higby	12/31/2019	1
David Dees	12/31/2020	3
Mona Guilliani	12/31/2020	2
Susie Toscano	12/31/2020	3

Current election cycle for the Mayor and city council districts is set forth below:

ELECTION 2020

Mayor Villalta	12/31/2020	At Large
Ms. Johnson-Santos	12/31/2020	1
Ms. Lewis	12/31/2020	4

ELECTION 2022

Mayor Villalta	12/31/2022	At Large
Mr. Jones	12/31/2022	3
Mr. Faria	12/31/2022	2

In order to implement the proposed Ordinance without displacing a current commissioner and to match the terms of the at large commissioner with the term of mayor and the terms of the district commissioners with the terms of the respective district council persons the proposed Ordinance provides as follows:

The term of a planning commission member holding office on the effective date of this Ordinance shall expire on December 31st of the second year of his or her respective term. For the current terms expiring on December 31, 2019 shall be extended for one (1) year to expire on December 31, 2020. Commencing January 1, 2021 Planning Commission Districts 1 and 4 seats shall be filled by a resident from the respective District for a four (4) year term; Planning Commission Districts 2 and 3 seats shall be filled by a resident from the respective District for a two (2) year term; and the at large seat shall be filled by a resident of the City for a two (2) year term. Commencing January 1, 2023 the planning commission seats shall be filled in accordance with this Ordinance.

Absences. The proposed Ordinance provides that three consecutive absences or four absences within a 12 month period will be deemed an automatic resignation resulting in a vacancy.

Reviewed by:



Alex Terrazas, City Manager

Attachments:

1. Proposed Ordinance
2. Current Ordinance

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF LOS BANOS AMENDING TITLE 2
CHAPTER 2 ARTICLE 2 OF THE LOS BANOS MUNICIPAL CODE TO
CREATE PLANNING COMMISSION DISTRICTS; AMEND THE
NUMBER OF MEMBERS AND MANNER OF APPOINTMENT; LENGTH
OF TERMS; AND ABSENCES**

The City Council of the City of Los Banos does ordain as follows:

Section 1. Section 2-2.203 of the Code is amended to read as follows:

**Sec. 2-2.203. Members: Creation of Planning Commission districts;
Appointment and qualifications.**

(a) The boundaries of the Planning Commission districts shall be congruent with the boundaries of the electoral districts of the City Council as identified in Section 2-1.102. The Planning Commission districts shall use the same numerical designations as the electoral districts of the City Council.

(b) The Planning Commission shall consist of five (5) commissioners, four (4) of whom shall be appointed from each of the four (4) Planning Commission districts and one (1) who shall be appointed at large. All Commissioners shall be voting members of the Planning Commission. No Commissioner shall be a member of the City Council.

(c) The Mayor, with the approval of the City Council, shall appoint the at-large Planning Commissioner as follows:

(1) The at-large Planning Commissioner position shall be advertised, seeking volunteers willing and desiring to be appointed to the Planning Commission. Any person seeking to be so appointed must complete and submit the City volunteer application, together with any other information requested by the Mayor. All such applications shall be provided to the City Council for review.

(2) The Mayor, the Mayor Pro Tem, and the Community and Economic Development Director shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for nomination by the Mayor to the City Council.

(3) The Mayor shall, at a regularly scheduled City Council meeting, nominate, from among such applicants, the person whom the Mayor desires to appoint to the Planning Commission.

(4) If the nomination by the Mayor is approved by a majority vote of the City Council, the Mayor may then proceed to appoint the person to the Planning Commission.

(5) If the nomination by the Mayor is not approved by a majority vote of the City Council, the Mayor shall nominate a different candidate until someone is approved by majority vote of the City Council.

(d) The Mayor, with the approval of the City Council, shall appoint each of the district Planning Commissioners as follows:

(1) The district Planning Commissioner position shall be advertised, seeking volunteers willing and desiring to be appointed to the Planning Commission. Any person seeking to be so appointed must complete and submit the City volunteer application, together with any other information requested by the Mayor. All such applications shall be provided to the City Council for review.

(2) The Mayor, the City Councilmember from the corresponding district, and the Community and Economic Development Director shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for nomination by the Mayor to the City Council.

(3) The Mayor shall, at a regularly scheduled City Council meeting, nominate, from among such applicants, the person whom the Mayor desires to appoint to the Planning Commission.

(4) If the nomination by the Mayor is approved by a majority vote of the City Council, the Mayor may then proceed to appoint the person to the Planning Commission.

(5) If the nomination by the Mayor is not approved by a majority vote of the City Council, the Mayor shall nominate a different candidate until someone is approved by majority vote of the City Council.

Section 2. Section 2-2.204 of the Code is amended to read as follows:

Sec. 2-2.204 Members: Terms.

(a) Each district Planning Commissioner shall serve a term of four (4) years. Terms of office shall be the same as the term of office for the corresponding district Council Member. The district Planning Commissioner's term of office shall expire on December 31st of the fourth year of his or her respective term.

(b) The at-large Planning Commissioner shall serve a term of two (2) years. The term of office shall be the same as the term of office for the Mayor. The at-large Planning Commissioner's term of office shall expire on December 31st of the second year of his or her term.

(c) Notwithstanding the foregoing, all Planning Commissioners will hold office until their successors are qualified and take office.

(d) All vacancies will be filled in accordance with Section 2-2.203 to fill the unexpired term of the vacated seat.

Section 3. Section 2-2.205 of the Code is amended to read as follows:

Sec. 2-2.205 Members: Qualifications: Absences; Reappointment and vacancies.

(a) All commissioners shall be a registered, qualified elector of the City.

(b) Except for the at-large member, each member of the planning commission must be a resident of the electoral district from which the member is nominated at the time the member is nominated and appointed. If any member of the planning commission ceases to be a resident of the district from which the member was appointed, for any reason other than a change in district boundary lines required following the decennial census, that member's appointment will automatically terminate. The at-large member must be a resident of the city. If the at-large member ceases to be a resident of the city, that member's appointment will automatically terminate. The secretary of the planning commission shall immediately inform the city council of any such termination.

(c) If a member of the Commission is absent from three (3) successive meetings, including regular, special and or adjourned of the Commission, or four (4) regular meetings of the Commission during a twelve (12) month period shall be deemed an automatic resignation from the commission and such Commissioner's position shall be declared vacant. The secretary of the planning commission shall immediately inform the city council of any such resignation.

(d) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application. If a vacancy shall occur otherwise than by the expiration of a term, the vacancy shall be filled as set forth in Section 2-2.203, for the unexpired portion of the term.

Section 4. Section 2-2.206 of the Code is amended to read as follows:

Sec. 2-2.206 Members: Removal from office.

Commissioners serve at the pleasure of the City Council and may be removed prior to the expiration of their term by a vote of a majority of the members of the City Council.

Section 5. Section 2-2.211 of the Code is amended to read as follows:

Sec. 2-2.211 Quorum.

Three (3) members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time.

Section 6. Current Planning Commission Members. The term of a planning commission member holding office on the effective date of this Ordinance shall expire on December 31st of the second year of his or her respective term. For the current terms expiring on December 31, 2019 shall be extended for one (1) year to expire on December 31, 2020. Commencing January 1, 2021 Planning Commission Districts 1 and 4 seats shall be filled by a resident from the respective District for a four (4) year term; Planning Commission Districts 2 and 3 seats shall be filled by a resident from the respective District for a two (2) year term; and the at large seat shall be filled by a resident of the City for a two (2) year term. Commencing January 1, 2023 the planning commission seats shall be filled in accordance with this Ordinance.

Section 7. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 8. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 9. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

Section 10. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption,

CC 10.02.2019

the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the ____ day of _____, 2019.

Passed on the ____ day of _____, 2019 by the following vote:

AYES: Council Members

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

CURRENT COMMISSIONERS

NAME	TERM ENDING	DISTRICT
JOHN CATES	12/31/2019	3
THOMAS HIGBY	12/31/2019	1
DAVID DEES	12/31/2020	3
MONA GUILIANI	12/31/2020	2
SUSIE TOSCANO	12/31/2020	3

ELECTIONS 2020

MAYOR VILLALTA	12/31/2020	AT LARGE
MS. JOHNSON-SANTOS	12/31/2020	1
MS. LEWIS	12/31/2020	4

ELECTIONS 2022

MAYOR VILLALTA	12/31/2022	AT LARGE
MR. JONES	12/31/2022	3
MR. FARIA	12/31/2022	2

***Possible scenario: Mr. Cates' and Mr. Higby's seats are extended one year to 12/31/20. In 2020 District 1 and 4 are filled with a 4 year term; District 2 and 3 are filled with a 2 year term; at large seat filled with a 2 year term.

Then in 2022 District 2 and 3 are filled with a 4 year term; at large seat filled with a 2 year term.

Los Banos Municipal Code

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[Title 2 ADMINISTRATION](#)
[Chapter 2 COMMISSIONS AND BOARDS](#)

Article 2. Los Banos Planning Commission**Note**

* Article 2 entitled "Planning Commission," consisting of Sections 2-2.201 through 2-2.209, codified from Ordinance No. 239, as amended by Ordinance No. 398, effective June 20, 1973, Ordinance No. 472, effective June 20, 1973, Ordinance No. 1022, effective January 15, 2005, Ordinance No. 678, effective April 3, 1981, Urgency Ordinance No. 740, effective December 4, 1985, Ordinance No. 777, effective May 22, 1988, Ordinance No. 855, effective April 17, 1992, Ordinance No. 1069, effective April 4, 2008, and Ordinance No. 1113, effective January 1, 2014.

Sec. 2-2.201 Established.

Pursuant to the provisions of Chapter 3 of Title 7 of the Government Code of the State, there is hereby established the Los Banos Planning Commission (hereinafter referred to in this article as Commission). (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 16, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.202 Powers and duties.

Except as otherwise provided in this article, the provisions of Chapter 3 of Title 7 of the Government Code of the State of California relating to the powers and duties of members of Planning Commissions, and of Planning Commissions as bodies, and the rules of procedure and other provisions in said Title 7 shall govern and control the Planning Commission of the City. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 17, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.203 Members: Appointment and qualifications.

The Commission shall consist of seven (7) members. Candidate(s) for appointment shall be recommended to the City Council by the Mayor, with input from a Council Member, selected by the City Council on a rotating basis, and the Community Development Director, who shall form an ad hoc committee to review applications, interview applicants, and evaluate the candidates for recommendation by the Mayor to the City Council. At the time of appointment to the Commission and throughout his or her term each Commissioner shall be a resident of the City of Los Banos and a registered, qualified elector of the City. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 18, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.204 Members: Terms.

Each Commissioner shall serve a term of two (2) years. Terms of office shall be staggered and not more than four (4) Commissioners shall have terms that end in the same year. A member's term of office shall expire on December 31st of the second year of his or her respective term. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 19, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.205 Members: Reappointment and vacancies.

- (a) If a Commission member ceases to reside in the City of Los Banos such Commissioner's position shall be declared vacant.
- (b) If a member of the Commission is absent without cause from three (3) successive regular meetings of the Commission, the Commission or the City Manager may request the City Council declare the position vacant. A member is not absent without cause if his or her absence is due to illness, or is unavoidable and the member gives notice to City staff before the meeting that he or she will be absent and the reason for the absence.
- (c) A member of the Commission shall not automatically be reappointed to a successive term of office. A member desiring reappointment shall be required to make formal application. If a vacancy shall occur otherwise than by the expiration of a term, the vacancy shall be filled as set forth in Section 2-2.203, for the unexpired portion of the term. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 20, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.206 Members: Removal from office.

Any appointive member of the Commission may be removed from the Commission by a majority vote of the City Council. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 22, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.207 Members: Resignations.

A member of the Commission may resign from the Commission by filing a written statement with the City Clerk stating that he or she resigns from the Commission. The resignation shall become effective at the time of filing such written statement, and such member shall thereupon cease to be a member of the Commission, and a vacancy shall exist. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 23, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.208 Compensation.

Members of the Commission shall serve without compensation. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 24, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.209 Organization.

The first meeting in January of each year shall be the organization meeting. Immediately after appointment and qualification, the Commission shall organize by electing one of its members as chairperson, who shall be charged with the orderly conduct of the Commission meetings, and one as vice-chairperson, to assume such duties in the absence of the chairperson, who both shall serve for one year. (§ 25, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.210 Meetings.

Regular meetings of the Commission shall be held on the second and fourth Wednesdays of each calendar month at 7:00 p.m. in the City Hall Council Chambers located at 520 J Street in the City. If any regular meeting day falls on a City holiday, the meeting shall be held on the following regular City business day at 7:00 p.m. (§ 1, Ord. 1069, eff. April 4, 2008, as amended by § 26, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.211 Quorum.

Four (4) members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. (§ 27, Ord. 1113, eff. January 1, 2014)

Sec. 2-2.212 Secretary to the Commission.

The Community Development Director, or designee, shall serve as secretary to the Commission. (§ 28, Ord. 1113, eff. January 1, 2014)

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City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Alex Terrazas, City Manager *AT*

DATE: October 2, 2019

SUBJECT: Adoption of Major City Goals

TYPE OF REPORT: Agenda Item

Recommendation:

That the City Council approves the Resolution to adopt the Major City Goals.

Discussion:

As part of the performance evaluation process for the City Manager the City Council developed the attached list of City Goals. Staff is recommending that the City Council formally adopt these goals and approve the attached Resolution.

After the goals are approved by the City Council staff will develop a work plan for each goal that will include a series of action items and milestone dates. Staff will report back to the City Council during a City Council meeting on the progress of the goals at least twice during the fiscal year.

ATTACHMENTS:

1. Resolution Adopting Major City Goals

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS ADOPTING MAJOR CITY
GOALS**

WHEREAS; as part of the performance evaluation process for the City Manager the City Council developed the goals included with this Resolution as Attachment 1; and

WHEREAS, the City Council desires that these goals be pursued and implemented and periodically be reported on to the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby adopt the Major City Goals and directs staff to periodically report to the City Council on the progress of each goal.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

City of Los Banos
Major City Goals
Fiscal Year 2019 - 2020

- Identify and implement programs and projects to address homelessness in Los Banos.
- Conduct a surveillance camera pilot project and evaluate options for expanding the system based on the results of the pilot project.
- Address code violations through a comprehensive Code Enforcement Program.
- Improve the City's transportation infrastructure with a focus on the Pioneer Road widening project and the trail to Merced College.
- Support the development of Multifamily housing in the City.
- Implement Measure H.
- Work in collaboration with the School District to identify future school sites, create safe environments for students and promote joint use of facilities.
- In collaboration with the Downtown Merchants association and other stakeholders revitalize the Downtown.
- Continue to focus on economic development including implementing an industrial recruitment strategy.
- As funding permits evaluate options for expanding recreation programs, services and facilities.
- Evaluate options for a new hospital facility in the City including other service providers.
- Conduct a review of the municipal code to identify outdated sections and develop a process to update outdated sections.
- Create a tree maintenance program.



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC *LM*
City Clerk/Human Resources Director

DATE: October 2, 2019

TYPE OF REPORT: Agenda Item

SUBJECT: Fourth Amendment to City Manager Employment Agreement

Recommendation:

Attached please find a resolution for your review and consideration of approval that would approve the Fourth Amendment to the City Manager Employment Agreement and authorize the Mayor to execute.

Discussion:

The City Council recently completed its third annual performance evaluation of City Manager Alex Terrazas since his hiring in July of 2016. Pursuant to the terms of the City Manager's employment agreement, the City Council may grant, in its sole discretion, an increase in the annual base salary.

The attached Fourth Amendment changes Section 3(a) of the City Manager Employment Agreement to increase Mr. Terrazas' annual base salary by 5% to \$213,966 (\$17,833 per month) effective July 1, 2019. Mr. Terrazas' additional compensation and benefits remain the same, as do the Employment Agreement's description of duties, terms and other conditions of employment.

Fiscal Impact:

Effective July 1, 2019, the Amendment provides for a salary increase of \$849 per month or \$10,188 annually. A full 5% salary increase was not included in the 2019/20 fiscal year budget; therefore staff will continue to further analyze the fiscal impact and prepare a budget amendment if needed.

Attachments:

Resolution

RESOLUTION NO. __

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING A FOURTH
AMENDMENT TO CITY MANAGER EMPLOYMENT
AGREEMENT**

WHEREAS, the City Council entered into an employment agreement with the City Manager on June 1, 2016; and

WHEREAS, the parties hereto entered into a First Amendment to the Agreement dated July 14, 2017; and

WHEREAS, the parties hereto entered into a Second Amendment to the Agreement dated September 6, 2017; and

WHEREAS, the parties hereto entered into a Third Amendment to the Agreement dated January 16, 2019; and

WHEREAS, the City Council has concluded its annual performance evaluation of the City Manager; and

WHEREAS, as a result of the evaluation, the City Council desires to increase by 5% the City Manager's annual base salary effective July 1, 2019.

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

1. That the City Council of the City of Los Banos, does hereby approve and authorize the Mayor or his designee to execute the Fourth Amendment to Los Banos City Manager Employment Agreement as presented as Exhibit A attached hereto.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019, by Council Member __ who moved its adoption, which motion was duly seconded by Council Member __ and the Resolution adopted by the following vote:

AYES: Council Members

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**LOS BANOS CITY MANAGER
EMPLOYMENT AGREEMENT
FOURTH AMENDMENT**

This Fourth Amendment to the "City of Los Banos Employment Agreement is made and entered into as of this _____ day of _____ 2019 by and between Alex C. Terrazas, hereinafter referred to as "Employee", and the City of Los Banos, a California general law municipal corporation, hereinafter referred to as the "City".

WHEREAS, the City and Employee entered into an Employment Agreement effective June 1, 2017, hereinafter referred to as the "Employment Agreement"; and

WHEREAS, Section 3(a) of the Employment Agreement provides, in part, that the City Council may grant, in its sole discretion, an increase in Employee's annual base salary; and

WHEREAS, the City Council has concluded its annual evaluation of Employee; and

WHEREAS, as a result of the evaluation, the City and Employee desire to amend Section 3(a) of the Employment Agreement related to annual base salary as set forth herein.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. Amendment of Employment Agreement

- a. The City and Employee mutually agree to amend Section 3(a) of the Employment Agreement to increase Employee's annual base salary by 5% to \$213,996 (\$17,833 per month) effective July 1, 2019.
- b. The City and Employee mutually agree to amend Section 10 of the Employment Agreement to designate 1839 St. Patricks Drive, Los Banos CA 93635 as the address for notices given to Employee.

2. Severability

If any provisions of this Third Amendment to the Employment Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Third Amendment unless elimination of such provision materially alters the rights and obligations set forth herein.

3. Effects on Employment Agreement

This Fourth Amendment to the Employment Agreement shall affect only the sections referred to herein and all other terms and conditions of the Employment Agreement between the City and Employee shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Fourth Agreement as of the date first herein written above.

“EMPLOYEE”

Dated:

Alex C. Terrazas

"CITY"

Dated:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS:

William A. Vaughn, City Attorney

**LOS BANOS CITY MANAGER
EMPLOYMENT AGREEMENT
THIRD AMENDMENT**

This Second Amendment to the "City of Los Banos Employment Agreement is made and entered into as of this 10th day of January 2019 by and between Alex C. Terrazas, hereinafter referred to as "Employee", and the City of Los Banos, a California general law municipal corporation, hereinafter referred to as the "City".

WHEREAS, the City and Employee entered into an Employment Agreement effective June 1, 2017, hereinafter referred to as the "Employment Agreement"; and

WHEREAS, Section 3(a) of the Employment Agreement provides, in part, that the City Council may grant, in its sole discretion, an increase in Employee's annual base salary; and

WHEREAS, the City Council has concluded its annual evaluation of Employee; and

WHEREAS, as a result of the evaluation, the City and Employee desire to amend Section 3(a) of the Employment Agreement related to annual base salary as set forth herein.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. Amendment of Employment Agreement

- a. The City and Employee mutually agree to amend Section 3(a) of the Employment Agreement to increase Employee's annual base salary by 5% to \$197,868 (\$16,489 per month) effective July 1, 2018.
- b. The City and Employee mutually agree to amend Section 10 of the Employment Agreement to designate 1839 St. Patricks Drive, Los Banos CA 93635 as the address for notices given to Employee.

2. Severability

If any provisions of this Third Amendment to the Employment Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Third Amendment unless elimination of such provision materially alters the rights and obligations set forth herein.

3. Effects on Employment Agreement

This Third Amendment to the Employment Agreement shall affect only the sections referred to herein and all other terms and conditions of the Employment Agreement between the City and Employee shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Third Agreement as of the date first herein written above.

Dated: 1/31/2019

"EMPLOYEE"



Alex C. Terrazas

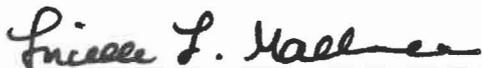
Dated: 1/31/2019

"CITY"



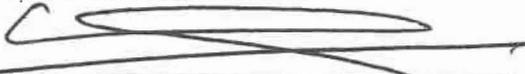
Michael Villalta, Mayor

ATTEST:



Lucille L. Mallonee, City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS:



William A. Vaughn, City Attorney

**LOS BANOS CITY MANAGER
EMPLOYMENT AGREEMENT
SECOND AMENDMENT**

This Second Amendment to the "City of Los Banos Employment Agreement is made and entered into as of this 6th day of September 2017 by and between Alex C. Terrazas, hereinafter referred to as "Employee", and the City of Los Banos, a California general law municipal corporation, hereinafter referred to as the "City".

WHEREAS, the City and Employee entered into an Employment Agreement effective June 1, 2017, hereinafter referred to as the "Employment Agreement"; and

WHEREAS, Section 3(a) of the Employment Agreement provides, in part, that the City Council may grant, in its sole discretion, an increase in Employee's annual base salary; and

WHEREAS, the City Council has concluded its annual evaluation of Employee; and

WHEREAS, as a result of the evaluation, the City and Employee desire to amend Section 3(a) of the Employment Agreement related to annual base salary as set forth herein.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. Amendment of Employment Agreement

- a. The City and Employee mutually agree to amend Section 3(a) of the Employment Agreement to increase Employee's annual base salary by 5% to \$183,864 (\$15,322 per month) effective July 1, 2017.
- b. The City and Employee mutually agree to amend Section 10 of the Employment Agreement to designate 1839 St. Patricks Drive, Los Banos CA 93635 as the address for notices given to Employee.

2. Severability

If any provisions of this Second Amendment to the Employment Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this First Amendment unless elimination of such provision materially alters the rights and obligations set forth herein.

3. Effects on Employment Agreement

This Second Amendment to the Employment Agreement shall affect only the sections referred to herein and all other terms and conditions of the Employment Agreement between the City and Employee shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Agreement as of the date first herein written above.

Dated: 9/11/2017

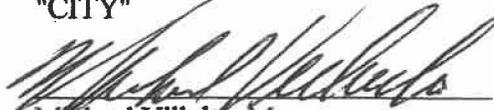
"EMPLOYEE"



Alex C. Terrazas

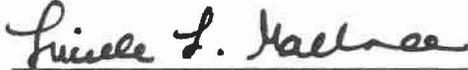
Dated: 9/11/2017

"CITY"



Michael Villalta, Mayor,

ATTEST:



Lucille L. Mallonee, City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS:



~~William A. Vaughn, City Attorney~~

**LOS BANOS CITY MANAGER
EMPLOYMENT AGREEMENT
FIRST AMENDMENT**

COPY

This First Amendment to the "City of Los Banos Employment Agreement is made and entered into as of this 14th day of July 2017 by and between Alex C. Terrazas, hereinafter referred to as "Employee", and the City of Los Banos, a California general law municipal corporation, hereinafter referred to as the "City".

WHEREAS, the City and Employee entered into an Employment Agreement effective June 1, 2017, hereinafter referred to as the "Employment Agreement"; and

WHEREAS, Section 3(a) of the Employment Agreement provides, in part, that the City Manager may grant, in its sole discretion, an increase in Employee's annual base salary; and

WHEREAS, as a result of the 2017/2018 Fiscal Year Budget process and adoption by City Council on June 21, 2017 (City Council Resolution No. 5870) which included a 3% Cost of Living Adjustment for unrepresented miscellaneous employees, the City and Employee desire to amend Section 3(a) of the Employment Agreement related to annual base salary as set forth herein.

NOW THEREFORE IT IS HEREBY AGREED as follows:

1. **Amendment of Employment Agreement**

For the remaining term of the Employment Agreement, Employee shall be entitled to the same percentage cost of living adjustment (COLA) as other Unrepresented/Miscellaneous Employees. The City and Employee mutually agree to amend Section 3(a) of the Employment Agreement to increase Employee's annual base salary by 3% to \$175,100 (\$14,592 per month) effective July 1, 2017.

2. **Severability**

If any provisions of this First Amendment to the Employment Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this First Amendment unless elimination of such provision materially alters the rights and obligations set forth herein.

3. **Effects on Employment Agreement**

This First Amendment to the Employment Agreement shall affect only the Employee's base salary and all other terms and conditions of the Agreements between the City and Employee shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Agreement as of the date first herein written above.

Dated: 6/29/2017

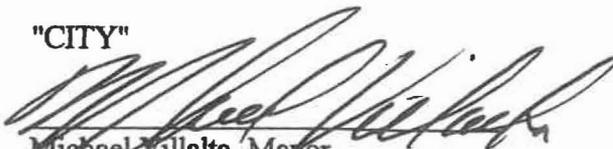
"EMPLOYEE"



Alex C. Terrazas

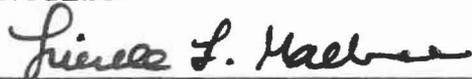
Dated: 7/14/2017

"CITY"



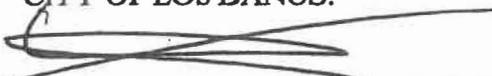
Michael Villalta, Mayor,

ATTEST:



Lucille L. Mallonee, City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS:



William A. Vaughn, City Attorney

COPY

**LOS BANOS CITY MANAGER
EMPLOYMENT AGREEMENT**

This Employment Agreement ("Agreement") is made and entered into as of this 1st day of June 2016 by and between the City of Los Banos, a municipal corporation, (hereinafter the "City"), and Alex C. Terrazas, (hereinafter the "City Manager" or "Employee").

RECITALS

1. The City requires the services of a city manager and the City Council has engaged in a recruitment process to select a city manager.
2. The Employee has the necessary education, experience, skills and expertise to serve as the City's City Manager.
3. The City Council desires to employ Employee as the City Manager and has entered into negotiations with him for the purpose of entering into an employment agreement.
4. Employee desires to accept the employment as City Manager.
5. This Agreement is entered into pursuant to the authority of and subject to the provisions of Government Code Section 53260 *et seq.*

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Employment

City hereby appoints Employee as the City Manager for the City of Los Banos and employs him in that position and Employee hereby accepts that appointment and employment.

2. Term of Employment

(a) This Agreement shall become effective as of June 1, 2016. Under this Agreement, Employee's term of employment as City Manager shall be for five (5) years from July 1, 2016, and continue until June 30, 2021, unless sooner terminated as provided for in this Agreement.

(b) The term and any extended term may be extended by mutual agreement of the parties. On or before six months prior to the expiration of the term of this Agreement or any extended term, the City Council will consider an extension of the term of this Agreement. In the event that the City Council does not elect to extend the term of this Agreement or in the event that the term or any extended term is not extended by mutual agreement of the parties, this Agreement and the employment relationship shall end without further action by the City Council.

3. Salary and Benefits

(a) City agrees to pay Employee an annual base salary of \$170,000.00 (\$14,166.66 per month) payable in equal semi-monthly installments at the same time and in the same manner that other City employees are paid. This salary shall be effective as of July 1, 2016, or such earlier date as Employee starts his employment with the City. Subject to a satisfactory annual performance evaluation (in accordance with Section 6 herein), Employee's annual base salary shall be increased 5% effective July 1, 2017 and 5% effective July 1, 2018. In addition to the increases set forth herein the City Council may grant, in its sole discretion, an increase in the annual base salary. Employee's annual base salary may only be reduced at the same time and in the same percentage as any across-the-board reduction that is imposed upon other Management employees in the City.

(b) Employee shall be entitled to receive all benefits as they now exist or may hereinafter be provided to other Management employees of the City, including any changes or modifications to said benefits, except when such benefits are inconsistent with or contrary to provisions of this Agreement including but not limited to the following:

- Health Savings Plan

Employee contributes \$50/mo. (\$25 per pay period) toward a Health Savings Plan (HSP) accessible only at retirement or once employee separates from the City. This account may be used to cover medical expenses only. City will contribute \$50/mo. toward employee's HSP.

- Health Plan

The City offers the following medical plans through CalPERS: Blue Shield (HMO), Anthem Select (HMO), Anthem Traditional (HMO), PERS Select (PPO), PERChoice (PPO), and PERSCare (PPO). Employee's share of cost is dependent upon choice of plan.

- Dental and Vision Plans

*Premier Access (Choice of HMO/PPO)
City contributes up to \$73.00 total/mo. toward employee's dental and vision plan premiums.

- Deferred Compensation

Optional participation in plan through Mass Mutual, Nationwide Insurance Solutions, or ICMA-RC.

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- PERS

If new hire is a current CalPERS member: City covers the employer portion of 7.51% toward the 2% at 60 Plan. Employee contributes 7% of gross salary each pay period toward the employee portion. Employee contribution to CalPERS is tax deferred.

Employee is a current CalPERS member and shall receive the above benefit.

If new hire is not a CalPERS member: City covers the employer portion of 6.3% toward the 2% at 62 Plan. Employee contributes 6.5% of gross salary each pay period toward the employee portion. Employee contribution to CalPERS is tax deferred.

- Life Insurance

City covers the cost of \$50,000 coverage for employee only. Employee has the option to buy-up additional coverage at their own cost.

- Education Incentive Pay

*\$75 per month for A.A./A.S.; or
\$150 per month for B.A./B.S.; or
\$200 per month for M.A./M.S.*

- Bilingual Incentive Pay

*\$50 per month for Basic Verbal Skills; or
\$100 per month for Comprehensive Verbal Skills; or
\$150 per month for Written Presentation Skills*

- Tuition Reimbursement

Tuition will be reimbursed in accordance with policy, upon successful completion of courses, up to \$3,000.00 per fiscal year per employee.

- Vacation Accrual

Employees with five (5) full years of service or less earn 6.67 hours/mo; five (5) to fifteen (15) full years of service earn 10.00 hours/mo; over fifteen (15) full of years of service earn 13.36 hours/mo.

Employee shall be given credit for prior full years of local public agency service and is entitled to 13.36 hours per month based upon his years of public agency service.

Sick Leave

Accrued at 8 hours per month.

• Administrative Leave

Employee shall receive ten (10) work days off, with full salary and benefits, during every fiscal year of employment. Every July 1st, 80 hours are accrued and may not be carried over. Employee will receive a pro-rated amount based on hire date.

(e) City desires to encourage Employee's continuing professional development and agrees to budget and pay for those professional dues and subscriptions, and travel and subsistence expenses for such conferences, seminars, courses, institutes, and meetings that the City and Employee deem reasonable and desirable for his professional development and for the good of the City. Attendance on an annual basis at two (2) of the annual League of California Cities conferences are hereby pre-approved.

(f) During the first twelve (12) months of Employee's employment the City shall reimburse Employee for the actual monthly rent or mortgage payment incurred and paid by Employee in obtaining temporary or permanent housing in the City of Los Banos, including payment for utilities, in an amount not to exceed \$1,250.00 per month for the actual amount of time that he is required to maintain such temporary housing or the actual amount of time that he is required to maintain two residences while transitioning to Los Banos not to exceed six (6) months.

(g) To assist Employee's move to the City of Los Banos, the City agrees to reimburse Employee for all reasonable expenses incurred for moving Employee's household goods and personal effects and those of Employee's spouse and minor children from Employee's current residence to a temporary residence and from the temporary residence to the new residence, in an amount not to exceed \$5,000.00 total.

(h) Any amounts remaining unused in allowance (f) and (g) above can be added to increase the allowance of the other at the option of the Employee.

(i) Employee shall receive a cell phone allowance of \$75.00 per month.

4. Duties

(a) Employee shall serve as City Manager and perform those duties and have those responsibilities that are commonly assigned to a city manager of a city in California. The duties and responsibilities of the City Manager shall include the duties and responsibilities that are set forth in the Los Banos Municipal Code, including, but not limited to, Section 2-3.112 - 2-3.125, and such other duties and responsibilities as the City Council may from time to time reasonably assign to the City Manager.

(b) Employee shall devote all necessary time and effort to fulfill the obligations of the City Manager's position. The City acknowledges that Employee is reasonably expected to be available but does not have regularly set hours of work. Employee's work schedule will vary in accordance to the work required to be performed.

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5. Exclusive Employment

Employee shall devote all of his time, energy and efforts to the City, and shall accept no outside employment, but the foregoing shall not limit Employee in teaching, writing, lecturing, or consulting, but only to the extent that such activities do not interfere with his duties as set forth in this Agreement.

6. Performance Evaluation

The City shall review and evaluate the performance of Employee at the initial six months of employment and at least once annually at a time mutually agreed to between the City Council and Employee. Said review and evaluation shall be conducted in accordance with procedures and forms and with respect to specific criteria to be developed jointly by Employee and the City Council. Said review and evaluation shall be private and confidential, and the results shall be summarized and discussed in closed session, to the extent permitted by law, or through some other mutually acceptable closed format. The parties agree that the primary purposes of such evaluation are to facilitate open and frank discussion, define roles and expectations, identify performance strengths and weaknesses, and to provide an opportunity for Employee to take affirmative action to address weaknesses and areas needing improvement.

7. Separation

(a) At Will Employment

Consistent with Government Code Section 36506 the parties expressly agree that the position of City Manager is an "at-will" employee, and that the City Manager serves at the will and pleasure of the City Council. Nothing in this Agreement, any statute, ordinance, regulation or rule shall prevent, limit, or otherwise interfere with the right of the City Council to terminate, with or without cause or reason, the employment of Employee.

The City Council may, in its absolute discretion, terminate the employment of Employee as City Manager and terminate Employee's employment with the City. To terminate Employee's employment, the City, acting through the City Council, shall give Employee a written notice of the termination. The termination must be approved by three (3) members of the City Council at a regular or special meeting held in accordance with the Ralph M. Brown Act (California Government Code Section 54950 *et seq.*). The City Council is not required to provide a notice of causes or reasons for the termination and is not required to provide any type of hearing regarding the termination, including any type of "Skelly" hearing. If Employee is terminated, Employee shall have no right of appeal or grievance procedure.

(b) Resignation

Employee may resign from his employment as City Manager upon giving thirty (30) days prior written notice to the City Council; provided, however, that notice shall not be required in the event Employee resigns pursuant to a request for resignation by the City Council. Employee shall be compensated during the notice period. Employee at Employer's sole option may be directed not to report to work during all or any part of the resignation notice period.

(c) Automatic Termination

This Agreement, and Employee's employment, shall automatically terminate, and Employee shall not be entitled to any severance compensation upon the happening of any of the following events:

- (1) Upon mutual agreement in writing by both parties to terminate this Agreement.
- (2) Upon resignation given to City by Employee, except if the resignation is in response to a request for resignation from the City Council.
- (3) Upon retirement from full time public service with the City, pursuant to applicable PERS laws, rules and regulations. If Employee retires, Employee will provide six (6) months advance notice.
- (4) Upon death of Employee.
- (5) When Employee has been unable to perform substantially all of the essential terms of his position, with or without reasonable accommodation, due to illness or other disability for a period of three (3) months.
- (6) Termination or removal for Cause.
- (7) Expiration of the term of this Agreement or any extended term.

(d) Severance

In the event Employee is terminated for a reason set forth in sub paragraphs 7(d) (1)-(5) of this Agreement, City shall pay to Employee as severance compensation a sum equal to the lesser of (i) six (6) months base salary ("Severance Months") or (ii) base salary for the number of months remaining on the term of this Agreement.

- (1) The City terminates Employee without cause.
- (2) The City reduces Employee's salary or other benefits in a greater percentage than applicable across-the-board reductions made by the City for other Management employees in the City and Employee elects to give thirty (30) days written notice of his resignation to the City Council. The written notification of resignation must be given within thirty (30) days of the reduction in Employee's salary or other benefits.
- (3) The City Council requests the resignation of Employee, and Employee resigns pursuant to that request.
- (4) The city manager form of government is abandoned by action of the City Council, vote of the people, state legislation, or by any other means.
- (5) The position of city manager is eliminated by action of the City Council, vote of the people, state legislation, or by any other means.

As required by Government Code Section 53260, the following provision is included in this Agreement. Regardless of the term of this Agreement, if it is terminated, the maximum cash settlement that employee may receive shall be an amount equal to his monthly salary multiplied by the number of months left on the unexpired term of this Agreement, and if the unexpired term of this Agreement is greater than six (6) months, the maximum cash settlement shall be an amount equal to the monthly salary of Employee multiplied by six (6).

The payment of severance compensation pursuant to this paragraph shall, at the option of Employee, be in a lump sum, or shall be payable in equal monthly installments with the number of monthly installments equal to the number of months of severance compensation pay to which Employee is entitled by this paragraph.

Employee and his dependents shall also receive continuing health insurance plan coverage including dental and vision for the duration of the Severance Months from the effective date of the termination. Pursuant to Government Code Section 53261, the continuing eligibility of Employee and his dependents for health insurance plan coverage shall terminate should Employee obtain other employment.

(e) Termination or Removal for Cause

Notwithstanding any provision of this Agreement to the contrary, City may terminate Employee's employment for cause at any time, and if Employee is terminated or removed for cause, he shall not be entitled to payment of severance compensation or any other compensation or damages. "Cause" shall include the following reasons.

- (1) Conviction of any felony. Conviction of a crime, whether misdemeanor or a felony, involving moral turpitude, or under the Political Reform Act, or under Government Code Section 1090 *et seq.* For purposes of this paragraph, a plea of *nolo contendere* shall also be considered a conviction.
- (2) Any willful or grossly negligent act or inaction of: material dishonesty; or that materially and adversely impedes or disrupts the operations of City or its organizational units; or is detrimental to employees or public safety; or is a violation of City established policies, rules, regulations, and procedures.
- (3) Willful abandonment of the duties of the office of city manager.
- (4) Willful and intentional failure to carry out clear direction or order of the City Council made by the City Council as a body at a Brown Act compliant meeting.
- (5) Repeated and protracted unexcused absences from the office and duties of city manager.
- (6) Continued abuse of drugs or alcohol that materially affects the performance of the duties of city manager.

8. Compliance with Government Code Section 53243 *et seq.* (Assembly Bill No. 1344).

(a) In the event City determines to place Employee on paid leave pending an investigation, Employee shall fully reimburse such pay to the City if he is subsequently convicted of a crime involving the abuse of his office or position.

(b) In the event the City determines to fund all or part of a legal criminal defense for Employee, he shall fully reimburse such funds to the City if he is subsequently convicted of a crime involving an abuse of his office or position.

(c) Regardless of the term of this Agreement, if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully

reimbursed to the City if Employee is convicted of a crime involving an abuse of his office or position. (Government Code Section 53243.2.)

(d) For purposes of this section, "abuse of office or position" shall be as defined in Government Code Section 53243.4.

9. Indemnification

City agrees to defend, hold harmless, and indemnify Employee against any claims, demands or legal actions, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope and during the course of Employee's employment with the City, subject to Employee cooperating in good faith with the City with respect to defense of such claims, demands, or legal actions in accordance with the provisions of California Government Code Sections 825 and 825.6. City may compromise and settle any such claim, demand, or action and pay the amount of any settlement or judgment rendered therefrom. This covenant shall survive the termination of this Agreement.

10. Notices

Any notice to be given hereunder by either party to the other in writing may be effected either by personal delivery or by mail. Mailed notices shall be addressed to the address of the parties to be notified which appears below, but each party may change its address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of five (5) calendar days following the date of mailing of the notice.

CITY: City of Los Banos
 Attn: City Clerk
 520 J Street
 Los Banos, CA 93635

EMPLOYEE: Alex C. Terrazas
 15806 Kent Drive
 Truckee, CA 96161

11. Entire Agreement

This Agreement represents the entire agreement between the parties and supersedes any and all agreements, either oral or in writing, between the parties with respect to the employment of Employee by City and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding on either party.

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12. Modifications

Any modifications to this Agreement shall be effective only if in writing and signed by both the parties hereto.

13. Effect of Waiver

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

14. Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

15. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California in full force and effect as of the date of execution.

16. Attorney's Fees

In the event of any legal action between the parties hereto to enforce the provisions of this Agreement, the prevailing party shall be entitled to attorney's fees and costs.

17. Representations

City and Employee each represent and warrant to the other that each has received legal advice from independent and separate legal counsel with respect to this Agreement, or has knowingly declined to obtain such legal advice, and further represent and warrant to each other that each has carefully reviewed this Agreement and each and every term hereof. This Agreement shall not be construed against the party or its representatives who draft it or any portion hereof.

18. Counterparts

This Agreement may be executed on separate copies, any one of which need not contain signatures of more than one party but all of which taken together shall constitute one and the same Agreement.

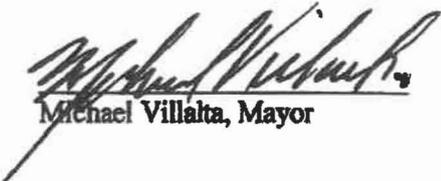
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first herein written above.

"EMPLOYEE"

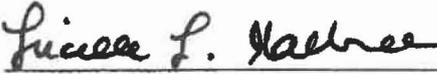
Alex C. Terrazas

"CITY"



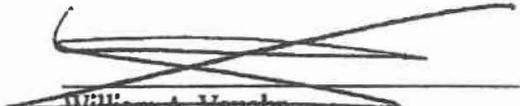
Michael Villalta, Mayor

ATTEST:



Lucille L. Mallonee
City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS



William A. Vaughn

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first herein written above.

"EMPLOYEE"


Alex C. Terrazas

"CITY"

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee
City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LOS BANOS

William A. Vaughn



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, MMC *LM*
City Clerk/Human Resources Director

DATE: October 2, 2019

TYPE OF REPORT: Agenda Item

SUBJECT: Update to Salary Schedule

Recommendation:

Attached please find a resolution for your review and consideration of approval that would amend the salary schedule to reflect changes associated with the City Manager's pay range.

Discussion:

With the approval of the City Manager's increase in base salary, the salary schedule will need to be adjusted to allow for the increase on the City Manager's monthly salary range as the City Council may grant, in its sole discretion, an increase in annual base salary.

Fiscal Impact:

Staff will continue to further analyze the fiscal impact and prepare a budget amendment if needed.

Attachments:

Resolution

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS AMENDING DIVISION 4,
SALARY SCHEDULE – EMPLOYEE
CLASSIFICATIONS RELATING TO SECTION A –
ADMINISTRATION / CITY MANAGER**

WHEREAS, the City Council of the City of Los Banos has received a request that Division 4 – Salary Schedule of the City Policy Manual be amended to reflect changes to amend the salary schedule to adjust the pay range of the City Manager; and

WHEREAS, said request has been reviewed and approved by the City Council of the City of Los Banos at their regular meeting of October 2, 2019.

NOW, THEREFORE, BE IT RESOLVED that the amendments as identified in Division 4 of the City Policy Manual are hereby amended and shall read as attached on “Exhibit A”.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 2nd day of October 2019 by Council Member ____ who moved its adoption, which motion was duly seconded by Council Member ____ and the Resolution adopted by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

EXHIBIT A

DIVISION 4
SALARY SCHEDULE

(Approved , 2019 / Effective August 1, 2019)

SEC. 4003 REGULAR (FULL TIME) EMPLOYEE CLASSIFICATIONS-MONTHLY SALARY

SECTION A - ADMINISTRATION
TOTAL POSITIONS AUTHORIZED (5)

<u>EMPLOYEE CLASSIFICATION</u>	<u>AUTHORIZED</u>	<u>RANGE</u>	<u>STEP 1</u>	<u>STEP 2</u>	<u>STEP 3</u>	<u>STEP 4</u>	<u>STEP 5</u>	<u>STEP 6</u>
City Manager	(1)	13,598-17,425	*	*	*	*	*	*
		<u>13,932-17,833</u>						



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: September 27, 2019

Re: Notice of Public Hearing

Proposal: Site Plan Review #2017-03- First Baptist Church

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Site Plan Review #2017-03 for the installation of one (1) modular structure totaling 2,208 square feet with site improvements within the Low Density Residential Zoning District and a Categorical Exemption from the California Environmental Quality Act pursuant to Section 15311 Accessory Structures. The proposed project site is located at 809 D Street; more specifically identified as Assessor's Parcel Numbers: 025-092-001, 002, 003, and 004.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, October 9, 2019 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Rudy Luquin, Associate Planner at City Hall or at (209) 827-2432.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Additional information may be obtained from the Community & Economic Development Department at 520 J Street, Los Banos, California. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 827-7000. Notification at least 72 hours prior to the public hearing will enable the City to make reasonable arrangements to allow participation at this hearing

THE CITY OF LOS BANOS

Rudy Luquin
Associate Planner



City of
Los Banos
At the Crossroads of California

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: September 27, 2019

Regarding: Notice of Public Hearing

Proposal: Conditional Use Permit #2019-03 – Type 41 Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Conditional Use Permit and Categorical Exemption from the California Environmental Quality Act pursuant to Section 15332 In-Fill Development Projects to allow the use of a Type 41 Alcohol License for the on-sale of beer and wine in conjunction with a bona-fide eating establishment. The requested Conditional Use Permit is for a proposed restaurant to be located at 1101 F Street, more specifically identified as Assessor's Parcel Number 025-152-009.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, October 9, 2019, at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 J Street. Questions regarding the above-referenced item may be directed to Rudy Luquin, Associate Planner, at City Hall or at (209) 827-2432.

All persons are invited to be present at the public hearing. Written and oral testimony is invited. Notice is hereby further given that if you challenge the above described Project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this Notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

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