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 7, 2020 – 4:00 PM

Temporary Public Comment Email Established for the City of Los Banos City Council Meeting of October 7, 2020 – emails must be received by 4:00 PM:

The City has established a temporary email address citizens can use to email public comments on any agenda item, limited to 250 words or less. Any public comments received by October 7, 2020 prior to 4:00 PM will be read aloud during the appropriate time and agenda item.

The email address is cityclerk@losbanos.org

Public comment during Public Hearings will be taken in real time via email. Once the Public Hearing is opened, the City Council will pause the meeting in order to receive emails directed at the Public Hearing (up to 250 words) and will read comments into the record after resuming the meeting, as time permits. Please indicate that comments are for a particular Public Hearing by putting "Public Hearing" in the subject line of the email and the title of the Public Hearing.

The Council Chambers are closed to the public, those interested in viewing the City Council meeting can do so on the City of Los Banos' Website at:

https://www.youtube.com/watch?v=sc3NQ8A8iuE&feature=youtu.be

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 Cuidad de Los Banos cumple con la Acta de Americanos con Deshabilidad (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. **4:00 PM**

2. PLEDGE OF ALLEGIANCE.

3. ROLL CALL: (City Council Members)

   Faria ___, Johnson-Santos ____, Jones ____, Lewis ____, Villalta ___

4. CONSIDERATION OF APPROVAL OF AGENDA.

5. 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 may submit their comments by submitting a written statement, limited to 250 words or less, by dropping it off in the Utility Payment Box at City Hall, 520 J Street, by mail or emailing cityclerk@losbanos.org. Comments received will be read into the record during the City Council Meeting.)

6. 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 #223801 – #224058 in the Amount of $1,203,093.90.

      Recommendation: Approve the check register as submitted.

   B. City Council Resolution No. 6263 – Approving the Memorandum of Understanding (MOU) between the City of Los Banos and the County of Merced, Department of Public Health, Division of Environmental Health Regarding On-Site Wastewater Treatment Systems (OWTS).

      Recommendation: Adopt the resolution as submitted.

   C. City Council Resolution No. 6264 – Authorizing that the City Manager Execute the Cooperative Agreement for Local Improvements between the State of California, Acting through its Department of Transportation, Referred to as CalTrans, and the City of Los Banos for the Cost for the Material and Installation of an Optic Emergency Vehicle Detector (EVD) in CalTrans Traffic Signal at State Route 152 and 11th Street.

      Recommendation: Adopt the resolution as submitted.

   D. City Council Resolution No. 6265 – Accepting Public Improvements for Dove Hollow The Villages VII, Phase 1B (Anderson Homes) Generally Located within the Area Bounded by Cardoza Road to the North, Pioneer Road to the South, Badger Flat Road to the East and Merced County APN 430-060-002 and Los Banos Creek to the West.

      Recommendation: Adopt the resolution as submitted.

E. City Council Resolution No. 6266 – Approving a Side Letter Agreement by and Between the City of Los Banos and the Public Employees' Union Local One/AFSCME (Public Works Unit) Regarding Health Benefits.

Recommendation: Adopt the resolution as submitted.

F. City Council Resolution No. 6267 – Approving a Tentative Agreement / Memorandum of Understanding by and Between the City of Los Banos and the Los Banos Police Officers Association (LBPOA) from October 1, 2020 – June 30, 2021.

Recommendation: Adopt the resolution as submitted.

G. City Council Resolution No. 6268 – Approving a Tentative Agreement / Memorandum of Understanding by and Between the City of Los Banos and the Los Banos Police Sergeants Association (LBPSA) from October 1, 2020 – June 30, 2021.

Recommendation: Adopt the resolution as submitted.

H. City Council Resolution No. 6269 – Approving a Tentative Agreement / Memorandum of Understanding by and Between the City of Los Banos and the Los Banos Fire Fighters Association (LBFFA) from October 1, 2020 – June 30, 2021.

Recommendation: Adopt the resolution as submitted.

I. City Council Resolution No. 6270 – Amending Division 4, Salary Schedule – Employee Classifications Relating to Changes to Section F – Fire and Section G – Police Associated with the LBPOA, LBPSA and LBFFA Tentative Agreements / Memorandums of Understanding.

Recommendation: Adopt the resolution as submitted.

7. PARKS & RECREATION UPDATE PRESENTATION.

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

8. COVID-19 STATUS UPDATE.

A. City Council Resolution No. 6271 – Continuing the Declaration of the Existence of a Local Emergency within the City of Los Banos (COVID-19).

Recommendation: Receive staff report and adopt the resolution.

9. CONSIDERATION OF CITY OF LOS BANOS MEMBERSHIP WITH PENINSULA CLEAN ENERGY BY ADOPTION OF JOINT POWERS AGREEMENT (JPA) RESOLUTION AND INTRODUCTION/FIRST READING OF REQUIRED COMMUNITY CHOICE AGGREGATION (CCA) ORDINANCE.

A. City Council Resolution No. 6272 – Requesting Membership in the Peninsula Clean Energy Authority, Authorizing the Mayor to Execute the Second

Amended Joint Powers Agreement, and Appointing the City's Director on the Board and the Alternate Director.

B. Ordinance No. 1187 – Authorizing the Implementation of a Community Choice Aggregation Program in the City of Los Banos By and Through the Peninsula Clean Energy Authority. **(First Reading & Introduction)**

Recommendation: Receive the staff report, defer adoption of resolution to be adopted with the ordinance, waive the first reading and introduce the ordinance.

10. ADVISEMENT OF PUBLIC NOTICES. (One report)

11. CITY MANAGER REPORT.

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

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

13. CITY COUNCIL MEMBER REPORTS.

A. Deborah Lewis

B. Tom Faria

C. Daronica Johnson-Santos

D. Brett Jones

E. Mayor Mike Villalta

14. 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.

Sara Blevins, Deputy City Clerk

Dated this 2nd day of October 2020

CK # 223801 - # 224058 010/07/2020 $ 1,203,093.90

Bank Reconciliation

Checks by Date

User: jcanchola
Printed: 09/30/2020 - 8:23AM
Cleared and Not Cleared Checks
Print Void Checks

Check	Check Date	Name	Module	Void	Amount
223801	9/8/2020	Employment Development Dept	AP		15,758.50
223802	9/8/2020	Xerox Financial Services	AP		2,464.46
223803	9/11/2020	Amerigas Propane, LP	AP		98.05
223804	9/11/2020	Ameripride Services	AP		154.29
223805	9/11/2020	Animal Damage Management, Inc.	AP		3,425.00
223806	9/11/2020	Aramark Uniform Ser Inc	AP		428.98
223807	9/11/2020	AT&T	AP		55.63
223808	9/11/2020	Brinks Inc.	AP		755.35
223809	9/11/2020	Bruce's Tire Inc	AP		72.09
223810	9/11/2020	BSK Associates	AP		1,057.00
223811	9/11/2020	Buxton Company	AP		12,500.00
223812	9/11/2020	LN Curtis & Sons	AP		29,106.94
223813	9/11/2020	Dellavalle Laboratory, Inc.	AP		521.20
223814	9/11/2020	Engineering Unlimited Inc	AP		189.14
223815	9/11/2020	Fastenal Company	AP		142.08
223816	9/11/2020	Federal Express Corporation	AP		11.39
223817	9/11/2020	Galls Inc	AP		141.47
223818	9/11/2020	Gibbs International, Inc	AP		5,499.85
223819	9/11/2020	Grainger Parts Operations	AP		1,696.96
223820	9/11/2020	InfoSend Inc.	AP		5,976.92
223821	9/11/2020	JC's Pure Water & More	AP		70.00
223822	9/11/2020	John Deere Financial	AP		680.07
223823	9/11/2020	David A Jones	AP		2,060.00
223824	9/11/2020	Joseph P Silva	AP		125.00
223825	9/11/2020	Kone Inc.	AP		744.63
223826	9/11/2020	Krazan & Associates	AP		3,552.25
223827	9/11/2020	Lucas Business Systems	AP		778.96
223828	9/11/2020	Matrix Audio Visual Design, Inc.	AP		1,929.38
223829	9/11/2020	Marfab Inc	AP		407.57
223830	9/11/2020	McCrometer Inc.	AP		52.00
223831	9/11/2020	Merced County Assessor	AP		360.00
223832	9/11/2020	Merced County Regional Waste Management Authority	AP		5,898.55
223833	9/11/2020	Merced County Regional Waste Management Authority	AP		79,407.78
223834	9/11/2020	Merced County Regional Waste Management Authority	AP		4,888.25
223835	9/11/2020	Merced Sun Star	AP		1,560.07
223836	9/11/2020	Merced Truck & Trailer Inc	AP		1,398.35
223837	9/11/2020	Miracle Playsystems, Inc.	AP		727.13
223838	9/11/2020	Modesto Janitorial Supply Center, Inc.	AP		240.86
223839	9/11/2020	MOO, Inc.	AP		236.40
223840	9/11/2020	John Mueller	AP		100.00
223841	9/11/2020	The Office City	AP		139.68
223842	9/11/2020	OSE	AP		719.85
223843	9/11/2020	O'Reilly Auto Parts	AP		692.38
223844	9/11/2020	PG&E Company	AP		6.77
223845	9/11/2020	Precision Civil Engineering, Inc	AP		875.00
223846	9/11/2020	SJVAPCD	AP		143.00
223847	9/11/2020	San Joaquin Delta Community College District	AP		6,768.00

223848	9/11/2020	Santos Ford Inc.	AP	1,092.71
223849	9/11/2020	Save Mart Supermarkets	AP	99.67
223850	9/11/2020	Sherwin Williams Co	AP	365.54
223851	9/11/2020	Springbrook Software, Inc. Springbrook Holding Company LLC	AP	2,341.00
223852	9/11/2020	Sorensens True Value	AP	221.58
223853	9/11/2020	Sorensens True Value	AP	32.57
223854	9/11/2020	Sprint Solutions, Inc.	AP	189.95
223855	9/11/2020	Superior Pool Products, LLC	AP	3,218.94
223856	9/11/2020	T & T Pavement Markings and Products, Inc.	AP	426.25
223857	9/11/2020	O C Tanner Recognition Company	AP	918.79
223858	9/11/2020	Terryberry Company LLC	AP	408.89
223859	9/11/2020	Terminix Processing Center	AP	120.00
223860	9/11/2020	Tractor Supply Credit Plan	AP	524.51
223861	9/11/2020	Triangle Rock Products	AP	652.76
223862	9/11/2020	United Site Services, Inc.	AP	122.63
223863	9/11/2020	USA Blue Book	AP	845.45
223864	9/11/2020	Gerardo Or Blanca Gutierrez	AP	41.65
223865	9/11/2020	Irvin Quezadaz	AP	64.86
223866	9/11/2020	UC Construction	AP	193.21
223867	9/11/2020	Lucio Dicochea	AP	120.14
223868	9/11/2020	D.R. Horton	AP	166.81
223869	9/11/2020	Gary Richard Vanderroest	AP	117.07
223870	9/11/2020	National Quarters	AP	8.32
223871	9/11/2020	Jazmine Ledesma	AP	86.36
223872	9/11/2020	UC Construction	AP	193.21
223873	9/11/2020	UC Construction	AP	187.93
223874	9/11/2020	UC Construction	AP	193.21
223875	9/11/2020	D.R. Horton	AP	182.18
223876	9/11/2020	D.R. Horton	AP	178.88
223877	9/11/2020	Westhill Property Mgmt	AP	67.93
223878	9/11/2020	Michael Avila	AP	107.86
223879	9/11/2020	Shiva & Meera Singh	AP	74.07
223880	9/11/2020	Michelle Silva	AP	4.78
223881	9/11/2020	Rosa Caudillo	AP	99.14
223882	9/11/2020	D.R. Horton	AP	180.39
223883	9/11/2020	Henry Mendoza	AP	114.01
223884	9/11/2020	UC Construction	AP	193.21
223885	9/11/2020	D.R. Horton	AP	179.63
223886	9/11/2020	Blossom Valley Realty	AP	117.07
223887	9/11/2020	Jamke	AP	64.86
223888	9/11/2020	Dirk Haasner	AP	153.92
223889	9/11/2020	UC Construction	AP	172.18
223890	9/11/2020	Daniel F Iacopi Trustee	AP	95.58
223891	9/11/2020	D.R. Horton	AP	176.62
223892	9/11/2020	D.R. Horton	AP	166.81
223893	9/11/2020	Jose Antonio Aldama, Jr	AP	163.15
223894	9/11/2020	Windecker Inc	AP	12,188.58
223895	9/11/2020	Young's Air Conditioning	AP	371.00
223896	9/11/2020	Liebert Cassidy Whitmore	AP	10,904.00
223897	9/11/2020	Los Banos Medical Group A Medical Corp.	AP	100.00
223898	9/11/2020	Aaron Pinon	AP	120.00
223900	9/18/2020	Alert-O-Lite, Inc.	AP	931.17
223901	9/18/2020	Allied Waste Services #917	AP	306,909.06
223902	9/18/2020	Aramark Uniform Ser Inc	AP	506.08
223903	9/18/2020	AT&T Mobility	AP	40.24
223904	9/18/2020	AT&T	AP	532.91
223905	9/18/2020	Auto Zone Commercial	AP	7.38

223906	9/18/2020	Antonio Ayala	AP	75.00
223907	9/18/2020	Battery Systems, Inc.	AP	839.88
223908	9/18/2020	BJ's Consumers Choice	AP	81.00
223909	9/18/2020	Bruce's Tire Inc	AP	867.81
223910	9/18/2020	BSK Associates	AP	2,900.00
223911	9/18/2020	California Air Resources Board Portable Equipment	AP	735.00
223912	9/18/2020	Clark Pest Control Inc	AP	157.00
223913	9/18/2020	Comcast	AP	10.55
223914	9/18/2020	CSG Consultants Inc.	AP	129,140.92
223915	9/18/2020	Cummins Inc.	AP	540.88
223916	9/18/2020	DeVault Electric Products, Inc.	AP	286.63
223917	9/18/2020	Eakins Properties	AP	913.78
223918	9/18/2020	Federal Express Corporation	AP	76.94
223919	9/18/2020	Gouveia Engineering Inc.	AP	20,426.13
223920	9/18/2020	Great Valley Supply	AP	209.80
223921	9/18/2020	Halcyon Creek Inc.	AP	1,782.60
223922	9/18/2020	Helena Chemical Co Inc	AP	1,969.47
223923	9/18/2020	Kimball Midwest	AP	29.73
223924	9/18/2020	Kompan, Inc.	AP	73,404.83
223925	9/18/2020	Lawson Products, Inc.	AP	535.48
223926	9/18/2020	Lucas Business Systems	AP	80.64
223927	9/18/2020	Mark Thomas & company. Inc.	AP	7,867.75
223928	9/18/2020	Marfab Inc	AP	246.06
223929	9/18/2020	MOO, Inc.	AP	173.86
223930	9/18/2020	Phuong Thanh Nguyen	AP	724.50
223931	9/18/2020	The Office City	AP	125.37
223932	9/18/2020	OSE	AP	68.38
223933	9/18/2020	O'Reilly Auto Parts	AP	1,721.23
223934	9/18/2020	PlayPower LT Farmington, INC.	AP	1,185.55
223935	9/18/2020	Gametime	AP	2,829.04
223936	9/18/2020	Precision Civil Engineering, Inc	AP	170.00
223937	9/18/2020	Price Paige and Company Accountancy Corporation	AP	4,557.00
223938	9/18/2020	R3 Consulting Group	AP	8,600.00
223939	9/18/2020	Razzari Dodge Chrysler Jeep	AP	311.85
223940	9/18/2020	SJVAPCD	AP	98.00
223941	9/18/2020	Safe T Lite of Modesto, Inc.	AP	1,541.60
223942	9/18/2020	Henry Schein Inc.	AP	996.18
223943	9/18/2020	Sherwin Williams Co	AP	557.76
223944	9/18/2020	Frank Silveria	AP	7,983.27
223945	9/18/2020	Sorensens True Value	AP	875.94
223946	9/18/2020	Superior Pool Products, LLC	AP	3,181.94
223947	9/18/2020	The Don Chapin Co., Inc.	AP	294.43
223948	9/18/2020	Stephanie Pereira	AP	27.70
223949	9/18/2020	Juan Garcia	AP	371.98
223950	9/18/2020	Westside Water Conditioning	AP	28.50
223951	9/18/2020	Young's Air Conditioning	AP	10,576.82
223952	9/18/2020	Zee Medical Service Co	AP	244.92
223953	9/18/2020	Richard A Blak Phd	AP	1,200.00
223954	9/18/2020	CDTFA California Dept. of Tax & Fee	AP	659.00
223955	9/18/2020	Halcyon Creek Inc.	AP	11,500.00
223956	9/18/2020	Tim J Law	AP	4,000.00
223957	9/18/2020	Liebert Cassidy Whitmore	AP	6,138.00
223958	9/18/2020	Law Offices of William A Vaughn	AP	14,317.23
223959	9/18/2020	Westamerica Bank - Cafeteria Plan	AP	58,596.24
223960	9/18/2020	Aflac-Customer Service	AP	422.41
223961	9/18/2020	Los Banos Police Assn	AP	245.00
223962	9/18/2020	Los Banos Police Assn	AP	805.00

223963	9/18/2020	MassMutual	AP		1,202.41
223964	9/18/2020	MassMutual	AP		3,715.00
223965	9/18/2020	Nationwide Retirement Solutions	AP		3,760.00
223966	9/18/2020	Professional Fire Fighter	AP		720.00
223967	9/18/2020	Public Employees Union, Local One	AP		1,353.32
223968	9/18/2020	State Disbursement Unit	AP		2,328.00
223969	9/18/2020	Vantagepont Transfer Agents - 306797	AP		951.15
223970	9/18/2020	Vantagepoint Transfer Agents - 801838	AP		3,150.00
223971	9/25/2020	Gregory Almeida	AP		1,707.38
223972	9/25/2020	Ameripride Services	AP		308.58
223973	9/25/2020	Anthony Gomes	AP		515.73
223974	9/25/2020	Apex Annex Health Center, Inc.	AP		1,428.00
223975	9/25/2020	Aramark Uniform Ser Inc	AP		234.09
223976	9/25/2020	Ascent Aviation Group, Inc.	AP		10,651.86
223977	9/25/2020	AT&T Mobility	AP		138.00
223978	9/25/2020	AT&T	AP		1,409.48
223979	9/25/2020	AT&T	AP		120.20
223980	9/25/2020	Backflow Apparatus & Valve Co.	AP		119.70
223981	9/25/2020	Battery Systems, Inc.	AP		522.53
223982	9/25/2020	BJ's Consumers Choice	AP		234.00
223983	9/25/2020	Bruce's Tire Inc	AP		351.39
223984	9/25/2020	BSK Associates	AP		80.00
223985	9/25/2020	Buy N Save Market	AP		52.13
223986	9/25/2020	California Landscape Supply, Inc.	AP		167.96
223987	9/25/2020	Cavenaugh & Associates	AP		4,900.00
223988	9/25/2020	Central Sanitary Supply	AP		455.42
223989	9/25/2020	Clark Pest Control Inc	AP		93.00
223990	9/25/2020	Coffee Break Service Inc.	AP		199.75
223991	9/25/2020	Comcast	AP		334.41
223992	9/25/2020	LN Curtis & Sons	AP		727.86
223993	9/25/2020	Custom Locksmith & Alarm Inc.	AP		832.50
223994	9/25/2020	Dept of Transportation	AP		7,510.90
223995	9/25/2020	Double D Towing, LLC	AP		100.00
223996	9/25/2020	Farmer Brothers Coffee	AP		116.20
223997	9/25/2020	Fast Track Car Wash	AP		17.50
223998	9/25/2020	Federal Express Corporation	AP		51.74
223999	9/25/2020	Ferguson Enterprises Inc DBA Groeniger & Company	AP		3,394.03
224000	9/25/2020	Golden State Flow Measurement	AP		53,570.25
224001	9/25/2020	Gouveia Engineering Inc.	AP		5,583.36
224002	9/25/2020	Helena Chemical Co Inc	AP		667.18
224003	9/25/2020	Heppner Precision Machine Shop, Inc.	AP		873.82
224004	9/25/2020	KD Medical Group, Inc.	AP		65.00
224005	9/25/2020	Pet Partners	AP		125.00
224006	9/25/2020	Marfab Inc	AP		389.52
224007	9/25/2020	McCrometer Inc.	AP		338.00
224008	9/25/2020	Merced Chevrolet Inc.	AP	Void	2,973.97
224009	9/25/2020	Merced County Spring Fair	AP		311.14
224010	9/25/2020	Merced Sun Star	AP		634.40
224011	9/25/2020	Madera Uniform & Accessories, LLC	AP		705.03
224012	9/25/2020	MOO, Inc.	AP		225.60
224013	9/25/2020	Napa Auto Parts of Los Banos	AP		191.95
224014	9/25/2020	NDN International LLC	AP		643.99
224015	9/25/2020	The Office City	AP		787.38
224016	9/25/2020	OSE	AP		104.87
224017	9/25/2020	O'Reilly Auto Parts	AP		689.62
224018	9/25/2020	PG&E Company	AP		6,082.68
224019	9/25/2020	PG&E Company	AP		13.12

224020	9/25/2020	The Phone Connection Inc	AP	471.35
224021	9/25/2020	PlaceWorks, Inc.	AP	27,471.16
224022	9/25/2020	Production Sales of Silicon Valley	AP	324.78
224023	9/25/2020	Save Mart Supermarkets	AP	217.68
224024	9/25/2020	Henry Schein Inc.	AP	329.66
224025	9/25/2020	Sherwin Williams Co	AP	774.14
224026	9/25/2020	Sorensens True Value	AP	754.11
224027	9/25/2020	Sorensens True Value	AP	16.29
224028	9/25/2020	Sprint Solutions, Inc.	AP	987.74
224029	9/25/2020	Stiles Truck Body & Equipment, Inc.	AP	9,786.21
224030	9/25/2020	Superior Pool Products, LLC	AP	5,955.15
224031	9/25/2020	Stonefield Homes, Inc.	AP	790.98
224032	9/25/2020	Terminix Processing Center	AP	63.00
224033	9/25/2020	Unique Glass	AP	1,903.93
224034	9/25/2020	Rosalie Nevarez	AP	137.44
224035	9/25/2020	D.R. Horton	AP	169.83
224036	9/25/2020	Christian Garcia	AP	64.86
224037	9/25/2020	Adolfo Guzman Garcia	AP	57.00
224038	9/25/2020	Jose Alberto Bautista Elvira	AP	53.92
224039	9/25/2020	D.R. Horton	AP	185.67
224040	9/25/2020	Nathaniel Vargas	AP	187.72
224041	9/25/2020	D.R. Horton	AP	184.16
224042	9/25/2020	D.R. Horton	AP	173.60
224043	9/25/2020	D.R. Horton	AP	173.78
224044	9/25/2020	Blossom Valley Realty, JR Souza	AP	79.34
224045	9/25/2020	Aldina Real Estate, Inc.	AP	72.76
224046	9/25/2020	Ronnie Snodgrass	AP	47.80
224047	9/25/2020	Claudia Martinez	AP	43.86
224048	9/25/2020	Verizon Wireless	AP	234.25
224049	9/25/2020	Walmart	AP	46.96
224050	9/25/2020	Windecker Inc	AP	8,239.81
224051	9/25/2020	Young's Air Conditioning	AP	429.00
224052	9/25/2020	City of Los Banos Utility	AP	51,253.30
224053	9/25/2020	KD Medical Group, Inc.	AP	65.00
224054	9/25/2020	US Bank Corp Pymt System	AP	15,893.24
224055	9/25/2020	Law Offices of William A Vaughn	AP	450.00
224056	9/25/2020	Los Banos Volunteer	AP	2,416.67
224057	9/25/2020	Gerald "Obie" O'Brien	AP	77.14
224058	9/25/2020	Law Offices of William A Vaughn	AP	12,600.00

Break in check sequence due to the following:
Check #223899 (Payroll)

Total Void Check Count:	1
Total Void Check Amount:	2,973.97
Total Valid Check Count:	256
Total Valid Check Amount:	1,200,119.93
Total Check Count:	257
Total Check Amount:	1,203,093.90

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 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: On-site Wastewater Treatment System Memorandum of Understanding (MOU) with Merced County Department of Public Health

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Recommendation:
That the City Council adopts the Resolution authorizing the City Manager to sign a Memorandum of Understanding between the City of Los Banos and Merced County Department of Public Health regarding On-site Wastewater Treatment Systems (OWTS).

Background:
On September 27, 2000, Governor Gray Davis signed into law Assembly Bill 885 (AB 885) and the State Water Quality Control Board (SWRCB) adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS policy), which became effective on May 13, 2013. The OWTS policy regulates the siting, design, operation, and maintenance of OWTS located throughout the state and authorizes local agencies to submit a Local Agency Management Program (LAMP) to the Regional Water Quality Control Board (RWQCB) for approval of alternate methods of siting and design. Merced County Department of Public Health, Division of Environmental Health (MCDEH) operates a program for the approval of siting, design, operation, and maintenance of OWTS for individual residences, has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy, and has submitted a LAMP to the Central Valley RWQCB for approval. On April 7, 2017, the Central Valley RWQCB approved the County's LAMP and as a result granted a Conditional Waiver of Waste Discharge Requirement (WDR) for all OWTS complying with the LAMP. On December 6, 2016 the Merced County Board of Supervisors approved an ordinance adding Chapter 9.54 to Title 9 of Merced County Code to implement the requirements of the LAMP.

On March 2, 2018, the City of Los Banos Public Works Director/City Engineer submitted a letter of intent to Central Valley RWQCB stating the City's intent to enter into an

agreement with the County of Merced for the regulation of OWTS within the City's incorporated boundaries. This MOU is the fulfillment of that intent and notification will be sent to the Water Board as soon as an agreement is in place.

Discussion:
The Public Works Department has identified 27 OWTS located within the City Limits and submitted this list to MCDEH for the purpose of complying with the requirements of AB 885. This MOU will grant MCDEH authority to inspect and respond to complaints from the public concerning OWTS within the jurisdiction of the City. MCDEH will review all permit applications and issue permits for new, replacement, repair, or demolition of applicable OWTS in the City for siting and design. Applicants will obtain permits from the County rather than the City.

The LAMP offered by the County of Merced allows the City of Los Banos and other cities in Merced County to comply with State requirements for OWTS and will allow the City to meet all requirements to stay compliant.

City Ordinance 6-5.02.c-e prohibits the use of OWTS (septic tanks) within the City unless a public sanitary sewer is not available within 200' of the property line. Therefore, this MOU deals with the repair and maintenance of existing OWTS.

The City of Los Banos Public Works Department is committed to preserving and securing the health and safety of residents and protecting the quality of groundwater within the city, county, and state by ensuring all OWTS meet the standards set forth by RWQCB and this MOU.

The City Attorney and the Central San Joaquin Valley Risk Management Authority have reviewed and approved this MOU.

Fiscal Impact:
Fiscal impact will be limited to costs associated with County responding to unsubstantiated complaints alleging OWTS failure, including travel time, and County staff time to obtain, compile, and submit reports. Public Works did not respond to any complaints of OWTS failure in the past year and spent limited time compiling necessary information for reports dealing with OWTS.

Reviewed by:

Alex Terrazas, City Manager

Sonya Williams, Finance Director

Attachments:
Resolution
Memorandum of Understanding
OWTS Policy
Letter of Intent

RESOLUTION NO. ____

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF LOS BANOS AND THE COUNTY OF MERCED, DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL HEALTH REGARDING ON-SITE WASTEWATER TREATMENT SYSTEMS (OWTS)

WHEREAS, the state of California adopted Assembly Bill 885 on September 27, 2000, which requires the State Water Resources Control Board to adopt specific regulations or standards for the permitting and operation of onsite wastewater treatment systems (OWTS); and

WHEREAS, on June 19, 2012, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy); and

WHEREAS, The OWTS Policy became effective on May 13, 2013; and

WHEREAS, the OWTS Policy establishes a waiver of Waste Discharge Requirement (WDR) permits for OWTS systems meeting the criteria of the OWTS Policy; and

WHEREAS, the OWTS Policy establishes low-risk siting and design requirements for OWTS subject to the OWTS Policy and authorizes local agencies to submit a Local Agency Management Program (LAMP) to the Regional Water Quality Control Board for approval of alternate methods of siting and design to achieve the same purpose; and

WHEREAS, the County of Merced, Department of Public Health, Division of Environmental Health (MCDEH) operates a program for the approval of the siting, design, operation, and maintenance of OWTS for individual residences within its Division of Environmental Health and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy; and

WHEREAS, the County of Merced (County) submitted a LAMP to the Central Valley Regional Water Quality Control Board for approval; and

WHEREAS, the OWTS Policy Section 4.3 states that the Regional Water Quality Control Board designated in Attachment 3 shall review, and if appropriate, approve a

Local Agency Management Program submitted by the local agency pursuant to Tier 2 in this Policy; and

WHEREAS, OWTS Policy Attachment 3 identifies Central Valley Regional Water Quality Control Board (Region 5) as the designated Regional Water Quality Control Board for the County of Merced for purposes of reviewing and, if appropriate, approving new Local Agency Management Plans; and

WHEREAS, the Central Valley Regional Water Quality Control Board reviewed the County's LAMP, determined that it meets the requirements of the OWTS Policy; and

WHEREAS, on April 7, 2017, the Central Valley Regional Water Quality Control Board approved the County's Lamp, for those areas within the Central Valley Regional Water Quality Control Board, and as a result granted a Conditional Waiver of WDRs for all OWTS complying with the LAMP (for the most current version of the LAMP, contact MCDEH); and

WHEREAS, on December 6, 2016, the Merced County Board of Supervisors approved the ordinance entitled, "Regulation of On-site Waste Water Treatment System", adding Chapter 9.54 to Title 9 of Merced County Code to implement the requirements of the LAMP; and

WHEREAS, the Merced County Board of Supervisors delegates authority to the Public Health Director or authorized designee to enter into agreements with local jurisdictions to provide services under the LAMP; and

WHEREAS, the City of Los Banos (City) has existing OWTS and areas without access to a public sewer system; and

WHEREAS, both the County of Merced and the City are desirous of protecting the public's health and the quality of groundwater within the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby authorize the City Manager to execute the Memorandum of Understanding between the City of Los Banos and Merced County Department of Public Health regarding On-site Wastewater Treatment Systems (OWTS)

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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

MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN
THE COUNTY OF MERCED, DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL HEALTH
AND
THE CITY OF LOS BANOS

REGARDING ON-SITE WASTEWATER TREATMENT SYSTEMS

EFFECTIVE DATE: _____

SECTION I. RECITALS

1. WHEREAS, the State of California adopted Assembly Bill 885 in September 2000, which requires the State Water Resources Control Board to adopt specific regulations or standards for the permitting and operation of onsite wastewater treatment systems (OWTS).

2. WHEREAS, on June 19, 2012, the State Water Resources Control Board adopted the Water Quality Control Plan for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), and it became effective on May 13, 2013.

3. WHEREAS, the OWTS Policy establishes a waiver of Waste Discharge Requirement (WDR) permits for OWTS systems meeting the criteria of the OWTS Policy.

4. WHEREAS, the OWTS Policy establishes low-risk siting and design requirements for OWTS subject to the OWTS Policy and authorizes local agencies to submit a Local Agency Management Program (LAMP) to the Regional Water Quality Control Board for approval of alternate methods of siting and design to achieve the same purpose.

5. WHEREAS, the County of Merced, Department of Public Health, Division of Environmental Health (MCDEH) operates a program for the approval of the siting, design, operation, and maintenance of OWTS for individual residences within its Division of Environmental Health and has adequate staffing and technical knowledge to meet the requirements of the OWTS Policy.

6. WHEREAS, the County of Merced (County) submitted a LAMP to the Central Valley Regional Water Quality Control Board for approval.

7. WHEREAS, the OWTS Policy Section 4.3 states that the Regional Water Quality Control Board designated in Attachment 3 shall review, and if appropriate, approve a Local Agency Management Program submitted by the local agency pursuant to Tier 2 in this Policy.

8. WHEREAS, OWTS Policy Attachment 3 identifies Central Valley Regional Water Quality Control Board (Region 5) as the designated Regional Water Quality Control Board for the County of Merced for purposes of reviewing and, if appropriate, approving new Local Agency Management Plans.

9. WHEREAS, the Central Valley Regional Water Quality Control Board reviewed the County's LAMP, determined that it meets the requirements of the OWTS Policy.

10. WHEREAS, on April 7, 2017, the Central Valley Regional Water Quality Control Board approved the County's LAMP, for those areas within the Central Valley Regional Water Quality Control Board, and

as a result granted a Conditional Waiver of WDRs for all OWTS complying with the LAMP (for the most current version of the LAMP, contact MCDEH).

11. WHEREAS, on December 6, 2016, the Merced County Board of Supervisors approved the ordinance entitled, "Regulation of On-site Waste Water Treatment Systems", adding Chapter 9.54 to Title 9 of Merced County Code to implement the requirements of the LAMP.

12. WHEREAS, the Merced County Board of Supervisors delegates authority to the Public Health Director or authorized designee to enter into agreements with local jurisdictions to provide services under the LAMP.

13. WHEREAS, the City of Los Banos (City) has existing OWTS and areas without access to a public sewer system.

14. WHEREAS, both the County of Merced and the City of Los Banos are desirous of protecting the public's health and the quality of groundwater within the City.

15. NOW THEREFORE THE COUNTY OF MERCED AND THE CITY OF LOS BANOS (PARTIES) HEREBY AGREE AS FOLLOWS:

SECTION II. DESIGNATION AND AGREEMENT

1. The City designates the County as the permitting and inspecting agency, and the County accepts the designation for the implementation of the County's approved LAMP for the siting, design, operation, and maintenance of certain OWTS, as set forth and defined herein, within the City's incorporated area.

2. The County and City agree that the requirements of the LAMP, the County's LAMP enforcement ordinance and the County's adopted Plumbing Code will govern the applicable siting, design, operation, and maintenance of OWTS within the City.

3. Modification. Any modifications of this MOU shall be done in writing and signed by both Parties.

4. Effective Date. This MOU is effective on _____ and shall remain in effect indefinitely until either of the Parties terminates this MOU in writing.

SECTION III. APPLICABILITY

1. The OWTS subject to the County's responsibilities in Section IV (A) (2) of this agreement shall consist of those OWTS that generate less than 10,000 gallons per day of domestic wastewater (as that term is defined in the OWTS Policy, Section 2 -Permit Requirement), that dispose of wastewater below the ground surface, and that are generated from single family residences, multi-family residences, commercial buildings where the wastewater is from domestic sources (e.g., toilets, urinals, bathtubs, showers, dishwashing facilities, laundry washing, and garbage disposals), buildings which are a combination of commercial and residential, and commercial food service buildings with wastewater with a Biological Oxygen Demand (BOD) of 900 mg/L or less and a properly functioning grease interceptor.

2. The County shall not be responsible for any fines, fees, or taxes imposed upon the City by the State, federal and special district agencies related to any activities associated with this MOU.

3. This MOU shall not apply to any other OWTS within the incorporated area of the City, including those, but not limited to, OWTS that:

    a) Generate 10,000 gallons or more per day;
    b) Discharge high-strength wastewater (OWTS Policy, Section 1.0), other than commercial food service buildings meeting the above requirements;
    c) Are commercial food service buildings that don't meet the above requirements;
    d) Generate industrial wastewater;
    e) Accept wastewater from Recreational Vehicles;
    f) Utilize methods to dispose of wastewater above ground;
    g) Treat and reuse wastewater onsite for non-potable uses.

4. Nothing in this MOU shall diminish or affect the ability of the City to exercise its lawful authority to regulate the type, siting, design, and installation for those OWTS within the incorporated area of the City that are exempt from this MOU. Issuance of a Waste Discharge Requirement or other permits by a Regional Water Quality Control Board shall not constitute authorization for any person or entity to construct, install, or operate any OWTS without such City approval.

SECTION IV. GENERAL PROVISIONS

A. COUNTY RESPONSIBILITIES

1. The County will notify the appropriate Regional Water Quality Control Board that the City has entered into an agreement to be regulated under the County's LAMP.

2. The County will review all permit applications and issue permits for new, replacement, repair, or demolition of applicable OWTS in the City for siting and design. The County will conduct inspections on all OWTS permit work to ensure the approved designs are completed as outlined in the County's OWTS permit.

3. The County shall provide the owner of the property or his/her representative with an approval of the application, a detailed list of corrections needed to proceed with the application, or a detailed reason why the project is unable to be approved. Projects that the County determines may impact ground or surface water may be directed to file a Report of Waste Discharge with the Regional Water Quality Control Board.

4. The City will coordinate with the County to review all applications for building permits where an OWTS is present on the property to evaluate whether the proposed construction will impact the OWTS by:

    a) Potentially increasing wastewater flows (e.g., adding additional bedrooms, second dwellings);
    b) Changing the strength of the wastewater;
    c) Impinging upon required setbacks of the OWTS, any of its components, or the required 100% or 300% future expansion area.

5. The County will maintain an inventory of all OWTS permitted within the City's incorporated area including OWTS Policy tier, setback information, and if a non-conventional on-site wastewater treatment system was required.

6. The County shall respond to any complaint alleging an OWTS failure and, will issue directives to owners of OWTS when the County determines the OWTS is in need of replacement or repair and City service is unavailable. The County will refer the complaint and the County's directives to the City for follow-up and enforcement action.

7. The County will invoice the City for County staff time spent on responding to unsubstantiated complaints alleging an OWTS failure. The County will invoice the property owner for County staff time spent on responding to substantiated complaints of an OWTS failure. The County will bill at the current hourly rate, at one-hour minimum, for all staff time spent responding to complaints of OWTS failure including travel time.

8. The County will refer to the City for any enforcement of any violation of the City's ordinance or the County's LAMP including but not limited to instances when the property owner has failed to comply with the written directives of the Local Health Officer, or Environmental Health Division Director, or authorized designees.

9. The County will inspect and permit all sewage pumper trucks that service OWTS within the City's jurisdiction annually; however, such inspections and permits shall not be construed to prohibit or limit City's business licensing activity.

10. The County will complete and submit reports with the data outlined in the Merced County's LAMP, Section 5, according to the frequency outlined in the same section.

11. The County will invoice the City for staff time spent per event to obtain, compile, and submit reports with the data outlined in the Merced County's LAMP, Section 5, according to the frequency outlined in the same section. The County will bill at the current hourly rate, at one-hour minimum, for all staff time spent.

B. CITY RESPONSIBILITIES

1. The City will provide the County with a list of all reasonably known domestic OWTS and other applicable OWTS within the City's jurisdiction within 60 days of the effective date of this agreement.

2. The City shall provide the County by January 1st of each year a list of properties where an existing OWTS had been connected to the public sewer during the prior year.

3. The City will provide the County with a list of locations of all existing wells and surface water intakes and any future wells connected to the City's public water system within 60 days of the effective date of this agreement.

4. The City shall notify the County whenever a well is newly connected to or disconnected from the City's public water system.

5. The City shall notify the County whenever a new building with an applicable OWTS is issued a Certificate of Occupancy.

6. The City shall refer and seek approval from the County for any building permit application for a new building and/or a remodel of an existing building that will be utilizing an OWTS. The City shall also refer and seek approval from the County for any building permit application for repair of an existing OWTS, or construction of any building or permanent structure which may impinge upon an OWTS or its future expansion area.

The City shall not issue a building permit for a project referred to the County unless plans for the project are first approved by the County.

7. The City shall require a property owner to submit a Report of Waste Discharge for issuance of WDRs by the appropriate Regional Water Quality Control Board for any OWTS project that does not meet the requirements identified in Section III, Paragraph 1 of this MOU.

8. The City shall investigate any complaint alleging construction of an OWTS or modification of an existing OWTS without obtaining the appropriate permits.

9. Except as otherwise provided by Section IV (A) (6), the City shall conduct all enforcement activities for any violation of the City's ordinance or the County's LAMP, including but not limited to, instances when the property owner has failed to comply with the written directives of the Local Health Officer, or Environmental Health Division Director, or authorized designees.

10. The City shall provide the County with its current sewer availability map and update the County with its sewer availability map by January 1st of each year.

11. The City, upon cancellation of this MOU, shall comply with the Tier 1 requirements in the State OWTS Policy until the Regional Water Quality Control Board has approved a LAMP authorizing the City to use alternative requirements. If as a result of the termination of this MOU the Regional Water Quality Control Board determines that WDRs are required for existing applicable OWTS, the City shall be responsible for issuing a notice to the owner of each property where an OWTS is installed within their jurisdiction directing the owner to obtain WDRs.

12. The City shall provide the County by January 1st of each year with surface or groundwater quality monitoring data for nitrates, pathogens, and other constituents that may be useful to the County's annual Water Quality Assessment Program. The data may be collected by the City as part of its National Pollutant Discharge Elimination System (NPDES) Permit requirements, a City-operated water utility, or other monitoring programs.

13. The City shall pay the County invoices that are billed to the City for the County's staff time spent on activities outlined in Section 4A of this MOU.

SECTION V. TERMINATION

1. The City may terminate this MOU, with or without cause, upon ninety (90) days written notice.

2. The County may terminate this MOU, with or without cause, upon ninety (90) days written notice from the Public Health Director or authorized designee, to the City.

3. Upon the effective date of the termination, the City shall become responsible for enforcement of the State OWTS Policy within its jurisdiction.

4. In addition to the above, in the event that the State Water Board adopts new regulations regarding OWTS, the County may, at its discretion, terminate this MOU upon the effective date of the new regulations. The City and the County, at their mutual agreement, may negotiate and adopt an amendment to this MOU to include the new regulations.

SECTION VI. MUTUAL INDEMNIFICATION

1. County will indemnify, defend and hold harmless City, its elected and appointed officers, and employees from and against any and all liability, including but not limited to demands, claims, actions fees, costs, and expenses arising from or connected with County's negligent acts and/or omissions, arising from this MOU and/or relating to this MOU. County will not be obligated to indemnify, defend and hold harmless City from City's negligent acts and/or omissions relating to this agreement.

2. City will indemnify, defend and hold harmless County, its elected and appointed officers, and employees from and against any and all liability, including but not limited to demands, claims, actions fees, costs, and expenses arising from or connected with City's negligent acts and/or omissions, arising from this MOU and/or relating to this MOU. City will not be obligated to indemnify, defend and hold harmless County from County's negligent acts and/or omissions relating to this agreement.

SECTION VII. STANDARD PROVISIONS

1. This is an integrated agreement and therefore contains all of the terms, considerations, understandings and promises between the Parties related to this MOU. This MOU may be modified, changed or rescinded only by written agreement, executed by the Parties.

2. All exhibits referred to herein are incorporated into this MOU. Failure to comply with the provisions or requirements of any exhibit shall constitute grounds for breach of this MOU by either Party.

3. This MOU shall be governed and construed in accordance with the laws of the State of California.

4. Any action arising out of this MOU shall be brought in Merced County, California, regardless of where venue may lie.

5. Any notice or communication required hereunder between the Parties must be in writing and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices of communications shall be given to the Parties at their addresses set forth below:

If to City:
City of Los Banos
Public Works Department
411 Madison Avenue
Los Banos, CA 93635
Attn: Mark Fachin, P.E.

With copies to:
City of Los Banos
Public Works Department
1015 F Street
Los Banos, CA 93635
Attn: William Via

If to County: Merced County Department of Public Health
Division of Environmental Health
260 E. 15th Street
Merced, CA 95341

Attn: Environmental Health Division Director

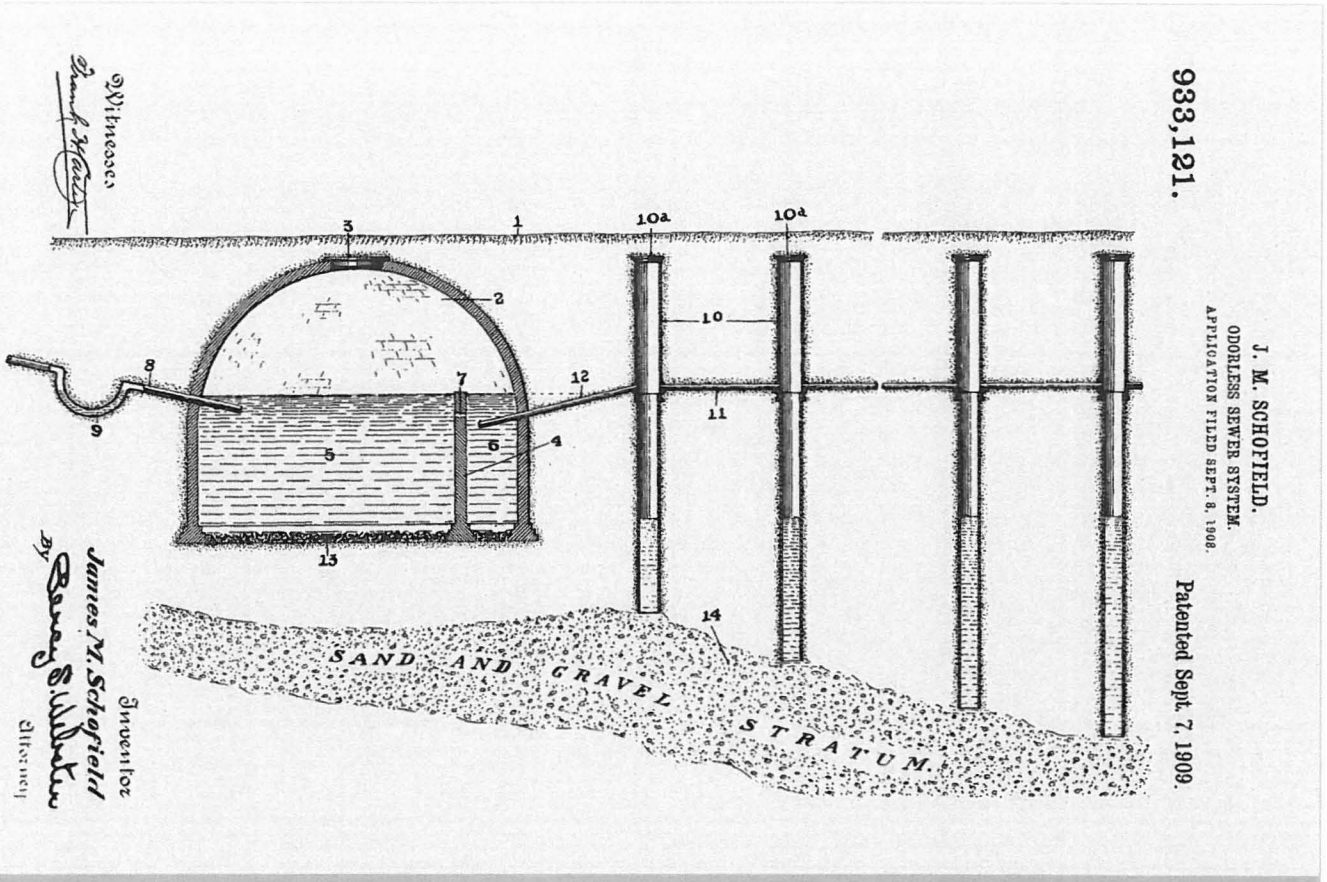
6. This MOU may be executed in one or more counterparts and all so executed shall be binding upon the Parties, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

SECTION VIII. AUTHORIZING SIGNATURES

As authorized by the City of Los Banos (Authorizing City Entity) on _____ (Date).

Signature: _____
[Alex Terrazas (First and Last Name of Signatory), City Manager (Title of Signatory)]

Attest Signature: _____
[Lucy Mallonee (First and Last Name of Attest), City Clerk/HR Director (Title of Attest)]



OWTS POLICY

Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems

June 19, 2012

CALIFORNIA
Water Boards

STATE WATER RESOURCES CONTROL BOARD

REGIONAL WATER QUALITY CONTROL BOARDS

State of California
Edmund G. Brown Jr., Governor

California Environmental Protection Agency
Matthew Rodriquez, Secretary

State Water Resources Control Board
http://www.waterboards.ca.gov

Charles R. Hoppin, Chair
Frances Spivy-Weber, Vice Chair
Tam M. Doduc, Member
Steven Moore, Member

Thomas Howard, Executive Director
Jonathan Bishop, Chief Deputy Director
Caren Trgovcich, Chief Deputy Director

Adopted by the State Water Resources Control Board on June 19, 2012
Approved by the Office of Administrative Law on November 13, 2012
Effective Date of the Policy: May 13, 2013

Preamble – Purpose and Scope – Structure of the Policy

Preamble

Onsite wastewater treatment systems (OWTS) are useful and necessary structures that allow habitation at locations that are removed from centralized wastewater treatment systems. When properly sited, designed, operated, and maintained, OWTS treat domestic wastewater to reduce its polluting impact on the environment and most importantly protect public health. Estimates for the number of installations of OWTS in California at the time of this Policy are that more than 1.2 million systems are installed and operating. The vast majority of these are functioning in a satisfactory manner and meeting their intended purpose.

However there have been occasions in California where OWTS for a varied list of reasons have not satisfactorily protected either water quality or public health. Some instances of these failures are related to the OWTS not being able to adequately treat and dispose of waste as a result of poor design or improper site conditions. Others have occurred where the systems are operating as designed but their densities are such that the combined effluent resulting from multiple systems is more than can be assimilated into the environment. From these failures we must learn how to improve our usage of OWTS and prevent such failures from happening again.

As California's population continues to grow, and we see both increased rural housing densities and the building of residences and other structures in more varied terrain than we ever have before, we increase the risks of causing environmental damage and creating public health risks from the use of OWTS. What may have been effective in the past may not continue to be as conditions and circumstances surrounding particular locations change. So necessarily more scrutiny of our installation of OWTS is demanded of all those involved, while maintaining an appropriate balance of only the necessary requirements so that the use of OWTS remains viable.

Purpose and Scope of the Policy

The purpose of this Policy is to allow the continued use of OWTS, while protecting water quality and public health. This Policy recognizes that responsible local agencies can provide the most effective means to manage OWTS on a routine basis. Therefore as an important element, it is the intent of this policy to efficiently utilize and improve upon where necessary existing local programs through coordination between the State and local agencies. To accomplish this purpose, this Policy establishes a statewide, risk-based, tiered approach for the regulation and management of OWTS installations and replacements and sets the level of performance and protection expected from OWTS. In particular, the Policy requires actions for water bodies specifically identified as part this Policy where OWTS contribute to water quality degradation that adversely affect beneficial uses.

This Policy only authorizes subsurface disposal of domestic strength, and in limited instances high strength, wastewater and establishes minimum requirements for the permitting, monitoring, and operation of OWTS for protecting beneficial uses of waters

of the State and preventing or correcting conditions of pollution and nuisance. And finally, this Policy also conditionally waives the requirement for owners of OWTS to apply for and receive Waste Discharge Requirements in order to operate their systems when they meet the conditions set forth in the Policy. Nothing in this Policy supersedes or requires modification of Total Maximum Daily Loads or Basin Plan prohibitions of discharges from OWTS.

This Policy also applies to OWTS on federal, state, and Tribal lands to the extent authorized by law or agreement.

Structure of the Policy

This Policy is structured into ten major parts:

Definitions
Definitions for all the major terms used in this Policy are provided within this part and wherever used in the Policy the definition given here overrides any other possible definition.
[Section 1]

Responsibilities and Duties
Implementation of this Policy involves individual OWTS owners; local agencies, be they counties, cities, or any other subdivision of state government with permitting powers over OWTS; Regional Water Quality Control Boards; and the State Water Resources Control Board.
[Sections 2, 3, 4, and 5]

Tier 0 – Existing OWTS
Existing OWTS that are properly functioning, and do not meet the conditions of failing systems or otherwise require corrective action (for example, to prevent groundwater impairment) as specifically described in Tier 4, and are not determined to be contributing to an impairment of surface water as specifically described in Tier 3, are automatically included in Tier 0.
[Section 6]

Tier 1 – Low-Risk New or Replacement OWTS
New or replacement OWTS that meet low risk siting and design requirements as specified in Tier 1, where there is not an approved Local Agency Management Program per Tier 2.
[Sections 7 and 8]

Tier 2 – Local Agency Management Program for New or Replacement OWTS
California is well known for its extreme range of geological and climatic conditions. As such, the establishment of a single set of criteria for OWTS would either be too restrictive so as to protect for the most sensitive case, or would have broad allowances that would not be protective enough under some circumstances. To accommodate this

extreme variance, local agencies may submit management programs ("**Local Agency Management Programs**") for approval, and upon approval then manage the installation of new and replacement OWTS under that program.

Local Agency Management Programs approved under Tier 2 provide an alternate method from Tier 1 programs to achieve the same policy purpose, which is to protect water quality and public health. In order to address local conditions, Local Agency Management Programs may include standards that differ from the Tier 1 requirements for new and replacement OWTS contained in Sections 7 and 8. As examples, a Local Agency Management Program may authorize different soil characteristics, usage of seepage pits, and different densities for new developments. Once the Local Agency Management Program is approved, new and replacement OWTS that are included within the Local Agency Management Program may be approved by the Local Agency. A Local Agency, at its discretion, may include Tier 1 standards within its Tier 2 Local Agency Management Program for some or all of its jurisdiction. However, once a Local Agency Management Program is approved, it shall supersede Tier 1 and all future OWTS decisions will be governed by the Tier 2 Local Agency Management Program until it is modified, withdrawn, or revoked.
[Section 9]

Tier 3 – Impaired Areas
Existing, new, and replacement OWTS that are near impaired water bodies may be addressed by a TMDL and its implementation program, or special provisions contained in a Local Agency Management Program. If there is no TMDL or special provisions, new or replacement OWTS within 600 feet of impaired water bodies listed in Attachment 2 must meet the specific requirements of Tier 3.
[Section 10]

Tier 4 – OWTS Requiring Corrective Action
OWTS that require corrective action or are either presently failing or fail at any time while this Policy is in effect are automatically included in Tier 4 and must follow the requirements as specified.
[Section 11]

Conditional Waiver of Waste Discharge Requirements
The requirement to submit a report of waste discharge for discharges from OWTS that are in conformance with this policy is waived.
[Section 12]

Effective Date
When this Policy becomes effective.
[Section 13]

Financial Assistance
Procedures for local agencies to apply for funds to establish low interest loan programs for the assistance of OWTS owners in meeting the requirements of this Policy.
[Section 14]

Preamble – Purpose and Scope – Structure of the Policy

Attachment 1
AB 885 Regulatory Program Timelines.

Attachment 2

Tables 4 and 5 specifically identify those impaired water bodies that have Tier 3 requirements and must have a completed TMDL by the date specified.

Attachment 3

Table 6 shows where one Regional Water Board has been designated to review and, if appropriate, approve new Local Agency Management Plans for a local agency that is within multiple Regional Water Boards' jurisdiction.

What Tier Applies to my OWTS?

Existing OWTS that conform to the requirements for Tier 0 will remain in Tier 0 as long as they continue to meet those requirements. An existing OWTS will temporarily move from Tier 0 to Tier 4 if it is determined that corrective action is needed. The existing OWTS will return to Tier 0 once the corrective action is completed if the repair does not qualify as major repair under Tier 4. Any major repairs conducted as corrective action must comply with Tier 1 requirements or Tier 2 requirements, whichever are in effect for that local area. An existing OWTS will move from Tier 0 to Tier 3 if it is adjacent to an impaired water body listed on Attachment 2, or is covered by a TMDL implementation plan.

In areas with no approved Local Agency Management Plan, new and replacement OWTS that conform to the requirements of Tier 1 will remain in Tier 1 as long as they continue to meet those requirements. A new or replacement OWTS will temporarily move from Tier 1 to Tier 4 if it is determined that corrective action is needed. The new or replacement OWTS will return to Tier 1 once the corrective action is completed. A new or replacement OWTS will move from Tier 1 to Tier 3 if it is adjacent to an impaired water body, or is covered by a TMDL implementation plan.

In areas with an approved Local Agency Management Plan, new and replacement OWTS that conform to the requirements of the Tier 2 Local Agency Management Plan will remain in Tier 2 as long as they continue to meet those requirements. A new or replacement OWTS will temporarily move from Tier 2 to Tier 4 if it is determined that corrective action is needed. The new or replacement OWTS will return to Tier 2 once the corrective action is completed. A new or replacement OWTS will move from Tier 2 to Tier 3 if it is adjacent to an impaired water body, or is covered by a TMDL implementation plan, or is covered by special provisions for impaired water bodies contained in a Local Agency Management Program.

Existing, new, and replacement OWTS in specified areas adjacent to water bodies that are identified by the State Water Board as impaired for pathogens or nitrogen and listed in Attachment 2 are in Tier 3. Existing, new, and replacement OWTS covered by a TMDL implementation plan, or covered by special provisions for impaired water bodies contained in a Local Agency Management Program are also in Tier 3. These OWTS will temporarily move from Tier 3 to Tier 4 if it is determined that corrective action is needed. The new or replacement OWTS will return to Tier 3 once the corrective action is completed.

Existing, new, and replacement OWTS that do not conform with the requirements to receive coverage under any of the Tiers (e.g., existing OWTS with a projected flow of more than 10,000 gpd) do not qualify for this Policy's conditional waiver of waste discharge requirements, and will be regulated separately by the applicable Regional Water Board.

Definitions

1.0 Definitions. The following definitions apply to this Policy:

"303 (d) list" means the same as **"Impaired Water Bodies."**

"At-grade system" means an OWTS dispersal system with a discharge point located at the preconstruction grade (ground surface elevation). The discharge from an at-grade system is always subsurface.

"Average annual rainfall" means the average of the annual amount of precipitation for a location over a year as measured by the nearest National Weather Service station for the preceding three decades. For example the data set used to make a determination in 2012 would be the data from 1981 to 2010.

"Basin Plan" means the same as "water quality control plan" as defined in Division 7 (commencing with Section 13000) of the Water Code. Basin Plans are adopted by each Regional Water Board, approved by the State Water Board and the Office of Administrative Law, and identify surface water and groundwater bodies within each **Region's boundaries and establish, for each, its respective beneficial uses and water** quality objectives. Copies are available from the Regional Water Boards, electronically at each Regional Water Boards website, or **at the State Water Board's** *Plans and Policies* web page (http://www.waterboards.ca.gov/plans_policies/).

"Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, surficial material.

"CEDEN" means California Environmental Data Exchange Network and information about it is available at the State Water Boards website or http://www.ceden.org/index.shtml.

"Cesspool" means an excavation in the ground receiving domestic wastewater, designed to retain the organic matter and solids, while allowing the liquids to seep into the soil. Cesspools differ from seepage pits because cesspool systems do not have septic tanks and are not authorized under this Policy. The term cesspool does not include pit-privies and out-houses which are not regulated under this Policy.

"Clay" means a soil particle; the term also refers to a type of soil texture. As a soil particle, clay consists of individual rock or mineral particles in soils having diameters <0.002 mm. As a soil texture, clay is the soil material that is comprised of 40 percent or more clay particles, not more than 45 percent sand and not more than 40 percent silt particles using the USDA soil classification system.

"Cobbles" means rock fragments 76 mm or larger using the USDA soil classification systems.

"Dispersal system" means a leachfield, seepage pit, mound, at-grade, subsurface drip field, evapotranspiration and infiltration bed, or other type of system for final wastewater treatment and subsurface discharge.

Definitions

"Domestic wastewater" means wastewater with a measured strength less then high-strength wastewater and is the type of wastewater normally discharged from, or similar to, that discharged from plumbing fixtures, appliances and other household devices including, but not limited to toilets, bathtubs, showers, laundry facilities, dishwashing facilities, and garbage disposals. Domestic wastewater may include wastewater from commercial buildings such as office buildings, retail stores, and some restaurants, or from industrial facilities where the domestic wastewater is segregated from the industrial wastewater. Domestic wastewater may include incidental RV holding tank dumping but does not include wastewater consisting of a significant portion of RV holding tank wastewater such as at RV dump stations. Domestic wastewater does not include wastewater from industrial processes.

"Dump Station" means a facility intended to receive the discharge of wastewater from a holding tank installed on a recreational vehicle. A dump station does not include a full hook-up sewer connection similar to those used at a recreational vehicle park.

"Domestic well" means a groundwater well that provides water for human consumption and is not regulated by the California Department of Public Health.

"Earthen material" means a substance composed of the earth's crust (i.e. soil and rock).

"EDF" see "electronic deliverable format."

"Effluent" means sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, aerobic treatment unit, dispersal system, or other OWTS component.

"Electronic deliverable format" or **"EDF"** means the data standard adopted by the State Water Board for submittal of groundwater quality monitoring data to the State Water Board's internet-accessible database system Geotracker (http://geotracker.waterboards.ca.gov/).

"Escherichia coli" means a group of bacteria predominantly inhabiting the intestines of humans or other warm-blooded animals, but also occasionally found elsewhere. Used as an indicator of human fecal contamination.

"Existing OWTS" means an OWTS that was constructed and operating prior to the effective date of this Policy, and OWTS for which a construction permit has been issued prior to the effective date of the Policy.

"Flowing water body" means a body of running water flowing over the earth in a natural water course, where the movement of the water is readily discernible or if water is not present it is apparent from review of the geology that when present it does flow, such as in an ephemeral drainage, creek, stream, or river.

"Groundwater" means water below the land surface that is at or above atmospheric pressure.

Definitions

"High-strength wastewater" means wastewater having a 30-day average concentration of biochemical oxygen demand (BOD) greater than 300 milligrams-per-liter (mg/L) or of total suspended solids (TSS) greater than 330 mg/L or a fats, oil, and grease (FOG) concentration greater than 100 mg/L prior to the septic tank or other OWTS treatment component.

"IAPMO" means the International Association of Plumbing and Mechanical Officials.

"Impaired Water Bodies" means those surface water bodies or segments thereof that are identified on a list approved first by the State Water Board and then approved by US EPA pursuant to Section 303(d) of the federal Clean Water Act.

"Local agency" means any subdivision of state government that has responsibility for permitting the installation of and regulating OWTS within its jurisdictional boundaries; typically a county, city, or special district.

"Major repair" means either: (1) for a dispersal system, repairs required for an OWTS dispersal system due to surfacing wastewater effluent from the dispersal field and/or wastewater backed up into plumbing fixtures because the dispersal system is not able to percolate the design flow of wastewater associated with the structure served, or (2) for a septic tank, repairs required to the tank for a compartment baffle failure or tank structural integrity failure such that either wastewater is exfiltrating or groundwater is infiltrating.

"Mottling" means a soil condition that results from oxidizing or reducing minerals due to soil moisture changes from saturated to unsaturated over time. Mottling is characterized by spots or blotches of different colors or shades of color (grays and reds) interspersed within the dominant color as described by the USDA soil classification system. This soil condition can be indicative of historic seasonal high groundwater level, but the lack of this condition may not demonstrate the absence of groundwater.

"Mound system" means an aboveground dispersal system (covered sand bed with effluent leachfield elevated above original ground surface inside) used to enhance soil treatment, dispersal, and absorption of effluent discharged from an OWTS treatment unit such as a septic tank. Mound systems have a subsurface discharge.

"New OWTS" means an OWTS permitted after the effective date of this Policy.

"NSF" means NSF International (a.k.a. National Sanitation Foundation), a not for profit, non-governmental organization that develops health and safety standards and performs product certification.

"Oil/grease interceptor" means a passive interceptor that has a rate of flow exceeding 50 gallons-per-minute and that is located outside a building. Oil/grease interceptors are used for separating and collecting oil and grease from wastewater.

Definitions

"Onsite wastewater treatment system(s)" (**OWTS**) means individual disposal systems, community collection and disposal systems, and alternative collection and disposal systems that use subsurface disposal. The short form of the term may be singular or plural. OWTS do not include "graywater" systems pursuant to Health and Safety Code Section 17922.12.

"Percolation test" means a method of testing water absorption of the soil. The test is conducted with clean water and test results can be used to establish the dispersal system design.

"Permit" means a document issued by a local agency that allows the installation and use of an OWTS, or waste discharge requirements or a waiver of waste discharge requirements that authorizes discharges from an OWTS.

"Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, State agency or department, or unit of local government who is, or that is, subject to this Policy.

"Pit-privy" (a.k.a. outhouse, pit-toilet) means self-contained waterless toilet used for disposal of non-water carried human waste; consists of a shelter built above a pit in the ground into which human waste falls.

"Policy" means this Policy for Siting, Design, Operation and Management of OWTS.

"Pollutant" means any substance that alters water quality of the waters of the State to a degree that it may potentially affect the beneficial uses of water, as listed in a Basin Plan.

"Projected flows" means wastewater flows into the OWTS determined in accordance with any of the applicable methods for determining average daily flow in the *USEPA Onsite Wastewater Treatment System Manual, 2002,* or for Tier 2 in accordance with an approved Local Agency Management Program.

"Public Water System" is a water system regulated by the California Department of Public Health or a Local Primacy Agency pursuant to Chapter 12, Part 4, California Safe Drinking Water Act, Section 116275 (h) of the California Health and Safety Code.

"Public Water Well" is a ground water well serving a public water system. A spring which is not subject to the California Surface Water Treatment Rule (SWTR), CCR, Title 22, sections 64650 through 64666 is a public well.

"Qualified professional" means an individual licensed or certified by a State of California agency to design OWTS and practice as professionals for other associated reports, as allowed under their license or registration. Depending on the work to be performed and various licensing and registration requirements, this may include an individual who possesses a registered environmental health specialist certificate or is currently licensed as a professional engineer or professional geologist. For the purposes of performing site evaluations, Soil Scientists certified by the Soil Science Society of America are considered qualified professionals. A local agency may modify this definition as part of its Local Agency Management Program.

Definitions

"Regional Water Board" is any of the Regional Water Quality Control Boards designated by Water Code Section 13200. Any reference to an action of the Regional Water Board in this Policy also refers to an action of its Executive Officer, including the conducting of public hearings, pursuant to any general or specific delegation under Water Code Section 13223.

"Replacement OWTS" means an OWTS that has its treatment capacity expanded, or its dispersal system replaced or added onto, after the effective date of this Policy.

"Sand" means a soil particle; this term also refers to a type of soil texture. As a soil particle, sand consists of individual rock or mineral particles in soils having diameters ranging from 0.05 to 2.0 millimeters. As a soil texture, sand is soil that is comprised of 85 percent or more sand particles, with the percentage of silt plus 1.5 times the percentage of clay particles comprising less than 15 percent.

"Seepage pit" means a drilled or dug excavation, three to six feet in diameter, either lined or gravel filled, that receives the effluent discharge from a septic tank or other OWTS treatment unit for dispersal.

"Septic tank" means a watertight, covered receptacle designed for primary treatment of wastewater and constructed to:

1. Receive wastewater discharged from a building;
2. Separate settleable and floating solids from the liquid;
3. Digest organic matter by anaerobic bacterial action;
4. Store digested solids; and
5. Clarify wastewater for further treatment with final subsurface discharge.

"Service provider" means a person capable of operating, monitoring, and maintaining an OWTS in accordance to this Policy.

"Silt" means a soil particle; this term also refers to a type of soil texture. As a soil particle, silt consists of individual rock or mineral particles in soils having diameters ranging from between 0.05 and 0.002 mm. As a soil texture, silt is soil that is comprised as approximately 80 percent or more silt particles and not more than 12 percent clay particles using the USDA soil classification system.

"Single-family dwelling unit" means a structure that is usually occupied by just one household or family and for the purposes of this Policy is expected to generate an average of 250 gallons per day of wastewater.

"Site" means the location of the OWTS and, where applicable, a reserve dispersal area capable of disposing 100 percent of the design flow from all sources the OWTS is intended to serve.

"Site Evaluation" means an assessment of the characteristics of the site sufficient to determine its suitability for an OWTS to meet the requirements of this Policy.

Definitions

"Soil" means the naturally occurring body of porous mineral and organic materials on the land surface, which is composed of unconsolidated materials, including sand-sized, silt-sized, and clay-sized particles mixed with varying amounts of larger fragments and organic material. The various combinations of particles differentiate specific soil textures identified in the soil textural triangle developed by the United States Department of Agriculture (USDA) as found in Soil Survey Staff, USDA; *Soil Survey Manual, Handbook 18,* U.S. Government Printing Office, Washington, DC, 1993, p. 138. For the purposes of this Policy, soil shall contain earthen material of particles smaller than 0.08 inches (2 mm) in size.

"Soil Structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining aggregates.

"Soil texture" means the soil class that describes the relative amount of sand, clay, silt and combinations thereof as defined by the classes of the soil textural triangle developed by the USDA (referenced above).

"State Water Board" is the State Water Resources Control Board

"Supplemental treatment" means any OWTS or component of an OWTS, except a septic tank or dosing tank, that performs additional wastewater treatment so that the effluent meets a predetermined performance requirement prior to discharge of effluent into the dispersal field.

"SWAMP" means Surface Water Ambient Monitoring Program and more information is available at: http://www.waterboards.ca.gov/water_issues/programs/swamp/

"Telemetric" means the ability to automatically measure and transmit OWTS data by wire, radio, or other means.

"TMDL" is the acronym for "total maximum daily load." Section 303(d)(1) of the Clean Water Act requires each State to establish a TMDL for each impaired water body to address the pollutant(s) causing the impairment. In California, TMDLs are usually adopted as Basin Plan amendments and contain implementation plans detailing how water quality standards will be attained.

"Total coliform" means a group of bacteria consisting of several *genera* belonging to the family *Enterobacteriaceae*, which includes Escherichia coli bacteria.

"USDA" means the U.S. Department of Agriculture.

"Waste discharge requirement" or **"WDR"** means an operation and discharge permit issued for the discharge of waste pursuant to Section 13260 of the California Water Code.

Responsibilities and Duties

Responsibilities and Duties

2.0 OWTS Owners Responsibilities and Duties

2.1 All new, replacement, or existing OWTS within an area that is subject to a Basin Plan prohibition of discharges from OWTS, must comply with the prohibition. If the prohibition authorizes discharges under specified conditions, the discharge must comply with those conditions and the applicable provisions of this Policy.

2.2 Owners of OWTS shall adhere to the requirements prescribed in local codes and ordinances. Owners of new and replacement OWTS covered by this Policy shall also meet the minimum standards contained in Tier 1, or an alternate standard provided by a Local Agency Management Program per Tier 2, or shall comply with the requirements of Tier 3 if near an impaired water body and subject to Tier 3, or shall provide corrective action for their OWTS if their system meets conditions that place it in Tier 4.

2.3 Owners of OWTS shall comply with any and all permitting conditions imposed by a local agency that do not directly conflict with this Policy, including any conditions that are more stringent than required by this Policy.

2.4 To receive coverage under this Policy and the included waiver of waste discharges, OWTS shall only accept and treat flows of domestic wastewater. In addition, OWTS that accept high-strength wastewater from commercial food service buildings are covered under this Policy and the waiver of waste discharge requirements if the wastewater does not exceed 900 mg/L BOD and there is a properly sized and functioning oil/grease interceptor (a.k.a grease trap).

2.5 Owners of OWTS shall maintain their OWTS in good working condition including inspections and pumping of solids as necessary, or as required by local ordinances, to maintain proper function and assure adequate treatment.

2.6 The following owners of OWTS shall notify the Regional Water Board by submitting a Report of Waste Discharge for the following:

2.6.1 a new or replacement OWTS that does not meet the conditions and requirements set forth in either a Local Agency Management Program if one is approved, an existing local program if it is less than 60 months from the effective date of the Policy and a Local Agency Management Program is not yet approved, or Tier 1 if no Local Agency Management Program has been approved and it is more than 60 months after the effective date of this Policy;

2.6.2 any OWTS, not under individual waste discharge requirements or a waiver of individual waste discharge requirements issued by a Regional Water Board, with the projected flow of over 10,000 gallons-per-day;

2.6.3 any OWTS that receives high-strength wastewater, unless the waste stream is from a commercial food service building;

2.6.4 any OWTS that receives high-strength wastewater from a commercial food service building: (1) with a BOD higher than 900 mg/L, or (2) that does not have a properly sized and functioning oil/grease interceptor.

2.7 All Reports of Waste Discharge shall be accompanied by the required application fee pursuant to California Code of Regulations, title 23, section 2200.

3.0 Local Agency Requirements and Responsibilities

3.1 Local agencies, in addition to implementing their own local codes and ordinances, shall determine whether the requirements within their local jurisdiction will be limited to the water quality protection afforded by the statewide minimum standards in Tier 0, Tier 1, Tier 3, and Tier 4, or whether the local agency will implement a Local Agency Management Program in accordance with Tier 2. Except for Tier 3, local agencies may continue to implement their existing OWTS permitting programs in compliance with the Basin Plan in place at the effective date of the Policy until 60 months after the effective date of this Policy, or approval of a Local Agency Management Program, whichever comes first, and may make minor adjustments as necessary that are in compliance with the applicable Basin Plan and this Policy. Tier 3 requirements take effect on the effective date of this Policy. In the absence of a Tier 2 Local Agency Management Program, to the extent that there is a direct conflict between the applicable minimum standards and the local codes or ordinances (such that it is impossible to comply with both the applicable minimum standards and the local ordinances or codes), the more restrictive standards shall govern.

3.2 If preferred, the local agency may at any time provide the State Water Board and all affected Regional Water Board(s) written notice of its intent to regulate OWTS using a Local Agency Management Program with alternative standards as authorized in Tier 2 of this Policy. A proposed Local Agency Management Program that conforms to the requirements of that Section shall be included with the notice. A local agency shall not implement a program different than the minimum standards contained in Tier 1 and 3 of this Policy after 60 months from the effective date of this Policy until approval of the proposed Local Agency Management Program is granted by either the Regional Water Board or State Water Board. All initial program submittals desiring approval prior to the 60 month limit shall be received no later than 36 months from the effective date of this Policy. Once approved, the local agency shall adhere to the Local Agency Management Program, including all requirements, monitoring, and reporting. If at any time a local agency wishes to modify its Local Agency Management Program, it shall provide the State Water Board and all affected Regional Water Board(s) written notice of its intended modifications and will continue to implement its existing Local Agency Management Program until the modifications are approved.

3.3 All local agencies permitting OWTS shall report annually to the Regional Water Board(s). If a local agency's jurisdictional area is within the boundary of multiple Regional Water Boards, the local agency shall send a copy of the annual report to each Regional Water Board. The annual report shall include the following information (organized in a tabular spreadsheet format) and summarize whether any further actions are warranted to protect water quality or public health:

3.3.1 number and location of complaints pertaining to OWTS operation and maintenance, and identification of those which were investigated and how they were resolved;

3.3.2 shall provide the applications and registrations issued as part of the local septic tank cleaning registration program pursuant to Section 117400 et seq. of the California Health and Safety Code;

3.3.3 number, location, and description of permits issued for new and replacement OWTS and which Tier the permit is issued.

3.4 All local agencies permitting OWTS shall retain permanent records of their permitting actions and will make those records available within 10 working days upon written request for review by a Regional Water Board. The records for each permit shall reference the Tier under which the permit was issued.

3.5 A local agency shall notify the owner of a public well or water intake and the California Department of Public Health as soon as practicable, but not later than 72 hours, upon its discovery of a failing OWTS as described in sections 11.1 and 11.2 within the setbacks described in sections 7.5.6 through 7.5.10.

3.6 A local agency may implement this Policy, or a portion thereof, using its local authority to enforce the policy, as authorized by an approval from the State Water Board or by the appropriate Regional Water Board.

3.7 Nothing in the Policy shall preclude a local agency from adopting or retaining standards for OWTS in an approved Local Agency Management Program that are more protective of the public health or the environment than are contained in this Policy.

3.8 If at any time a local agency wishes to withdraw its previously submitted and approved Tier 2 Local Agency Management Program, it may do so upon 60 days written notice. The notice of withdrawal shall specify the reason for withdrawing its Tier 2 program, the effective date for cessation of the program and resumption of permitting of OWTS only under Tiers 1, 3, and 4.

4.0 Regional Water Board Functions and Duties

4.1 The Regional Water Boards have the principal responsibility for overseeing the implementation of this Policy.

4.2 Regional Water Boards shall incorporate the requirements established in this Policy by amending their Basin Plans within 12 months of the effective date of this Policy, pursuant to Water Code Section 13291(e). The Regional Water

Boards may also consider whether it is necessary and appropriate to retain or adopt any more protective standards. To the extent that a Regional Water Board determines that it is necessary and appropriate to retain or adopt any more protective standards, it shall reconcile those region-specific standards with this Policy to the extent feasible, and shall provide a detailed basis for its determination that each of the more protective standards is necessary and appropriate.

4.2.1 Notwithstanding 4.2 above, the North Coast Regional Water Board will continue to implement its existing Basin Plan requirements pertaining to OWTS within the Russian River watershed until it adopts the Russian River TMDL, at which time it will comply with section 4.2 for the Russian River watershed.

4.3 The Regional Water Board designated in Attachment 3 shall review, and if appropriate, approve a Local Agency Management Program submitted by the local agency pursuant to Tier 2 in this Policy. Upon receipt of a proposed Local Agency Management Program, the Regional Water Board designated in Attachment 3 shall have 90 days to notify the local agency whether the submittal contains all the elements of a Tier 2 program, but may request additional information based on review of the proposed program. Approval must follow a noticed hearing with opportunity for public comment. If a Local Agency Management Program is disapproved, the Regional Water Board designated in Attachment 3 shall provide a written explanation of the reasons for the disapproval. A Regional Water Board may approve a Local Agency Management Program while disapproving any proposed special provisions for impaired water bodies contained in the Local Agency Management Program. If no action is taken by the respective Regional Water Board within 12 months of the submission date of a complete Local Agency Management Program, the program shall be forwarded to the State Water Board for review and approval pursuant to Section 5 of this Policy.

4.3.1 Where the local agency's jurisdiction lies within more than one Regional Water Board, staff from the affected Regional Water Boards shall work cooperatively to assure that water quality protection in each region is adequately protected. If the Regional Water Board designated in Attachment 3 approves the Local Agency Management Program over the written objection of an affected Regional Water Board, that Regional Water Board may submit the dispute to the State Water Board under Section 5.3.

4.3.2 Within 30 days of receipt of a proposed Local Agency Management Program, a Regional Water Board will forward a copy to and solicit comments from the California Department of Public Health regarding a Local Agency Management Program's proposed policies and procedures, including notification to local water purveyors prior to OWTS permitting.

4.4 Once a Local Agency Management Program has been approved, any affected Regional Water Board may require modifications or revoke authorization of a local agency to implement a Tier 2 program, in accordance with the following:

4.4.1 The Regional Water Board shall consult with any other Regional Water Board(s) having jurisdiction over the local agency before providing the notice described in section 4.4.2.

4.4.2 Written notice shall be provided to the local agency detailing the Regional Water Board's action, the cause for such action, remedies to prevent the action from continuing to completion, and appeal process and rights. The local agency shall have 90 days from the date of the written notice to respond with a corrective action plan to address the areas of non-compliance, or to request the Regional Water Board to reconsider its findings.

4.4.3 The Regional Water Board shall approve, approve conditionally, or deny a corrective action plan within 90 days of receipt. The local agency will have 90 days to begin implementation of a corrective action plan from the date of approval or 60 days to request reconsideration from the date of denial. If the local agency fails to submit an acceptable corrective action plan, fails to implement an approved corrective action plan, or request reconsideration, the Regional Water Board may require modifications to the Local Agency Management Program, or may revoke the local agency's authorization to implement a Tier 2 program.

4.4.4 Requests for reconsideration by the local agency shall be decided by the Regional Water Board within 90 days and the previously approved Local Agency Management Program shall remain in effect while the reconsideration is pending.

4.4.5 If the request for reconsideration is denied, the local agency may appeal to the State Water Board and the previously approved Local Agency Management Program shall remain in effect while the appeal is under consideration. The State Water Board shall decide the appeal within 90 days. All decisions of the State Water Board are final.

4.5 The appropriate Regional Water Board shall accept and consider any requests for modification or revocation of a Local Agency Management Program submitted by any person. The Regional Water Board will notify the person making the request and the local agency implementing the Local Agency Management Program at issue by letter within 90 days whether it intends to proceed with the modification or revocation process per Section 4.4 above, or is dismissing the request. The Regional Water Board will post the request and its response letter on its website.

4.6 A Regional Water Board may issue or deny waste discharge requirements or waivers of waste discharge requirements for any new or replacement OWTS within a jurisdiction of a local agency without an approved Local Agency Management Program if that OWTS does not meet the minimum standards contained in Tier 1.

4.7 The Regional Water Boards will implement any notifications and enforcement requirements for OWTS determined to be in Tier 3 of this Policy.

4.8 Regional Water Boards may adopt waste discharge requirements, or conditional waivers of waste discharge requirements, that exempt individual OWTS from requirements contained in this Policy.

5.0 State Water Board Functions and Duties

5.1 As the state agency charged with the development and adoption of this Policy, the State Water Board shall periodically review, amend and/or update this Policy as required.

5.2 The State Water Board may take any action assigned to the Regional Water Boards in this Policy.

5.3 The State Water Board shall resolve disputes between Regional Water Boards and local agencies as needed within 12 months of receiving such a request by a Regional Water Board or local agency, and may take action on its own motion in furtherance of this Policy. As part of this function, the State Water Board shall review and, if appropriate, approve Local Agency Management Programs in cases where the respective Regional Water Board has failed to consider for approval a Local Agency Management Program. The State Water Board shall approve Local Agency Management Programs at a regularly noticed board hearing and shall provide for public participation, including notice and opportunity for public comment. Once taken up by the State Water Board, Local Agency Management Programs shall be approved or denied within 180 days.

5.4 A member of the public may request the State Water Board to resolve any dispute regarding the Regional Water Board's approval of a Local Agency Management Program if the member of the public timely raised the disputed issue before the Regional Water Board. Such requests shall be submitted within 30 days after the Regional Water Board's approval of the Local Agency Management Program. The State Water Board shall notify the member of the public, the local agency, and the Regional Water Board within 90 days whether it intends to proceed with dispute resolution.

5.5 The State Water Board shall accept and consider any requests for modification or revocation of a Local Agency Management Program submitted by any person, where that person has previously submitted said request to the Regional Water Board and has received notice from the Regional Water Board of its dismissal of the request. The State Water Board will notify the person making the request and the local agency implementing the Local Agency Management Program at issue by letter within 90 days whether it intends to proceed with the modification or revocation process per Section 4.4 above, or is dismissing the request. The State Water Board will post the request and its response letter on its website.

5.6 The State Water Board or its Executive Director, after approving any Impaired Water Bodies [303 (d)] List, and for the purpose of implementing Tier 3 of this Policy, shall update Attachment 2 to identify those water bodies where: (1) it is likely that operating OWTS will subsequently be determined to be a contributing

source of pathogens or nitrogen and therefore it is anticipated that OWTS would receive a loading reduction, and (2) it is likely that new OWTS installations discharging within 600 feet of the water body would contribute to the impairment. This identification shall be based on information available at the time of 303 (d) listing and may be further updated based on new information. Updates to Attachment 2 will be processed as amendments to this Policy.

5.7 The State Water Board will make available to local agencies funds from its Clean Water State Revolving Fund loan program for mini-loan programs to be operated by the local agencies for the making of low interest loans to assist private property owners with complying with this Policy.

Tier 0 – Existing OWTS

Tier 0 – Existing OWTS

Existing OWTS that are properly functioning and do not meet the conditions of failing systems or otherwise require corrective action (for example, to prevent groundwater impairment) as specifically described in Tier 4, and are not determined to be contributing to an impairment of surface water as specifically described in Tier 3, are automatically included in Tier 0.

6.0 Coverage for Properly Operating Existing OWTS

6.1 Existing OWTS are automatically covered by Tier 0 and the herein included waiver of waste discharge requirements if they meet the following requirements:

6.1.1 have a projected flow of 10,000 gallons-per-day or less;

6.1.2 receive only domestic wastewater from residential or commercial buildings, or high-strength wastewater from commercial food service buildings that does not exceed 900 mg/L BOD and has a properly sized and functioning oil/grease interceptor (a.k.a. grease trap);

6.1.3 continue to comply with any previously imposed permitting conditions;

6.1.4 do not require supplemental treatment under Tier 3;

6.1.5 do not require corrective action under Tier 4; and

6.1.6 do not consist of a cesspool as a means of wastewater disposal.

6.2 A Regional Water Board or local agency may deny coverage under this Policy to any OWTS that is:

6.2.1 Not in compliance with Section 6.1;

6.2.2 Not able to adequately protect the water quality of the waters of the State, as determined by the Regional Water Board after considering any input from the local agency. A Regional Water Board may require the submission of a report of waste discharge to receive Region specific waste discharge requirements or waiver of waste discharge requirements so as to be protective.

6.3 Existing OWTS currently under waste discharge requirements or individual waiver of waste discharge requirements will remain under those orders until notified in writing by the appropriate Regional Water Board that they are covered under this Policy.

Tier 1 – Low Risk New or Replacement OWTS

Tier 1 – Low Risk New or Replacement OWTS

New or replacement OWTS meet low risk siting and design requirements as specified in Tier 1, where there is not an approved Local Agency Management Program per Tier 2.

7.0 Minimum Site Evaluation and Siting Standards

7.1 A qualified professional shall perform all necessary soil and site evaluations for all new OWTS and for existing OWTS where the treatment or dispersal system will be replaced or expanded.

7.2 A site evaluation shall determine that adequate soil depth is present in the dispersal area. Soil depth is measured vertically to the point where bedrock, hardpan, impermeable soils, or saturated soils are encountered or an adequate depth has been determined. Soil depth shall be determined through the use of soil profile(s) in the dispersal area and the designated dispersal system replacement area, as viewed in excavations exposing the soil profiles in representative areas, unless the local agency has determined through historical or regional information that a specific site soil profile evaluation is unwarranted.

7.3 A site evaluation shall determine whether the anticipated highest level of groundwater within the dispersal field and its required minimum dispersal zone is not less than prescribed in Table 2 by estimation using one or a combination of the following methods:

7.3.1 Direct observation of the highest extent of soil mottling observed in the examination of soil profiles, recognizing that soil mottling is not always an indicator of the uppermost extent of high groundwater; or

7.3.2 Direct observation of groundwater levels during the anticipated period of high groundwater. Methods for groundwater monitoring and determinations shall be decided by the local agency; or

7.3.3 Other methods, such as historical records, acceptable to the local agency.

7.3.4 Where a conflict in the above methods of examination exists, the direct observation method indicating the highest level shall govern.

7.4 Percolation test results in the effluent disposal area shall not be faster than one minute per inch (1 MPI) or slower than one hundred twenty minutes per inch (120 MPI). All percolation test rates shall be performed by presoaking of percolation test holes and continuing the test until a stabilized rate is achieved.

7.5 Minimum horizontal setbacks from any OWTS treatment component and dispersal systems shall be as follows:

7.5.1 5 feet from parcel property lines and structures;

7.5.2 100 feet from water wells and monitoring wells, unless regulatory or legitimate data requirements necessitate that monitoring wells be located closer;

7.5.3 100 feet from any unstable land mass or any areas subject to earth slides identified by a registered engineer or registered geologist; other setback distance are allowed, if recommended by a geotechnical report prepared by a qualified professional.

7.5.4 100 feet from springs and flowing surface water bodies where the edge of that water body is the natural or levied bank for creeks and rivers, or may be less where site conditions prevent migration of wastewater to the water body;

7.5.5 200 feet from vernal pools, wetlands, lakes, ponds, or other surface water bodies where the edge of that water body is the high water mark for lakes and reservoirs, and the mean high tide line for tidally influenced water bodies;

7.5.6 150 feet from a public water well where the depth of the effluent dispersal system does not exceed 10 feet;

7.5.7 Where the effluent dispersal system is within 1,200 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 400 feet from the high water mark of the reservoir, lake or flowing water body.

7.5.8 Where the effluent dispersal system is located more than 1,200 feet but less than 2,500 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 200 feet from the high water mark of the reservoir, lake or flowing water body.

7.6 Prior to issuing a permit to install an OWTS the permitting agency shall determine if the OWTS is within 1,200 feet of an intake point for a surface water treatment plant for drinking water, is in the drainage catchment in which the intake point is located, and located such that it may impact water quality at the intake point such as being upstream of the intake point for a flowing water body. If the OWTS is within 1,200 feet of an intake point for a surface water treatment plant for drinking water, is in the drainage catchment in which the intake point is located, and is located such that it may impact water quality at the intake point:

7.6.1 The permitting agency shall provide a copy of the permit application to the owner of the water system of their proposal to install an OWTS within 1,200 feet of an intake point for a surface water treatment. If the owner of the water system cannot be identified, then the permitting agency will notify California Department of Public Health Drinking Water Program.

7.6.2 The permit application shall include a topographical plot plan for the parcel showing the OWTS components, the property boundaries, proposed structures, physical address, and name of property owner.

7.6.3 The permit application shall provide the estimated wastewater flows, intended use of proposed structure generating the wastewater, soil data, and estimated depth to seasonally saturated soils.

7.6.4 The public water system owner shall have 15 days from receipt of the permit application to provide recommendations and comments to the permitting agency.

7.7 Natural ground slope in all areas used for effluent disposal shall not be greater than 25 percent.

7.8 The average density for any subdivision of property made by Tentative Approval pursuant to the Subdivision Map Act occurring after the effective date of this Policy and implemented under Tier 1 shall not exceed the allowable density values in Table 1 for a single-family dwelling unit, or its equivalent, for those units that rely on OWTS.

Table 1: Allowable Average Densities per Subdivision under Tier 1.

Average Annual Rainfall (in/yr)	Allowable Density (acres/single family dwelling unit)
0 - 15	2.5
>15 - 20	2
>20 - 25	1.5
>25 - 35	1
>35 - 40	0.75
>40	0.5

8.0 Minimum OWTS Design and Construction Standards

8.1 OWTS Design Requirements

8.1.1 A qualified professional shall design all new OWTS and modifications to existing OWTS where the treatment or dispersal system will be replaced or expanded. A qualified professional employed by a local agency, while acting in that capacity, may design, review, and approve a design for a proposed OWTS, if authorized by the local agency.

8.1.2 OWTS shall be located, designed, and constructed in a manner to ensure that effluent does not surface at any time, and that percolation of effluent will not adversely affect beneficial uses of waters of the State.

8.1.3 The design of new and replacement OWTS shall be based on the expected influent wastewater quality with a projected flow not to exceed 3,500 gallons per day, the peak wastewater flow rates for purposes of sizing hydraulic components, the projected average daily flow for purposes of sizing the dispersal system, the characteristics of the site, and the required level of treatment for protection of water quality and public health.

8.1.4 All dispersal systems shall have at least twelve (12) inches of soil cover, except for pressure distribution systems, which must have at least six (6) inches of soil cover.

8.1.5 The minimum depth to the anticipated highest level of groundwater below the bottom of the leaching trench, and the native soil depth immediately below the leaching trench, shall not be less than prescribed in Table 2.

Table 2: Tier 1 Minimum Depths to Groundwater and Minimum Soil Depth from the Bottom of the Dispersal System

Percolation Rate	Minimum Depth
Percolation Rate ≤1 MPI	Only as authorized in a Tier 2 Local Agency Management Program
1 MPI< Percolation Rate ≤ 5 MPI	Twenty (20) feet
5 MPI< Percolation Rate ≤ 30 MPI	Eight (8) feet
30 MPI< Percolation Rate ≤ 120 MPI	Five (5) feet
Percolation Rate > 120 MPI	Only as authorized in a Tier 2 Local Agency Management Program
MPI = minutes per inch	

8.1.6 Dispersal systems shall be a leachfield, designed using not more than 4 square-feet of infiltrative area per linear foot of trench as the infiltrative surface, and with trench width no wider than 3 feet. Seepage pits and other dispersal systems may only be authorized for repairs where siting limitations require a variance. Maximum application rates shall be determined from stabilized percolation rate as provided in Table 3, or from soil texture and structure determination as provided in Table 4.

8.1.7 Dispersal systems shall not exceed a maximum depth of 10 feet as measured from the ground surface to the bottom of the trench.

Tier 1 – Low Risk New or Replacement OWTS

Table 3: Application Rates as Determined from Stabilized Percolation Rate							
Percolation Rate (minutes per Inch)	**Application Rate (gallons per day per square foot)**		**Percolation Rate (minutes per Inch)**	**Application Rate (gallons per day per square foot)**		**Percolation Rate (minutes per Inch)**	**Application Rate (gallons per day per square foot)**
<1	Requires Local Manage-ment Program		31	0.522		61	0.197
1	1.2		32	0.511		62	0.194
2	1.2		33	0.5		63	0.19
3	1.2		34	0.489		64	0.187
4	1.2		35	0.478		65	0.184
5	1.2		36	0.467		66	0.18
6	0.8		37	0.456		67	0.177
7	0.8		38	0.445		68	0.174
8	0.8		39	0.434		69	0.17
9	0.8		40	0.422		70	0.167
10	0.8		41	0.411		71	0.164
11	0.786		42	0.4		72	0.16
12	0.771		43	0.389		73	0.157
13	0.757		44	0.378		74	0.154
14	0.743		45	0.367		75	0.15
15	0.729		46	0.356		76	0.147
16	0.714		47	0.345		77	0.144
17	0.7		48	0.334		78	0.14
18	0.686		49	0.323		79	0.137
19	0.671		50	0.311		80	0.133
20	0.657		51	0.3		81	0.13
21	0.643		52	0.289		82	0.127
22	0.629		53	0.278		83	0.123
23	0.614		54	0.267		84	0.12
24	0.6		55	0.256		85	0.117
25	0.589		56	0.245		86	0.113
26	0.578		57	0.234		87	0.11
27	0.567		58	0.223		88	0.107
28	0.556		59	0.212		89	0.103
29	0.545		60	0.2		90	0.1
30	0.533					>90 - 120	0.1

Tier 1 – Low Risk New or Replacement OWTS

Table 4: Design Soil Application Rates

(Source: USEPA Onsite Wastewater Treatment Systems Manual, February 2002)

Soil Texture (per the USDA soil classification system)	Soil Structure Shape	Grade	Maximum Soil Application Rate(gallons per day per square foot) [1]
Coarse Sand, Sand, Loamy Coarse Sand, Loamy Sand	Single grain	Structureless	0.8
Fine Sand, Very Fine Sand, Loamy Fine Sand, Loamy Very Fine Sand	Single grain	Structureless	0.4
Coarse Sandy Loam, Sandy Loam	Massive	Structureless	0.2
	Platy	Weak	0.2
		Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	0.4
		Moderate, Strong	0.6
Fine Sandy Loam, very fine Sandy Loam	Massive	Structureless	0.2
	Platy	Weak, Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	0.2
		Moderate, Strong	0.4
Loam	Massive	Structureless	0.2
	Platy	Weak, Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	0.4
		Moderate, Strong	0.6
Silt Loam	Massive	Structureless	Prohibited
	Platy	Weak, Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	0.4
		Moderate, Strong	0.6
Sandy Clay Loam, Clay Loam, Silty Clay Loam	Massive	Structureless	Prohibited
	Platy	Weak, Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	0.2
		Moderate, Strong	0.4
Sandy Clay, Clay, or Silty Clay	Massive	Structureless	Prohibited
	Platy	Weak, Moderate, Strong	Prohibited
	Prismatic, Blocky, Granular	Weak	Prohibited
		Moderate, Strong	0.2

[1] Soils listed as prohibited may be allowed under the authority of the Regional Water Board, or as allowed under an approved Local Agency Management Program per Tier 2.

8.1.8 All new dispersal systems shall have 100 percent replacement area that is equivalent and separate, and available for future use.

8.1.9 No dispersal systems or replacement areas shall be covered by an impermeable surface, such as paving, building foundation slabs, plastic sheeting, or any other material that prevents oxygen transfer to the soil.

8.1.10 Rock fragment content of native soil surrounding the dispersal system shall not exceed 50 percent by volume for rock fragments sized as cobbles or larger and shall be estimated using either the point-count or line-intercept methods.

8.1.11 Increased allowance for IAPMO certified dispersal systems is not allowed under Tier 1.

8.2 OWTS Construction and Installation

8.2.1 All new or replacement septic tanks and new or replacement oil/grease interceptor tanks shall comply with the standards contained in Sections K5(b), K5(c), K5(d), K5(e), K5(k), K5(m)(1), and K5(m)(3)(ii) of Appendix K, of Part 5, Title 24 of the 2007 California Code of Regulations.

8.2.2 All new septic tanks shall comply with the following requirements:

8.2.2.1 Access openings shall have watertight risers, the tops of which shall be set at most 6 inches below finished grade; and

8.2.2.2 Access openings at grade or above shall be locked or secured to prevent unauthorized access.

8.2.3 New and replacement OWTS septic tanks shall be limited to those approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or stamped and certified by a California registered civil engineer as meeting the industry standards, and their installation shall be according to the manufacturer's instructions.

8.2.4 New and replacement OWTS septic tanks shall be designed to prevent solids in excess of three-sixteenths (3/16) of an inch in diameter from passing to the dispersal system. Septic tanks that use a National Sanitation Foundation/American National Standard Institute (NSF/ANSI) Standard 46 certified septic tank filter at the final point of effluent discharge from the OWTS and prior to the dispersal system shall be deemed in compliance with this requirement.

Tier 1 – Low Risk New or Replacement OWTS

8.2.5 A Licensed General Engineering Contractor (Class A), General Building Contractor (Class B), Sanitation System Contractor (Specialty Class C-42), or Plumbing Contractor (Specialty Class C-36) shall install all new OWTS and replacement OWTS in accordance with California Business and Professions Code Sections 7056, 7057, and 7058 and Article 3, Division 8, Title 16 of the California Code of Regulations. A property owner may also install his/her own OWTS if the as-built diagram and the installation are inspected and approved by the Regional Water Board or local agency at a time when the OWTS is in an open condition (not covered by soil and exposed for inspection).

Tier 2 – Local Agency OWTS Management Program

Tier 2 – Local Agency OWTS Management Program

Local agencies may submit management programs for approval, and upon approval then manage the installation of new and replacement OWTS under that program. Local Agency Management Programs approved under Tier 2 provide an alternate method from Tier 1 programs to achieve the same policy purpose, which is to protect water quality and public health. In order to address local conditions, Local Agency Management Programs may include standards that differ from the Tier 1 requirements for new and replacement OWTS contained in Sections 7 and 8. As examples, a Local Agency Management Program may authorize different soil characteristics, usage of seepage pits, and different densities for new developments. Once the Local Agency Management Program is approved, new and replacement OWTS that are included within the Local Agency Management Program may be approved by the Local Agency. A Local Agency, at its discretion, may include Tier 1 standards within its Tier 2 Local Agency Management Program for some or all of its jurisdiction. However, once a Local Agency Management Program is approved, it shall supersede Tier 1 and all future OWTS decisions will be governed by the Tier 2 Local Agency Management Program until it is modified, withdrawn, or revoked.

9.0 Local Agency Management Program for Minimum OWTS Standards

The Local Agency Management Program for minimum OWTS Standards is a management program where local agencies can establish minimum standards that are differing requirements from those specified in Tier 1 (Section 7 and Section 8), including the areas that do not meet those minimum standards and still achieve this Policy's purpose. Local Agency Management Programs may include any one or combination of the following to achieve this purpose:

- Differing system design requirements;
- Differing siting controls such as system density and setback requirements;
- Requirements for owners to enter monitoring and maintenance agreements; and/or
- Creation of an onsite management district or zone.

9.1 Where different and/or additional requirements are needed to protect water quality the local agency shall consider the following, as well as any other conditions deemed appropriate, when developing Local Agency Management Program requirements:

9.1.1 Degree of vulnerability to pollution from OWTS due to hydrogeological conditions.

9.1.2 High Quality waters or other environmental conditions requiring enhanced protection from the effects of OWTS.

9.1.3 Shallow soils requiring a dispersal system installation that is closer to ground surface than is standard.

9.1.4 OWTS is located in area with high domestic well usage.

9.1.5 Dispersal system is located in an area with fractured bedrock.

9.1.6 Dispersal system is located in an area with poorly drained soils.

9.1.7 Surface water is vulnerable to pollution from OWTS.

9.1.8 Surface water within the watershed is listed as impaired for nitrogen or pathogens.

9.1.9 OWTS is located within an area of high OWTS density.

9.1.10 A parcel's size and its susceptibility to hydraulic mounding, organic or nitrogen loading, and whether there is sufficient area for OWTS expansion in case of failure.

9.1.11 Geographic areas that are known to have multiple, existing OWTS predating any adopted standards of design and construction including cesspools.

9.1.12 Geographic areas that are known to have multiple, existing OWTS located within either the pertinent setbacks listed in Section 7.5 of this Policy, or a setback that the local agencies finds is appropriate for that area.

9.2 The Local Agency Management Program shall detail the scope of its coverage, such as the maximum authorized projected flows for OWTS, as well as a clear delineation of those types of OWTS included within and to be permitted by the program, and provide the local site evaluation, siting, design, and construction requirements, and in addition each of the following:

9.2.1 Any local agency requirements for onsite wastewater system inspection, monitoring, maintenance, and repairs, including procedures to ensure that replacements or repairs to failing systems are done under permit from the local governing jurisdiction.

9.2.2 Any special provisions applicable to OWTS within specified geographic areas near specific impaired water bodies listed for pathogens or nitrogen. The special provisions may be substantive and/or procedural, and may include, as examples: consultation with the Regional Water Board prior to issuing permits, supplemental treatment, development of a management district or zone, special siting requirements, additional inspection and monitoring.

9.2.3 Local Agency Management Program variances, for new installations and repairs in substantial conformance, to the greatest extent practicable. Variances are not allowed for the requirements stated in sections 9.4.1 through 9.4.9.

9.2.4 Any educational, training, certification, and/or licensing requirements that will be required of OWTS service providers, site evaluators, designers, installers, pumpers, maintenance contractors, and any other person relating to OWTS activities.

9.2.5 Education and/or outreach program including informational materials to inform OWTS owners about how to locate, operate, and maintain their

OWTS as well as any Water Board order (e.g., Basin Plan prohibitions) regarding OWTS restrictions within its jurisdiction. The education and/or outreach program shall also include procedures to ensure that alternative onsite system owners are provided an informational maintenance or replacement document by the system designer or installer. This document shall cite homeowner procedures to ensure maintenance, repair, or replacement of critical items within 48 hours following failure. If volunteer well monitoring programs are available within the local agency's jurisdiction, the outreach program shall include information on how well owners may participate.

9.2.6 An assessment of existing and proposed disposal locations for septage, the volume of septage anticipated, and whether adequate capacity is available.

9.2.7 Any consideration given to onsite maintenance districts or zones.

9.2.8 Any consideration given to the development and implementation of, or coordination with, Regional Salt and Nutrient Management Plans.

9.2.9 Any consideration given to coordination with watershed management groups.

9.2.10 Procedures for evaluating the proximity of sewer systems to new or replacement OWTS installations.

9.2.11 Procedures for notifying the owner of a public water system prior to issuing an installation or repair permit for an OWTS, if the OWTS is within 1,200 feet of an intake point for a surface water treatment plant for drinking water, is in the drainage area catchment in which the intake point is located, and is located such that it may impact water quality at the intake point such as upstream of the intake point for a flowing water body, or if the OWTS is within a horizontal sanitary setback from a public well.

9.2.12 Policies and procedures that will be followed when a proposed OWTS dispersal area is within the horizontal sanitary setback of a public well or a surface water intake point. These policies and procedures shall either indicate that supplemental treatment as specified in 10.9 and 10.10 of this policy are required for OWTS that are within a horizontal sanitary setback of a public well or surface water intake point, or will establish alternate siting and operational criteria for the proposed OWTS that would similarly mitigate the potential adverse impact to the public water source.

9.2.13 Any plans for the phase-out or discontinuance of cesspool usage.

9.3 The minimum responsibilities of the local agency for management of the Local Agency Management Program include:

9.3.1 Maintain records of the number, location, and description of permits issued for OWTS where a variance is granted.

9.3.2 Maintain a water quality assessment program to determine the general operation status of OWTS and to evaluate the impact of OWTS discharges, and assess the extent to which groundwater and local surface water quality may be adversely impacted. The focus of the assessment should be areas with characteristics listed under section 9.1. The assessment program will include monitoring and analysis of water quality data, review of complaints, variances, failures, and any information resulting from inspections. The assessment may use existing water quality data from other monitoring programs and/or establish the terms, conditions, and timing for monitoring done by the local agency. At a minimum this assessment will include monitoring data for nitrates and pathogens, and may include data for other constituents which are needed to adequately characterize the impacts of OWTS on water quality. Other monitoring programs for which data may be used include but are not limited to any of the following:

9.3.2.1. Random well samples from a domestic well sampling program.

9.3.2.2. Routine real estate transfer samples if those are performed and reported.

9.3.2.3. Review of public system sampling reports done by the local agency or another municipality responsible for the public system.

9.3.2.4. Water quality testing reports done at the time of new well development if those are reported.

9.3.2.5. Beach water quality testing data performed as part of Health and Safety Code Section 115885.

9.3.2.6. Receiving water sampling performed as a part of a NPDES permit.

9.3.2.7. Data contained in the California Water Quality Assessment Database.

9.3.2.8. Groundwater sampling performed as part of Waste Discharge Requirements.

9.3.2.9. Groundwater data collected as part of the Groundwater Ambient Monitoring and Assessment Program and available in the Geotracker Database.

9.3.3 Submit an annual report by February 1 to the applicable Regional Water Board summarizing the status of items 9.3.1 through 9.3.2 above. Every fifth year, submit an evaluation of the monitoring program and an assessment of whether water quality is being impacted by OWTS, identifying any changes in the Local Agency Management Program that will be undertaken to address impacts from OWTS. The first report will commence one year after approval of the local agency's Local Agency Management Program. In addition to summarizing monitoring data collected per 9.3.2 above, all groundwater monitoring data generated by the local agency shall be submitted in EDF format for inclusion into

Geotracker, and surface water monitoring shall be submitted to CEDEN in a SWAMP comparable format.

9.4 The following are not allowed to be authorized in a Local Agency Management Program:

9.4.1 Cesspools of any kind or size.

9.4.2 OWTS receiving a projected flow over 10,000 gallons per day.

9.4.3 OWTS that utilize any form of effluent disposal that discharges on or above the post installation ground surface such as sprinklers, exposed drip lines, free-surface wetlands, or a pond.

9.4.4 Slopes greater than 30 percent without a slope stability report approved by a registered professional.

9.4.5 Decreased leaching area for IAPMO certified dispersal systems using a multiplier less than 0.70.

9.4.6 OWTS utilizing supplemental treatment without requirements for periodic monitoring or inspections.

9.4.7 OWTS dedicated to receiving significant amounts of wastes dumped from RV holding tanks.

9.4.8 Separation of the bottom of dispersal system to groundwater less than two (2) feet, except for seepage pits, which shall not be less than 10 feet.

9.4.9 Installation of new or replacement OWTS where public sewer is available. The public sewer may be considered as not available when such public sewer or any building or exterior drainage facility connected thereto is located more than 200 feet from any proposed building or exterior drainage facility on any lot or premises that abuts and is served by such public sewer. This provision does not apply to replacement OWTS where the connection fees and construction cost are greater than twice the total cost of the replacement OWTS and the local agency determines that the discharge from the OWTS will not affect groundwater or surface water to a degree that makes it unfit for drinking or other uses.

9.4.10 Except as provided for in sections 9.4.11 and 9.4.12, new or replacement OWTS with minimum horizontal setbacks less than any of the following:

9.4.10.1 150 feet from a public water well where the depth of the effluent dispersal system does not exceed 10 feet in depth.

9.4.10.2 200 feet from a public water well where the depth of the effluent dispersal system exceeds 10 feet in depth.

9.4.10.3 Where the effluent dispersal system is within 600 feet of a public water well and exceeds 20 feet in depth the horizontal setback required to achieve a two-year travel time for microbiological contaminants shall be evaluated. A qualified professional shall conduct this evaluation. However in no case shall the setback be less than 200 feet.

9.4.10.4 Where the effluent dispersal system is within 1,200 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 400 feet from the high water mark of the reservoir, lake or flowing water body.

9.4.10.5 Where the effluent dispersal system is located more than 1,200 feet but less than 2,500 feet from a public water systems' surface water intake point, within the catchment area of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 200 feet from the high water mark of the reservoir, lake or flowing water body.

9.4.11 For replacement OWTS that do not meet the above horizontal separation requirements, the replacement OWTS shall meet the horizontal separation to the greatest extent practicable. In such case, the replacement OWTS shall utilize supplemental treatment and other mitigation measures, unless the permitting authority finds that there is no indication that the previous system is adversely affecting the public water source, and there is limited potential that the replacement system could impact the water source based on topography, soil depth, soil texture, and groundwater separation.

9.4.12 For new OWTS, installed on parcels of record existing at the time of the effective date of this Policy, that cannot meet the above horizontal separation requirements, the OWTS shall meet the horizontal separation to the greatest extent practicable and shall utilize supplemental treatment for pathogens as specified in section 10.8 and any other mitigation measures prescribed by the permitting authority.

9.5 A Local Agency Management Program for OWTS must include adequate detail, including technical information to support how all the criteria in their program work together to protect water quality and public health.

9.6 A Regional Water Board reviewing a Local Agency Management Program shall consider, among other things, the past performance of the local program to adequately protect water quality, and where this has been achieved with criteria differing from Tier 1, shall not unnecessarily require modifications to the program for purposes of uniformity, as long as the Local Agency Management Program meets the requirements of Tier 2.

Tier 3 – Impaired Areas

Tier 3 – Advanced Protection Management Programs for Impaired Areas

Existing, new, and replacement OWTS that are near impaired water bodies may be addressed by a TMDL and its implementation program, or special provisions contained in a Local Agency Management Program. If there is no TMDL or special provisions, new or replacement OWTS within 600 feet of impaired water bodies listed in Attachment 2 must meet the applicable specific requirements of Tier 3.

10.0 Advanced Protection Management Program

An Advanced Protection Management Program is the minimum required management program for all OWTS located near a water body that has been listed as impaired due to nitrogen or pathogen indicators pursuant to Section 303(d) of the Clean Water Act. Local agencies are authorized to implement Advanced Protection Management Programs in conjunction with an approved Local Agency Management Program or, if there is no approved Local Agency Management Program, Tier 1. Local agencies are encouraged to collaborate with the Regional Water Boards by sharing any information pertaining to the impairment, provide advice on potential remedies, and regulate OWTS to the extent that their authority allows for the improvement of the impairment.

10.1 The geographic area for each water body's Advanced Protection Management Program is defined by the applicable TMDL, if one has been approved. If there is not an approved TMDL, it is defined by an approved Local Agency Management Program, if it contains special provisions for that water body. If it is not defined in an approved TMDL or Local Agency Management Program, it shall be 600 linear feet [in the horizontal (map) direction] of a water body listed in Attachment 2 where the edge of that water body is the natural or levied bank for creeks and rivers, the high water mark for lakes and reservoirs, and the mean high tide line for tidally influenced water bodies, as appropriate. OWTS near impaired water bodies that are not listed on Attachment 2, and do not have a TMDL and are not covered by a Local Agency Management Program with special provisions, are not addressed by Tier 3.

10.2 The requirements of an Advanced Protection Management Program will be in accordance with a TMDL implementation plan, if one has been adopted to address the impairment. An adopted TMDL implementation plan supersedes all other requirements in Tier 3. All TMDL implementation plans adopted after the effective date of this Policy that contain load allocations for OWTS shall include a schedule that requires compliance with the load allocations as soon as practicable, given the watershed-specific circumstances. The schedule shall require that OWTS implementation actions for OWTS installed prior to the TMDL implementation plan's effective date shall commence within 3 years after the TMDL implementation plan's effective date, and that OWTS implementation actions for OWTS installed after the TMDL implementation plan's effective date shall commence immediately. The TMDL implementation plan may use some or all of the Tier 3 requirements and shall establish the applicable area of

implementation for OWTS requirements within the watershed. For those impaired water bodies that do have an adopted TMDL addressing the impairment, but the TMDL does not assign a load allocation to OWTS, no further action is required unless the TMDL is modified at some point in the future to include actions for OWTS. Existing, new, and replacement OWTS that are near impaired water bodies and are covered by a Basin Plan prohibition must also comply with the terms of the prohibition, as provided in Section 2.1.

10.3 In the absence of an adopted TMDL implementation plan, the requirements of an Advanced Protection Management Program will consist of any special provisions for the water body if any such provisions have been approved as part of a Local Agency Management Program.

10.4 The Regional Water Boards shall adopt TMDLs for impaired water bodies identified in Attachment 2, in accordance with the specified dates.

10.4.1 If a Regional Water Board does not complete a TMDL within two years of the time period specified in Attachment 2, coverage under this Policy's waiver of waste discharge requirements shall expire for any OWTS that has any part of its dispersal system discharging within the geographic area of an Advanced Protection Management Program. The Regional Water Board shall issue waste discharge requirements, general waste discharge requirements, waivers of waste discharge requirements, or require corrective action for such OWTS. The Regional Water Board will consider the following when establishing the waste discharge requirements, general waste discharge requirements, waivers of waste discharge requirements, or requirement for corrective action:

10.4.1.1 Whether supplemental treatment should be required.

10.4.1.2 Whether routine inspection of the OWTS should be required.

10.4.1.3 Whether monitoring of surface and groundwater should be performed.

10.4.1.4 The collection of a fee for those OWTS covered by the order.

10.4.1.5 Whether owners of previously-constructed OWTS should file a report by a qualified professional in accordance with section 10.5.

10.4.1.6 Whether owners of new or replacement OWTS should file a report of waste discharge with additional supporting technical information as required by the Regional Water Board.

10.5 If the Regional Water Board requires owners of OWTS to submit a qualified professional's report pursuant to Section 10.4.1.5, the report shall include a determination of whether the OWTS is functioning properly and as designed or requires corrective actions per Tier 4, and regardless of its state of function, whether it is contributing to impairment of the water body.

10.5.1 The qualified professional's report may also include, but is not limited to:

10.5.1.1 A general description of system components, their physical layout, and horizontal setback distances from property lines, buildings, wells, and surface waters.

10.5.1.2 A description of the type of wastewater discharged to the OWTS such as domestic, commercial, or industrial and classification of it as domestic wastewater or high-strength waste.

10.5.1.3 A determination of the systems design flow and the volume of wastewater discharged daily derived from water use, either estimated or actual if metered.

10.5.1.4 A description of the septic tank, including age, size, material of construction, internal and external condition, water level, scum layer thickness, depth of solids, and the results of a one-hour hydrostatic test.

10.5.1.5 A description of the distribution box, dosing siphon, or distribution pump, and if flow is being equally distributed throughout the dispersal system, as well as any evidence of solids carryover, clear water infiltration, or evidence of system backup.

10.5.1.6 A description of the dispersal system including signs of hydraulic failure, condition of surface vegetation over the dispersal system, level of ponding above the infiltrative surface within the dispersal system, other possible sources of hydraulic loading to the dispersal area, and depth of the seasonally high groundwater level.

10.5.1.7 A determination of whether the OWTS is discharging to the ground's surface.

10.5.1.8 For a water body listed as an impaired water body for pathogens, a determination of the OWTS dispersal system's separation from its deepest most infiltrative surface to the highest seasonal groundwater level or fractured bedrock.

10.5.1.9 For a water body listed as an impaired water body for nitrogen, a determination of whether the groundwater under the dispersal field is reaching the water body, and a description of the method used to make the determination.

10.6 For new, replacement, and existing OWTS in an Advanced Protection Management Program, the following are not covered by this Policy's waiver but may be authorized by a separate Regional Water Board order:

10.6.1 Cesspools of any kind or size.

10.6.2 OWTS receiving a projected flow over 10,000 gallons per day.

10.6.3 OWTS that utilize any form of effluent disposal on or above the ground surface.

10.6.4 Slopes greater than 30 percent without a slope stability report approved by a registered professional.

Tier 3 – Impaired Areas

10.6.5 Decreased leaching area for IAPMO certified dispersal systems using a multiplier less than 0.70.

10.6.6 OWTS utilizing supplemental treatment without requirements for periodic monitoring or inspections.

10.6.7 OWTS dedicated to receiving significant amounts of wastes dumped from RV holding tanks.

10.6.8 Separation of the bottom of dispersal system to groundwater less than two (2) feet, except for seepage pits, which shall not be less than 10 feet.

10.6.9 Minimum horizontal setbacks less than any of the following:

10.6.9.1 150 feet from a public water well where the depth of the effluent dispersal system does not exceed 10 feet in depth;

10.6.9.2 200 feet from a public water well where the depth of the effluent dispersal system exceeds 10 feet in depth:

10.6.9.3 Where the effluent dispersal system is within 600 feet of a public water well and exceeds 20 feet in depth the horizontal setback required to achieve a two-year travel time for microbiological contaminants shall be evaluated. A qualified professional shall conduct this evaluation. However in no case shall the setback be less than 200 feet.

10.6.9.4 Where the effluent dispersal system is within 1,200 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 400 feet from the high water mark of the reservoir, lake or flowing water body.

10.6.9.5 Where the effluent dispersal system is located more than 1,200 feet but less than 2,500 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 200 feet from the high water mark of the reservoir, lake or flowing water body.

10.6.9.6 For replacement OWTS that do not meet the above horizontal separation requirements, the replacement OWTS shall meet the horizontal separation to the greatest extent practicable. In such case, the replacement OWTS shall utilize supplemental treatment and other mitigation measures.

10.6.9.7 For new OWTS, installed on parcels of record existing at the time of the effective date of this Policy, that cannot meet the above horizontal separation requirements, the OWTS shall meet the horizontal separation to the greatest extent practicable and shall

utilize supplemental treatment for pathogens as specified in section 10.10 and any other mitigation measures as prescribed by the permitting authority.

10.7 The requirements contained in Section 10 shall not apply to owners of OWTS that are constructed and operating, or permitted, on or prior to the date that the nearby water body is added to Attachment 2 who commit by way of a legally binding document to connect to a centralized wastewater collection and treatment system regulated through WDRs as specified within the following timeframes:

10.7.1 The owner must sign the document within forty-eight months of the date that the nearby water body is initially listed on Attachment 2.

10.7.2 The specified date for the connection to the centralized community wastewater collection and treatment system shall not extend beyond nine years following the date that the nearby water body is added to Attachment 2.

10.8 In the absence of an adopted TMDL implementation plan or Local Agency Management Program containing special provisions for the water body, all new or replacement OWTS permitted after the date that the water body is initially listed in Attachment 2 that have any discharge within the geographic area of an Advanced Protection Management Program shall meet the following requirements:

10.8.1 Utilize supplemental treatment and meet performance requirements in 10.9 if impaired for nitrogen and 10.10 if impaired for pathogens,

10.8.2 Comply with the setback requirements of Section 7.5.1 to 7.5.5, and

10.8.3 Comply with any applicable Local Agency Management Program requirements.

10.9 Supplemental treatment requirements for nitrogen

10.9.1 Effluent from the supplemental treatment components designed to reduce nitrogen shall be certified by NSF, or other approved third party tester, to meet a 50 percent reduction in total nitrogen when comparing the 30-day average influent to the 30-day average effluent.

10.9.2 Where a drip-line dispersal system is used to enhance vegetative nitrogen uptake, the dispersal system shall have at least six (6) inches of soil cover.

Tier 3 – Impaired Areas

10.10 Supplemental treatment requirements for pathogens

10.10.1 Supplemental treatment components designed to perform disinfection shall provide sufficient pretreatment of the wastewater so that effluent from the supplemental treatment components does not exceed a 30-day average TSS of 30 mg/L and shall further achieve an effluent fecal coliform bacteria concentration less than or equal to 200 Most Probable Number (MPN) per 100 milliliters.

10.10.2 The minimum soil depth and the minimum depth to the anticipated highest level of groundwater below the bottom of the dispersal system shall not be less than three (3) feet. All dispersal systems shall have at least twelve (12) inches of soil cover.

10.11 OWTS in an Advanced Protection Management Program with supplemental treatment shall be designed to meet the applicable performance requirements above and shall be stamped or approved by a Qualified Professional.

10.12 Prior to the installation of any proprietary treatment OWTS in an Advanced Protection Management Program, all such treatment components shall be tested by an independent third party testing laboratory.

10.13 The ongoing monitoring of OWTS in an Advanced Protection Management Program with supplemental treatment components designed to meet the performance requirements in Sections 10.9 and 10.10 shall be monitored in accordance with the operation and maintenance manual for the OWTS or more frequently as required by the local agency or Regional Water Board.

10.14 OWTS in an Advanced Protection Management Program with supplemental treatment components shall be equipped with a visual or audible alarm as well as a telemetric alarm that alerts the owner and service provider in the event of system malfunction. Where telemetry is not possible, the owner or owner's agent shall inspect the system at least monthly while the system is in use as directed and instructed by a service provider and notify the service provider not less than quarterly of the observed operating parameters of the OWTS.

10.15 OWTS in an Advanced Protection Management Program designed to meet the disinfection requirements in Section 10.10 shall be inspected for proper operation quarterly while the system is in use by a service provider unless a telemetric monitoring system is capable of continuously assessing the operation of the disinfection system. Testing of the wastewater flowing from supplemental treatment components that perform disinfection shall be sampled at a point in the system after the treatment components and prior to the dispersal system and shall be conducted quarterly based on analysis of total coliform with a minimum detection limit of 2.2 MPN. All effluent samples must include the geographic coordinates of the sample's location. Effluent samples shall be taken by a service provider and analyzed by a California Department of Public Health certified laboratory.

Tier 3 – Impaired Areas

10.16 The minimum responsibilities of a local agency administering an Advanced Protection Management Program include those prescribed for the Local Agency Management Programs in Section 9.3 of this policy, as well as monitoring owner compliance with Sections 10.13, 10.14,and 10.15.

Tier 4 – OWTS Requiring Corrective Action

Tier 4 – OWTS Requiring Corrective Action

OWTS that require corrective action or are either presently failing or fail at any time while this Policy is in effect are automatically included in Tier 4 and must follow the requirements as specified. OWTS included in Tier 4 must continue to meet applicable requirements of Tier 0, 1, 2 or 3 pending completion of corrective action.

11.0 Corrective Action for OWTS

11.1 Any OWTS that has pooling effluent, discharges wastewater to the surface, or has wastewater backed up into plumbing fixtures, because its dispersal system is no longer adequately percolating the wastewater is deemed to be failing, no longer meeting its primary purpose to protect public health, and requires major repair, and as such the dispersal system must be replaced, repaired, or modified so as to return to proper function and comply with Tier 1, 2, or 3 as appropriate.

11.2 Any OWTS septic tank failure, such as a baffle failure or tank structural integrity failure such that either wastewater is exfiltrating or groundwater is infiltrating is deemed to be failing, no longer meeting its primary purpose to protect public health, and requires major repair, and as such shall require the septic tank to be brought into compliance with the requirements of Section 8 in Tier 1 or a Local Agency Management Program per Tier 2.

11.3 Any OWTS that has a failure of one of its components other than those covered by 11.1 and 11.2 above, such as a distribution box or broken piping connection, shall have that component repaired so as to return the OWTS to a proper functioning condition and return to Tier 0, 1, 2, or 3.

11.4 Any OWTS that has affected, or will affect, groundwater or surface water to a degree that makes it unfit for drinking or other uses, or is causing a human health or other public nuisance condition shall be modified or upgraded so as to abate its impact.

11.5 If the owner of the OWTS is not able to comply with corrective action requirements of this section, the Regional Water Board may authorize repairs that are in substantial conformance, to the greatest extent practicable, with Tiers 1 or 3, or may require the owner of the OWTS to submit a report of waste discharge for evaluation on a case-by-case basis. Regional Water Board response to such reports of waste discharge may include, but is not limited to, enrollment in general waste discharge requirements, issuance of individual waste discharge requirements, or issuance of waiver of waste discharge requirements. A local agency may authorize repairs that are in substantial conformance, to the greatest extent practicable, with Tier 2 in accordance with section 9.2.3 if there is an approved Local Agency Management Program, or with an existing program if a Local Agency Management Program has not been approved and it is less than 5 years from the effective date of the Policy.

Tier 4 – OWTS Requiring Corrective Action

11.6 Owners of OWTS will address any corrective action requirement of Tier 4 as soon as is reasonably possible, and must comply with the time schedule of any corrective action notice received from a local agency or Regional Water Board, to retain coverage under this Policy.

11.7 Failure to meet the requirements of Tier 4 constitute a failure to meet the conditions of the waiver of waste discharge requirements contained in this Policy, and is subject to further enforcement action.

Waiver – Effective Date – Financial Assistance

Conditional Waiver of Waste Discharge Requirements

12.0 In accordance with Water Code section 13269, the State Water Board hereby waives the requirements to submit a report of waste discharge, obtain waste discharge requirements, and pay fees for discharges from OWTS covered by this Policy. Owners of OWTS covered by this Policy shall comply with the following conditions:

12.0.1 The OWTS shall function as designed with no surfacing effluent.

12.0.2 The OWTS shall not utilize a dispersal system that is in soil saturated with groundwater.

12.0.3 The OWTS shall not be operated while inundated by a storm or flood event.

12.0.4 The OWTS shall not cause or contribute to a condition of nuisance or pollution.

12.0.5 The OWTS shall comply with all applicable local agency codes, ordinances, and requirements.

12.0.6 The OWTS shall comply with and meet any applicable TMDL implementation requirements, special provisions for impaired water bodies, or supplemental treatment requirements imposed by Tier 3.

12.0.7 The OWTS shall comply with any corrective action requirements of Tier 4.

12.1 This waiver may be revoked by the State Water Board or the applicable Regional Water Board for any discharge from an OWTS, or from a category of OWTS.

Effective Date

13.0 This Policy becomes effective six months after its approval by the Office of Administrative Law, and all deadlines and compliance dates stated herein start at such time.

Waiver – Effective Date – Financial Assistance

Financial Assistance

14.0 Local Agencies may apply to the State Water Board for funds from the Clean Water State Revolving Fund for use in mini-loan programs that provide low interest loan assistance to private property owners with costs associated with complying with this Policy.

14.1 Loan interest rates for loans to local agencies will be set by the State Water Board using its policies, procedures, and strategies for implementing the Clean Water State Revolving Fund program, but will typically be one-half of the States most recent General Obligation bond sale. Historically interest rates have ranged between 2.0 and 3.0 percent.

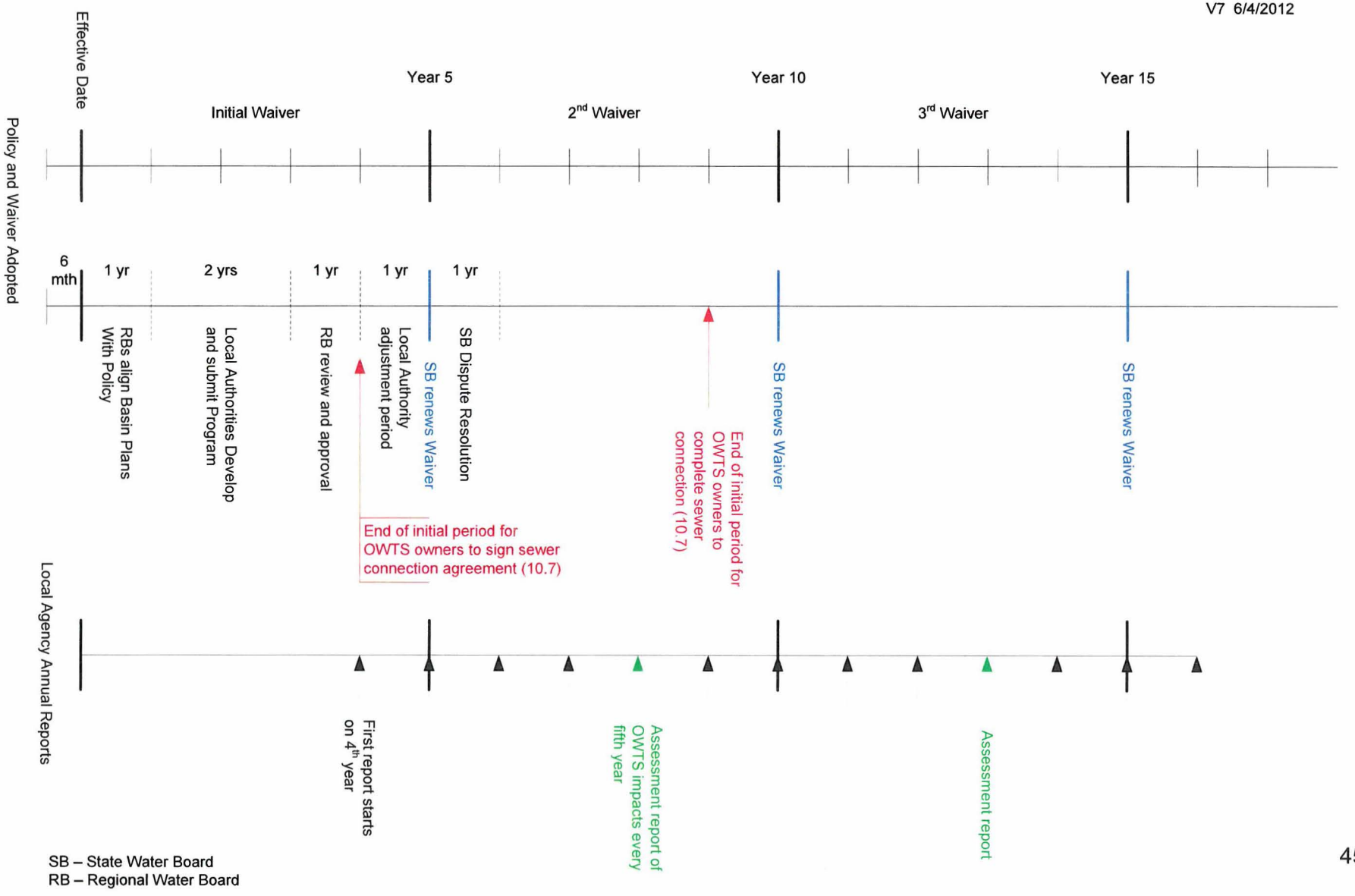
14.2 Local agencies may add additional interest points to their loans made to private entities to cover their costs of administering the mini-loan program.

14.3 Local agencies may submit their suggested loan eligibility criteria for the min-loan program they wish to establish to the State Water Board for approval, but should consider the legislative intent stated in Water Code Section 13291.5 is that assistance is encouraged for private property owners whose cost of complying with the requirements of this policy exceeds one-half of one percent of the current assessed value of the property on which the OWTS is located.

Attachment 1

OWTS Policy Time Lines

V7 6/4/2012



SB – State Water Board
RB – Regional Water Board

Attachment 2

The tables below specifically identify those impaired water bodies where: (1) it is likely that operating OWTS will subsequently be determined to be a contributing source of pathogens or nitrogen and therefore it is anticipated that OWTS would receive a loading reduction, and (2) it is likely that new OWTS installations discharging within 600 feet of the water body would contribute to the impairment. Per this Policy (Tier 3, Section 10) the Regional Water Boards must adopt a TMDL by the date specified in the table. The State Water Board, at the time of approving future 303 (d) Lists, will specifically identify those impaired water bodies that are to be added or removed from the tables below.

Table 5. Water Bodies impaired for pathogens that are subject to Tier 3 as of 2012.

REGION NO.	REGION NAME	WATERBODY NAME	COUNTIES	TMDL Completion Date
1	North Coast	Clam Beach	Humboldt	2020
1	North Coast	Luffenholtz Beach	Humboldt	2020
1	North Coast	Moonstone County Park	Humboldt	2020
1	North Coast	Russian River HU, Lower Russian River HA, Guerneville HSA, mainstem Russian River from Fife Creek to Dutch Bill Creek	Sonoma	2016
1	North Coast	Russian River HU, Lower Russian River HA, Guerneville HSA, Green Valley Creek watershed	Sonoma	2016
1	North Coast	Russian River HU, Middle Russian River HA, Geyserville HSA, mainstem Russian River at Healdsburg Memorial Beach and unnamed tributary at Fitch Mountain	Sonoma	2016
1	North Coast	Russian River HU, Middle Russian River HA, mainstem Laguna de Santa Rosa	Sonoma	2016
1	North Coast	Russian River HU, Middle Russian River HA, mainstem Santa Rosa Creek	Sonoma	2016
1	North Coast	Trinidad State Beach	Humboldt	2020
2	San Francisco Bay	China Camp Beach	Marin	2014
2	San Francisco Bay	Lawsons Landing	Marin	2015
2	San Francisco Bay	Pacific Ocean at Bolinas Beach	Marin	2014

Attachment 2

REGION NO.	REGION NAME	WATERBODY NAME	COUNTIES	TMDL Completion Date
2	San Francisco Bay	Pacific Ocean at Fitzgerald Marine Reserve	San Mateo	2016
2	San Francisco Bay	Pacific Ocean at Muir Beach	Marin	2015
2	San Francisco Bay	Pacific Ocean at Pillar Point Beach	San Mateo	2016
2	San Francisco Bay	Petaluma River	Marin, Sonoma	2017
2	San Francisco Bay	Petaluma River (tidal portion)	Marin, Sonoma	2017
2	San Francisco Bay	San Gregorio Creek	San Mateo	2019
3	Central Coast	Pacific Ocean at Point Rincon (mouth of Rincon Cr, Santa Barbara County)	Santa Barbara	2015
3	Central Coast	Rincon Creek	Santa Barbara, Ventura	2015
4	Los Angeles	Canada Larga (Ventura River Watershed)	Ventura	2017
4	Los Angeles	Coyote Creek	Los Angeles, Orange	2015
4	Los Angeles	Rincon Beach	Ventura	2017
4	Los Angeles	San Antonio Creek (Tributary to Ventura River Reach 4)	Ventura	2017
4	Los Angeles	San Gabriel River Reach 1 (Estuary to Firestone)	Los Angeles	2015
4	Los Angeles	San Gabriel River Reach 2 (Firestone to Whittier Narrows Dam	Los Angeles	2015
4	Los Angeles	San Gabriel River Reach 3 (Whittier Narrows to Ramona)	Los Angeles	2015
4	Los Angeles	San Jose Creek Reach 1 (SG Confluence to Temple St.)	Los Angeles	2015
4	Los Angeles	San Jose Creek Reach 2 (Temple to I-10 at White Ave.)	Los Angeles	2015
4	Los Angeles	Sawpit Creek	Los Angeles	2015
4	Los Angeles	Ventura River Reach 3 (Weldon Canyon to Confl. w/ Coyote Cr)	Ventura	2017
4	Los Angeles	Walnut Creek Wash (Drains from Puddingstone Res)	Los Angeles	2015
5	Central Valley	Wolf Creek (Nevada County)	Nevada, Placer	2020
5	Central Valley	Woods Creek (Tuolumne County)	Tuolumne	2020
7	Colorado River	Alamo River	Imperial	2017

Attachment 2

REGION NO.	REGION NAME	WATERBODY NAME	COUNTIES	TMDL Completion Date
7	Colorado River	Palo Verde Outfall Drain and Lagoon	Imperial, Riverside	2017
8	Santa Ana	Canyon Lake (Railroad Canyon Reservoir)	Riverside	2019
8	Santa Ana	Fulmor, Lake	Riverside	2019
8	Santa Ana	Goldenstar Creek	Riverside	2019
8	Santa Ana	Los Trancos Creek (Crystal Cove Creek)	Orange	2017
8	Santa Ana	Lytle Creek	San Bernardino	2019
8	Santa Ana	Mill Creek Reach 1	San Bernardino	2015
8	Santa Ana	Mill Creek Reach 2	San Bernardino	2015
8	Santa Ana	Morning Canyon Creek	Orange	2017
8	Santa Ana	Mountain Home Creek	San Bernardino	2019
8	Santa Ana	Mountain Home Creek, East Fork	San Bernardino	2019
8	Santa Ana	Silverado Creek	Orange	2017
8	Santa Ana	Peters Canyon Channel	Orange	2017
8	Santa Ana	Santa Ana River, Reach 2	Orange, Riverside	2019
8	Santa Ana	Temescal Creek, Reach 6 (Elsinore Groundwater sub basin boundary to Lake Elsinore Outlet)	Riverside	2019
8	Santa Ana	Seal Beach	Orange	2017
8	Santa Ana	Serrano Creek	Orange	2017
8	Santa Ana	Huntington Harbour	Orange	2017

Attachment 2

Table 6. Water Bodies impaired for nitrogen that are subject to Tier 3.

REGION NO.	REGION NAME	WATERBODY NAME	COUNTIES	TMDL Completion Date
1	North Coast	Russian River HU, Middle Russian River HA, mainstem Laguna de Santa Rosa	Sonoma	2015
2	San Francisco Bay	Lagunitas Creek	Marin	2016
2	San Francisco Bay	Napa River	Napa, Solano	2014
2	San Francisco Bay	Petaluma River	Marin, Sonoma	2017
2	San Francisco Bay	Petaluma River (tidal portion)	Marin, Sonoma	2017
2	San Francisco Bay	Sonoma Creek	Sonoma	2014
2	San Francisco Bay	Tomales Bay	Marin	2019
2	San Francisco Bay	Walker Creek	Marin	2016
4	Los Angeles	Malibu Creek	Los Angeles	2016
4	Los Angeles	San Antonio Creek (Tributary to Ventura River Reach 4)	Ventura	2013
8	Santa Ana	East Garden Grove Wintersburg Channel	Orange	2017
8	Santa Ana	Grout Creek	San Bernardino	2015
8	Santa Ana	Rathbone (Rathbun) Creek	San Bernardino	2015
8	Santa Ana	Summit Creek	San Bernardino	2015
8	Santa Ana	Serrano Creek	Orange	2017

Attachment 3

Regional Water Boards, upon mutual agreement, may designate one Regional Water Board to regulate a person or entity that is under the jurisdiction of both (Water Code Section 13228). The following table identifies the designated Regional Water Board for all counties within the State for purposes of reviewing and, if appropriate, approving new Local Agency Management Plans.

Table 7. Regional Water Board designations by County.

County	Regions with Jurisdiction	Designated Region
Alameda	2,5	2
Alpine	5,6	6
Amador	5	5
Butte	5	5
Calaveras	5	5
Colusa	5	5
Contra Costa	2,5	2
Del Norte	1	1
El Dorado	5,6	5
Fresno	5	5
Glenn	5,1	5
Humboldt	1	1
Imperial	7	7
Inyo	6	6
Kern	3,4,5,6	5
Kings	5	5
Lake	5,1	5
Lassen	5,6	6
Los Angeles	4,6	4
Madera	5	5
Marin	2,1	2
Mariposa	5	5
Mendocino	1	1
Merced	5	5
Modoc	1,5,6	5
Mono	6	6
Monterey	3	3
Napa	2,5	2
Nevada	5,6	5
Orange	8,9	8

County	Regions with Jurisdiction	Designated Region
Placer	5,6	5
Plumas	5	5
Riverside	7,8,9	7
Sacramento	5	5
San Benito	3,5	3
San Bernardino	6,7,8	6
San Diego	9,7	9
San Francisco	2	2
San Joaquin	5	5
San Luis Obispo	3,5	3
San Mateo	2,3	2
Santa Barbara	3	3
Santa Clara	2,3	2
Santa Cruz	3	3
Shasta	5	5
Sierra	5,6	5
Siskiyou	1,5	1
Solano	2,5	5
Sonoma	1,2	1
Stanislaus	5	5
Sutter	5	5
Tehama	5	5
Trinity	1	1
Tulare	5	5
Tuolumne	5	5
Ventura	4,3	4
Yolo	5	5
Yuba	5	5

City of Los Banos
At the Crossroads of California

Public Works Department
411 Madison Avenue
Los Banos, CA 93635
Telephone: 209 827-7056
Fax: 209 827-7069
www.losbanos.org

March 2, 2018

Mr. Eric Rapport
Central Valley OWTS Policy Implementation Program Lead
Central Valley Regional Water Quality Control Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002

RE: Revised Letter of Intent, Onsite Wastewater Treatment Systems, City of Los Banos, Merced County

Dear Mr. Rapport:

The City of Los Banos (City) submits this revised letter of intent to participate and make arrangements with Merced County in regulating all onsite wastewater treatment systems (OWTS) within the City's incorporated boundaries under Option 1. The City is currently working with the County in establishing an agreement. An estimated time frame for the completion of this agreement is August 2018. Notification to the Water Board will be sent as soon as an agreement is in place.

Sincerely,

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

cc: Ron Rowe, Merced County Environmental Health Director

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 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Authorizing execution of a Cooperative Agreement for Local Improvements between Caltrans and the City of Los Banos for the material and installation cost of the Optic Emergency Vehicle Detector in Caltrans traffic signal at State Route 152 and 11th Street.

Recommendation:
That the City Council authorize the City Manager to execute the Cooperative Agreement for Local Improvements between the State of California, acting through its Department of Transportation, referred to a Caltrans, and the City of Los Banos for the material and installation cost of an optic emergency vehicle detector in Caltrans traffic signal at State Route 152 and 11th Street. Total City financial obligation is estimated not to exceed the amount of $15,000.

Background:
Caltrans is currently completing the design for a four legged traffic signal installation on State Route 152 at the 11th Street intersection. This signal will replace the existing pedestrian signal that is currently at this location. A copy of several of the design sheets for this project is included as an attachment to this staff report.

Discussion:
The City of Los Banos Fire and Police Departments have Emergency Vehicle Detection (EVD) systems installed at all signals within the City of Los Banos. These systems allow the emergency vehicles to activate the green light in their direction of travel by activating a control located in the vehicles. This allows for a quicker more safe response time in emergency situations.

The City of Los Banos staff has requested that the new signal that is being designed by Caltrans, at the intersection of State Route 152 and 11th Street, include an Opticom EVD. This particular EVD is what is currently being used citywide and is in conformance with current public safety equipment.

Caltrans has put the EVD into the design of the signal but they will not pay for the equipment and installation as it is not a requirement of their design standards.

This Cooperative Agreement for local improvements allows for the EVD to be included in the signal design and installation and requires that the City of Los Banos pay for that item. The estimated cost to purchase and install the Opticom EVD is not to exceed $15,000.

This Cooperative Agreement outlines the items covered, the not to exceed number for purchasing and installing the equipment, and the invoicing method/timing to the City from Caltrans.

This signal at the State Route 152 and 11th Street intersection is estimated to begin construction in August 2021 and complete construction by November 2021.

Fiscal Impact:
The City of Los Banos will be invoiced for this Opticom EVD a not to exceed amount of $15,000. Since this project will not be undertaken until Fiscal Year 2021/2022, this amount will be budgeted for Council approval in the 2021/2022 Fiscal Year in the Traffic Impact Fund.

Reviewed by:

Alex Terrazas, City Manager

Sonya Williams, Finance Director

Attachments:
Resolution
Cooperative Agreement for Local Improvement
Plan Sheets of State Route 152/11th Street Signal Improvements

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AUTHORIZING THAT THE CITY MANAGER EXECUTE THE COOPERATIVE AGREEMENT FOR LOCAL IMPROVEMENTS BETWEEN THE STATE OF CALIFORNIA, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION, REFERRED TO AS CALTRANS, AND THE CITY OF LOS BANOS FOR THE COST FOR THE MATERIAL AND INSTALLATION OF AN OPTIC EMERGENCY VEHICLE DETECTOR (EVD) IN CALTRANS TRAFFIC SIGNAL AT STATE ROUTE 152 AND 11TH STREET

WHEREAS, Caltrans is in the process of the design and installation of a four legged traffic signal at State Route 152 and 11th Street; and

WHEREAS, the Fire and Police Departments of the City of Los Banos are requesting that an emergency vehicle detector (EVD) be part of the signal installation in order to have a quicker and safer response time in emergency situations; and

WHEREAS, EVD's are not a requirement of Caltrans design standards; and

WHEREAS, Caltrans will have the material and installation of an EVD in this signal provided as long as the City of Los Banos pays for the cost of the material and installation of the EVD; and

WHEREAS, the cost of the EVD is estimated at a not to exceed amount of $15,000; and

WHEREAS, a Cooperative Agreement for Local Improvements between Caltrans and the City of Los Banos outlines the financial responsibilities of the EVD installation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby authorize the City Manager to execute the Cooperative Agreement for Local Improvements between Caltrans and the City of Los Banos for the cost for the materials and installation of an Optic Emergency Vehicle Detector (EVD) in Caltrans traffic signal at State Route 152 and 11th Street.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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

Agreement 10-520
Project No. 1018000101
EA 10-1J300
10-MER-SR152- PM 21

COOPERATIVE AGREEMENT FOR LOCAL IMPROVEMENTS

This AGREEMENT, effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

City of Los Banos, municipal corporation of the State of California, referred to hereinafter as CITY.

An individual signatory agency in this AGREEMENT is referred to as a PARTY. Collectively, the signatory agencies in this AGREEMENT are referred to as PARTIES.

RECITALS

1. PARTIES are authorized to enter into a cooperative agreement for improvements to the State Highway System per the California Streets and Highways Code, Sections 114 and 130.

2. For the purpose of this AGREEMENT Caltrans is install optic emergency vehicle detector in Caltrans traffic signal for intersection improvements on State Route 152 and 11th Street in the City of Los Banos in Madera County, will be referred to hereinafter as PROJECT.

3. CITY has requested CALTRANS to install Opticom Emergency Vehicle Detector (EVD) system on the mast arm of Caltrans traffic signals, referred to herein as" EQUIPMENT ", and is willing to pay the cost of" EQUIPMENT" and the cost of installation and maintenance.

4. PARTIES agreed that CALTRANS will purchase, install, and maintain the EQUIPMENT at no cost to CALTRANS. CITY will reimburse CALTRANS for these costs.

5. PARTIES now define herein the terms and conditions as to how EQUIPMENT is financed, installed, owned, operated and maintained.

SECTION I

CALTRANS AGREES:

1. To administer the construction contract for the PROJECT and have the contractor complete the EQUIPMENT as a part of the PROJECT.

2. CALTRANS will include installation of EQUIPMENT as a PROJECT bid item.

3. CALTRANS and CITY will confer after bid opening and prior to contract award to ensure equipment meets requirements and specifications and is within PROJECT cost parameters.

4. CITY will reimburse CALTRANS for the cost of the bid item of EQUIPMENT, in the Approved Construction Contract.

5. CALTRANS will install EQUIPMENT as a part of PROJECT.

6. If CALTRANS anticipates that funding will be insufficient to complete EQUIPMENT, CALTRANS will promptly notify CITY. CALTRANS may be required to stop EQUIPMENT until additional funding is secured.

7. After PARTIES agree that WORK is complete for the EQUIPMENT , CALTRANS will submit a final accounting for all costs. Based on the final accounting, CALTRANS will refund or invoice as necessary in order to satisfy the financial commitments of this AGREEMENT .

SECTION II

CITY AGREES:

1. To be responsible for establishing the scope of the EQUIPMENT , as defined in the Scope Summary.

2. To fund EQUIPMENT that includes $3,000 of Construction Support cost and $12,000 of Construction Capital cost as provided in the Funding Table of this AGREEMENT .

3. To make all arrangements and provide CALTRANS' contractor with permits to enter and perform work outside of CALTRANS' right-of-way if such permits are necessary to work on EQUIPMENT .

SECTION III

IT IS MUTUALLY AGREED:

1. All portions of this AGREEMENT, including the Recitals Section, are enforceable.

2. All CALTRANS' obligations under this AGREEMENT are subject to the appropriation of resources by the Legislature, the State Budget Act authority, programming, and allocation of funds by the California Transportation Commission (CTC).

3. The cost of EQUIPMENT performed by CALTRANS includes all direct and applicable indirect costs. CALTRANS calculates indirect costs based solely on the type of funds used to pay support costs. State and federal funds administered by CALTRANS are subject to the current Program Functional Rate. All other funds are subject to the current Program Functional Rate and the current Administration Rate. The Program Functional Rate and Administration Rate are adjusted periodically.

   In accordance with California Senate Bill 848, the Administration Rate is capped at 10 percent until July 1, 2021, for Self-Help Counties with a countywide sales tax measure dedicated to transportation improvements.

4. CITY total obligation for EQUIPMENT is estimated not to exceed in the amount of $15,000.

5. EQUIPMENT costs shall not be increased unless it is a result of:

   - Material modifications based on approved plans and specifications by CITY.
   - The failure by CITY to perform its obligations under this Agreement following written notice from CALTRANS to CITY.
   - Unforeseen conditions that are discovered during the performance of the EQUIPMENT .
   - If all responsible bids come over the engineer's estimate and CALTRANS chooses to award the contract.

6. CALTRANS will invoice CITY for a lump sum not to exceed $15,000 ($3,000 in Construction Support cost and $12,000 in Construction Capital cost) after execution of this AGREEMENT and forty-five (45) working days prior to the commencement of EQUIMENT installation. This deposit is the estimated cost of EQUIPMENT.

7. CITY will pay invoices within forty-five (45) calendar days of receipt of invoice when not paying with Electronic Funds Transfer (EFT). When paying with EFT, CITY will pay invoices within five (5) calendar days of receipt of invoice.

8. In the event the costs of EQUIPMENT exceed the estimate per the terms of the AGREEMENT, CALTRANS may submit supplemental billings to CITY requesting additional funds. CALTRANS will provide detailed accounting of all costs with each billing. Should those additional costs remain unpaid, CALTRANS reserves right to stop WORK on EQUIPMENT until additional funding is secured or complete EQUIMENT and commence legal means to recover those costs.

9. CITY will accept operation, maintenance and ownership or title to all materials and pre-emptive equipment installed as part of EQUIPMENT . CITY, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of the operation and maintenance of EQUIPMENT .

10. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CITY or under this AGREEMENT . It is understood and agreed that CITY, to the extent permitted by law, will defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY, its contractors, sub-contractors and/or its agents under this AGREEMENT .

11. Neither CITY nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS or

under this AGREEMENT. It is understood and agreed that CALTRANS, to the extent permitted by law, will defend, indemnify, and save harmless CITY and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS, its contractors, sub-contractors and/or its agents under this AGREEMENT.

12. This AGREEMENT will terminate upon completion of the EQUIPMENT and all parties have met all scope, cost, and schedule commitments included in this AGREEMENT and have signed a Cooperative Agreement Closure Statement, which is a document signed by parties that verifies the completion of EQUIPMENT.

    However, all indemnification, document, retention, audit, claims, environmental commitment, legal challenge, hazardous material, operation, maintenance and ownership articles will remain in effect until terminated or modified in writing by mutual agreement.

CONTACT INFORMATION

The information provided below indicates the primary contact information for each PARTY to this AGREEMENT. PARTIES will notify each other in writing of any personnel or location changes. Contact information changes do not require an amendment to this AGREEMENT.

City of Los Banos

Project Manager: Mark Fachin, P.E.

Phone Number: (209) 827-7056

E-mail: mark.fachin@losbanos.org

Billing Address: 411 Madison Avenue

Los Banos, Ca. 93635

CALTRANS

Project Manager: Parisa Lodge

Phone Number: (209) 986-5313

E-mail: parisa.lodge@dot.ca.gov

SIGNATURES

PARTIES are empowered by the law to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this AGREEMENT on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this AGREEMENT.

This AGREEMENT may be executed and delivered in counterparts, and by each PARTY in a separate counterpart, each of which when so executed and delivered shall constitute an original and all of which taken together shall constitute one and the same instrument.

The PARTIES acknowledge that executed copies of this AGREEMENT may be exchanged by facsimile or email, and that such copies shall be deemed to be effective as originals.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By:_____
Dennis T. Agar
District Director

CITY OF LOS BANOS

By:_____
Alex Terrazas
City Manager

VERIFIED OF FUNDS & AUTHORITY:

By:_____
Michelle Ishaya
District Budget Manager

Attest:_____
Lucille Mallonee
City Clerk

Agreement 10-520
Project No. 1018000101
EA 10-1J300
10-MER-SR152- PM 21

SCOPE SUMMARY

Project Location: District 10, intersection of Route 152/ 11th Street in the City of Los Banos at Merced County, post mile 21.00

Scope of Work: Intersection Control Improvement

Deliverables: Opticom installation

FUNDING TABLE FOR EQUIPMENT

IMPLEMENTING AGENCY ->		CALTRANS		Totals
Source	Fund Type	Construction Support	Construction Capital	
Local	Local	$3,000	$12,000	$15,000
	Totals	$3,000	$12,000	$15,000

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	1	??

STATE OF CALIFORNIA

DEPARTMENT OF TRANSPORTATION

PROJECT PLANS FOR CONSTRUCTION ON

STATE HIGHWAY

IN MERCED COUNTY
IN LOS BANOS
AT INTERSECTION OF ELEVENTH STREET

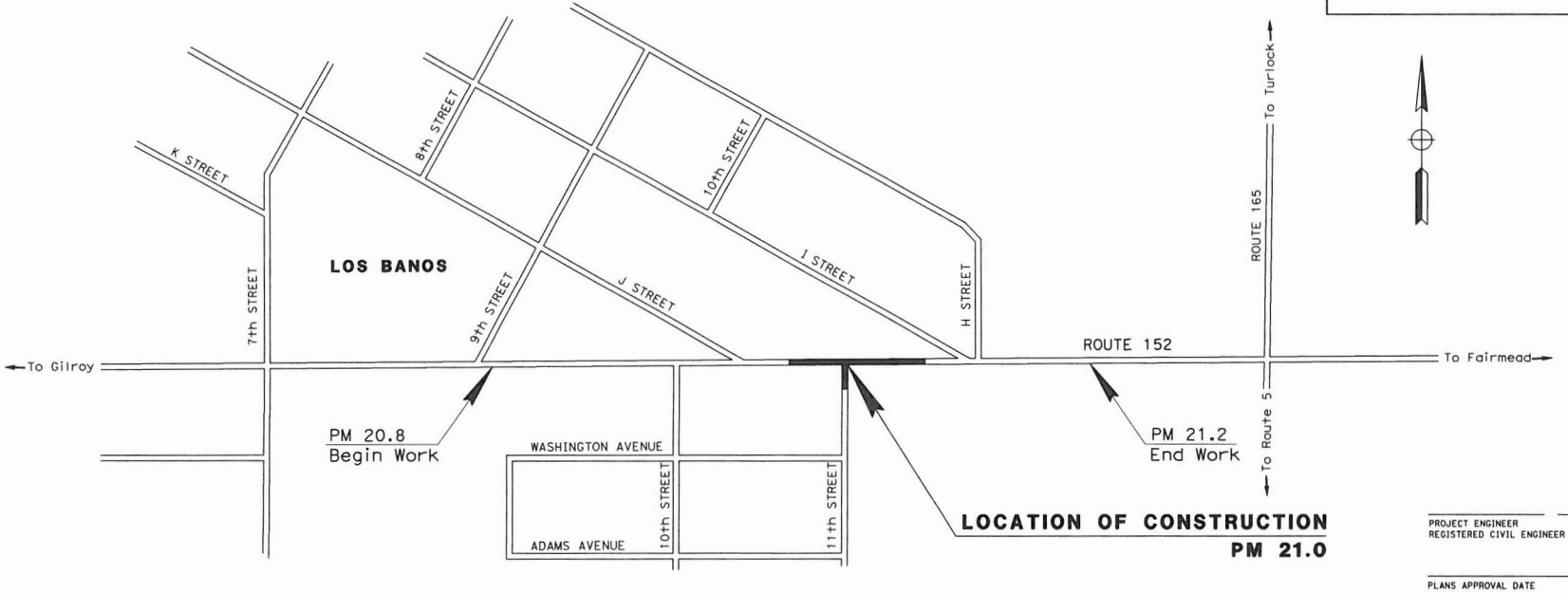
TO BE SUPPLEMENTED BY STANDARD PLANS DATED 2018

INDEX OF PLANS

SHEET No.	DESCRIPTION
1	TITLE AND LOCATION MAP
2-3	TYPICAL CROSS SECTIONS
4	LAYOUT
5-11	CONSTRUCTION DETAILS
12-13	UTILITY PLAN
14	CONSTRUCTION AREA SIGNS
15	MOTORIST INFORMATION PLAN
16	PAVEMENT DELINEATION AND SIGN PLAN
17	PAVEMENT DELINEATION QUANTITIES
18	SIGN QUANTITIES
19	SUMMARY OF QUANTITIES
20-25	ELECTRICAL PLANS
26-XX	REVISED STANDARD PLANS

THE STANDARD PLANS LIST APPLICABLE TO THIS CONTRACT IS INCLUDED IN THE NOTICE TO BIDDERS AND SPECIAL PROVISIONS BOOK.

LOCATION MAP



THE CONTRACTOR SHALL POSSESS THE CLASS (OR CLASSES) OF LICENSE AS SPECIFIED IN THE "NOTICE TO BIDDERS."

NO SCALE

PROJECT ENGINEER DATE
REGISTERED CIVIL ENGINEER

REGISTERED PROFESSIONAL ENGINEER MARK GONZALEZ 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

NCM ENGINEERING CORPORATION
1322 East Shaw Avenue, Suite 340
Fresno, CA 93710

CONTRACT No.	10-1J3004
PROJECT ID	1018000101

LAST REVISION 06-23-20

DATE PLOTTED => 23-JUN-2020
TIME PLOTTED => 16:49

APPROVED AS TO IMPACT ON STATE FACILITIES AND CONFORMANCE WITH APPLICABLE STATE STANDARDS AND PRACTICES AND THAT TECHNICAL OVERSIGHT WAS PERFORMED.

CONSULTANT DESIGN MANAGER	CALTRANS DESIGN OVERSIGHT APPROVAL	REGISTRATION No.	LICENSE Exp DATE	DATE SIGNED
STEVE MISLINSKI	JOSE ARMANDO HUERTA	52380	12-31-20	

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	4	??

REGISTERED CIVIL ENGINEER DATE

XX-XX-XX

PLANS APPROVAL DATE

MARK GONZALEZ No. 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA REGISTERED PROFESSIONAL ENGINEER

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

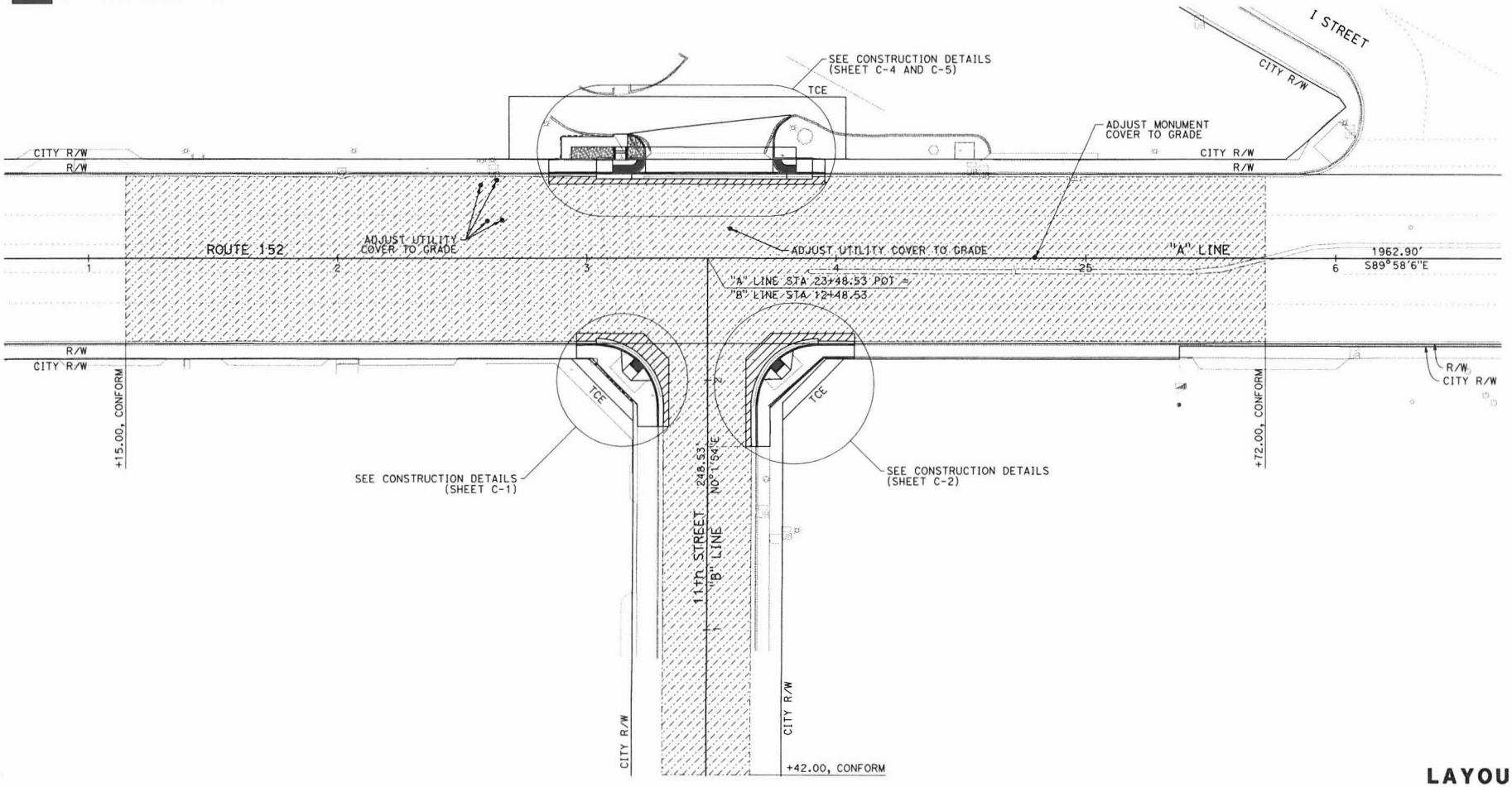
NCM ENGINEERING CORPORATION
1322 East Shaw Ave, Ste 340
Fresno, CA 93710

NOTE:

FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

LEGEND:

- 0.25' COLD PLANE AC Pvmt
  0.25' HMA (TYPE A)
- 0.50' HMA (TYPE A)
- MINOR CONCRETE (STAMPED CONCRETE) (SEE SHEET C-6 FOR DETAILS)
- DETECTABLE WARNING SURFACE



LAYOUT

SCALE: 1"=20'

L-1

REVISED BY	DATE REVISED
JAMES LOY	MARK GONZALEZ

CALCULATED-DESIGNED BY	CHECKED BY
CONSULTANT FUNCTIONAL SUPERVISOR	STEVE MISLINSKI

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

Caltrans

LAST REVISION 06-23-20 | DATE PLOTTED => 23-JUN-2020 | TIME PLOTTED => 16:49

BORDER LAST REVISED 7/2/2010 | USERNAME => emoua | DGN FILE => 10180001011ea001.dgn | RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3 | UNIT 1457 | PROJECT NUMBER & PHASE 10180001011

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	12	22

REGISTERED CIVIL ENGINEER DATE

XX-XX-XX

PLANS APPROVAL DATE

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REGISTERED PROFESSIONAL ENGINEER MARK GONZALEZ No. 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA

NCM ENGINEERING CORPORATION
1322 East Shaw Ave, Ste 340
Fresno, CA 93710

NOTES:

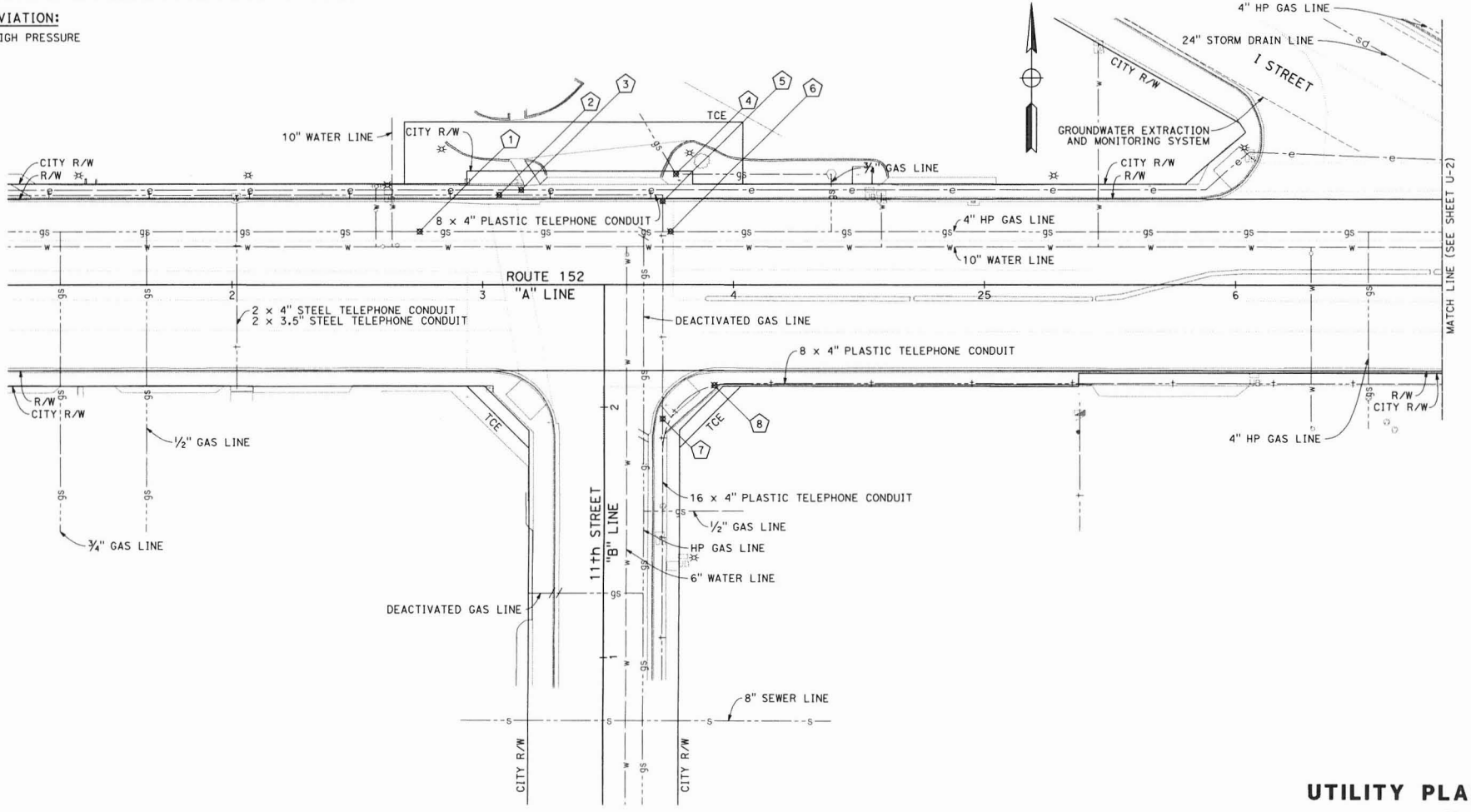
1. FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.
2. UTILITY OWNERSHIP:
   - ELECTRICAL - PACIFIC GAS AND ELECTRIC COMPANY (PG&E)
   - GAS - PACIFIC GAS AND ELECTRIC COMPANY (PG&E)
   - GROUNDWATER EXTRACTION AND MONITORING SYSTEM - ARCADIS U.S., Inc FOR CHEVRON COMPANY
   - SEWER - CITY OF LOS BANOS
   - STORM DRAIN - CITY OF LOS BANOS
   - TELEPHONE - AMERICAN TELEPHONE & TELEGRAPH (AT&T)
   - WATER - CITY OF LOS BANOS
3. SUBSURFACE INVESTIGATION ASSOCIATED WITH PROJECT IS NOT COMPLETE. POTHOLES LOCATIONS SHOWN ON PLANS ARE ANTICIPATED LOCATIONS TO BE POTHOLED. POTHOLES WILL BE COLLECTED AFTER THE 100% SUBMITTAL.

ABBREVIATION:

HP HIGH PRESSURE

POSITIVE LOCATION INFORMATION

No. ⬠	UTILITY	LOCATION	NORTHING	EASTING	DEPTH	ELEVATION	METHOD
1	GAS						TEST HOLE
2	TELEPHONE						TEST HOLE
3	ELECTRIC						TEST HOLE
4	GAS						TEST HOLE
5	TELEPHONE						TEST HOLE
6	GAS						TEST HOLE
7	TELEPHONE						TEST HOLE
8	TELEPHONE						TEST HOLE



THIS PLAN TO BE USED FOR UTILITY INFORMATION ONLY

UTILITY PLAN

SCALE: 1"=20'

U-1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

Caltrans

CONSULTANT FUNCTIONAL SUPERVISOR: STEVE MISLINSKI

CALCULATED-DESIGNED BY: JAMES LOY

CHECKED BY: MARK GONZALEZ

REVISED BY / DATE REVISED

LAST REVISION 06-23-20

DATE PLOTTED => 23-JUN-2020
TIME PLOTTED => 16:49

BORDER LAST REVISED 7/2/2010

USERNAME => emoua
DGN FILE => 1018000101ka001.dgn

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

UNIT 1457

PROJECT NUMBER & PHASE 10180001011

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	14	??

REGISTERED CIVIL ENGINEER DATE

XX-XX-XX

PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER MARK GONZALEZ No. 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

NCM ENGINEERING CORPORATION
1322 East Shaw Ave, Ste 340
Fresno, CA 93710

NOTES:

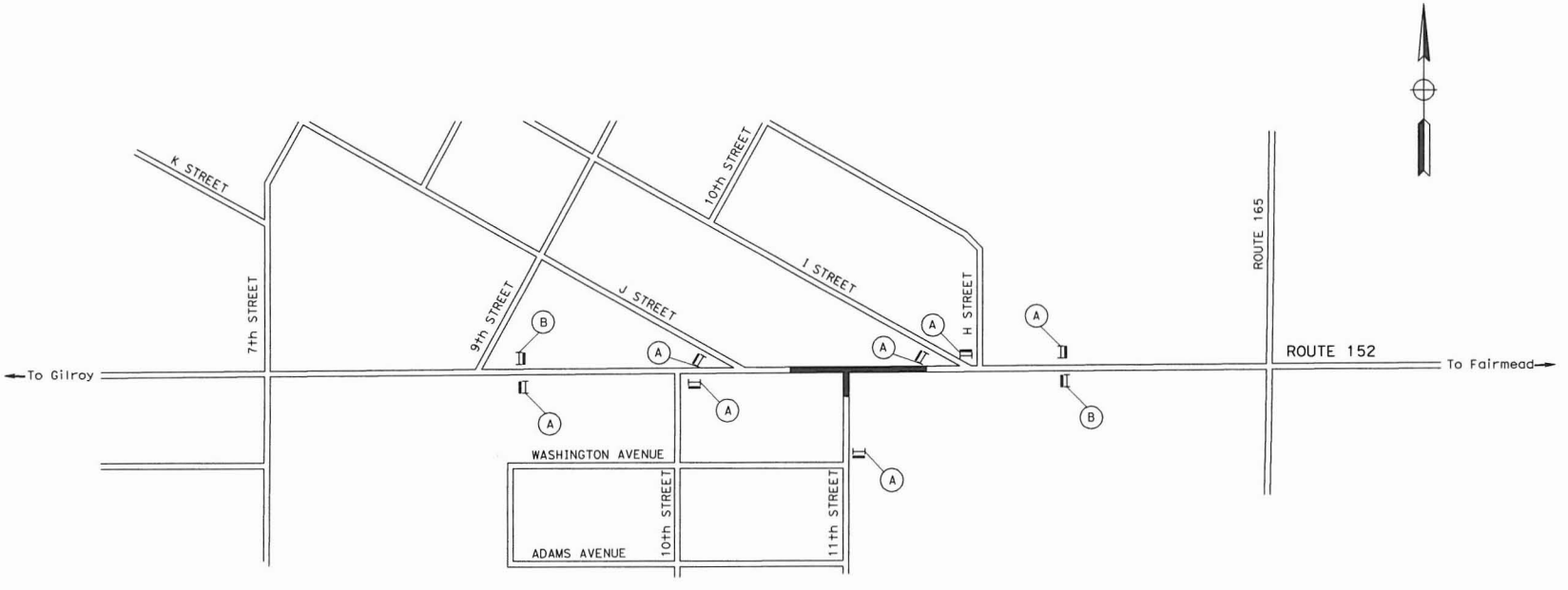
1. LOCATION OF CONSTRUCTION AREA SIGNS ARE APPROXIMATE. EXACT LOCATION WILL BE DETERMINED BY THE ENGINEER.
2. FOR ADDITIONAL CONSTRUCTION AREA SIGNS, SEE MOTORIST INFORMATION PLAN.

LEGEND:

TYPE III BARRICADE MOUNTED SIGN

PORTABLE CONSTRUCTION AREA SIGNS

SIGN LETTER	SIGN CODE		PANEL SIZE	SIGN MESSAGE	NUMBER OF POSTS AND SIZE	NUMBER OF SIGNS
	FEDERAL	CALIFORNIA				
A	W20-1		36" x 36"	ROAD WORK AHEAD	BARRICADE MOUNTED	7
B	G20-2		36" x 18"	END ROAD WORK	BARRICADE MOUNTED	2



APPROVED FOR CONSTRUCTION AREA SIGN WORK ONLY

CONSTRUCTION AREA SIGNS

NO SCALE **CS-1**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

Caltrans

CONSULTANT FUNCTIONAL SUPERVISOR: STEVE WISLINSKI

CALCULATED-DESIGNED BY: JAMES LOY

CHECKED BY: MARK GONZALEZ

REVISED BY / DATE REVISED

LAST REVISION 06-23-20 DATE PLOTTED => 23-JUN-2020 TIME PLOTTED => 16:49

BORDER LAST REVISED 7/2/2010 | USERNAME => emoua | DGN FILE => 10180001011a001.dgn | RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3 | UNIT 1457 | PROJECT NUMBER & PHASE 10180001011

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	15	??

REGISTERED CIVIL ENGINEER DATE

XX-XX-XX

PLANS APPROVAL DATE

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REGISTERED PROFESSIONAL ENGINEER MARK GONZALEZ No. 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA

NCM ENGINEERING CORPORATION
1322 East Show Ave, Ste 340
Fresno, CA 93710

NOTES:

1. EXACT LOCATION WILL BE DETERMINED BY THE ENGINEER.
2. FOR ADDITIONAL CONSTRUCTION AREA SIGNS, SEE CONSTRUCTION AREA SIGN PLAN.

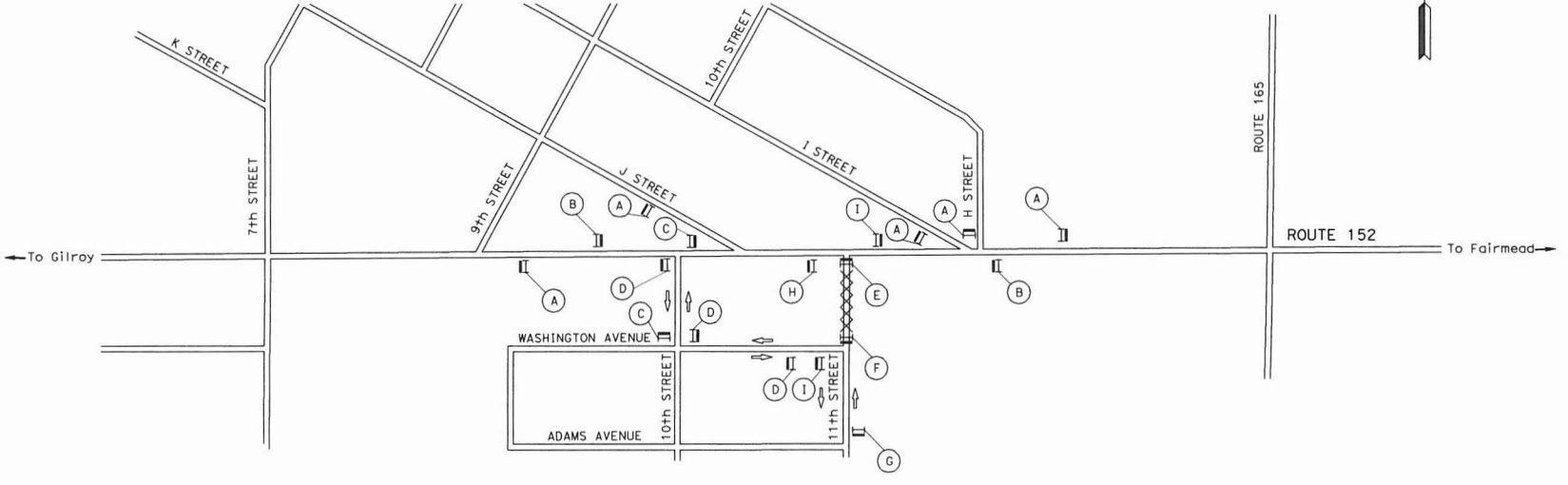
LEGEND:

XX ROAD CLOSURE

II TYPE III BARRICADE MOUNTED SIGN

PORTABLE CONSTRUCTION AREA SIGNS

SIGN LETTER	SIGN CODE		PANEL SIZE	SIGN MESSAGE	NUMBER OF POSTS AND SIZE	NUMBER OF SIGNS
	FEDERAL	CALIFORNIA				
A	W20-2		36" x 36"	DETOUR AHEAD	BARRICADE MOUNTED	5
B	M4-8a		24" x 18"	END DETOUR	BARRICADE MOUNTED	2
C	M4-10		48" x 18"	DETOUR (LEFT ARROW)	BARRICADE MOUNTED	2
D	M4-10		48" x 18"	DETOUR (RIGHT ARROW)	BARRICADE MOUNTED	3
E	R11-2		48" x 30"	ROAD CLOSED	BARRICADE MOUNTED	1
F	R11-4		48" x 30"	ROAD CLOSED TO THRU TRAFFIC	BARRICADE MOUNTED	1
	M4-10		48" x 18"	DETOUR (LEFT ARROW)		
G		C19	36" x 36"	ROAD CLOSED AHEAD	BARRICADE MOUNTED	1
H	R3-1		24" x 24"	RIGHT TURN PROHIBITED	BARRICADE MOUNTED	1
I	R3-2		24" x 24"	LEFT TURN PROHIBITED	BARRICADE MOUNTED	2



APPROVED FOR MOTORIST INFORMATION WORK ONLY

MOTORIST INFORMATION PLAN

NO SCALE **MI-1**

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

Caltrans

CONSULTANT FUNCTIONAL SUPERVISOR: STEVE MISLINSKI

CALCULATED-DESIGNED BY: JAMES LOY

CHECKED BY: MARK GONZALEZ

REVISED BY

DATE REVISED

LAST REVISION 06-23-20

DATE PLOTTED => 23-JUN-2020

TIME PLOTTED => 16:49

BORDER LAST REVISED 7/2/2010

USERNAME => emouo

DGN FILE => 10180001011b001.dgn

RELATIVE BORDER SCALE IS IN INCHES 0 1 2 3

UNIT 1457

PROJECT NUMBER & PHASE 10180001011

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	16	??

REGISTERED CIVIL ENGINEER DATE

XX-XX-XX

PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER MARK GONZALEZ No. 73897 Exp. 6-30-21 CIVIL STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

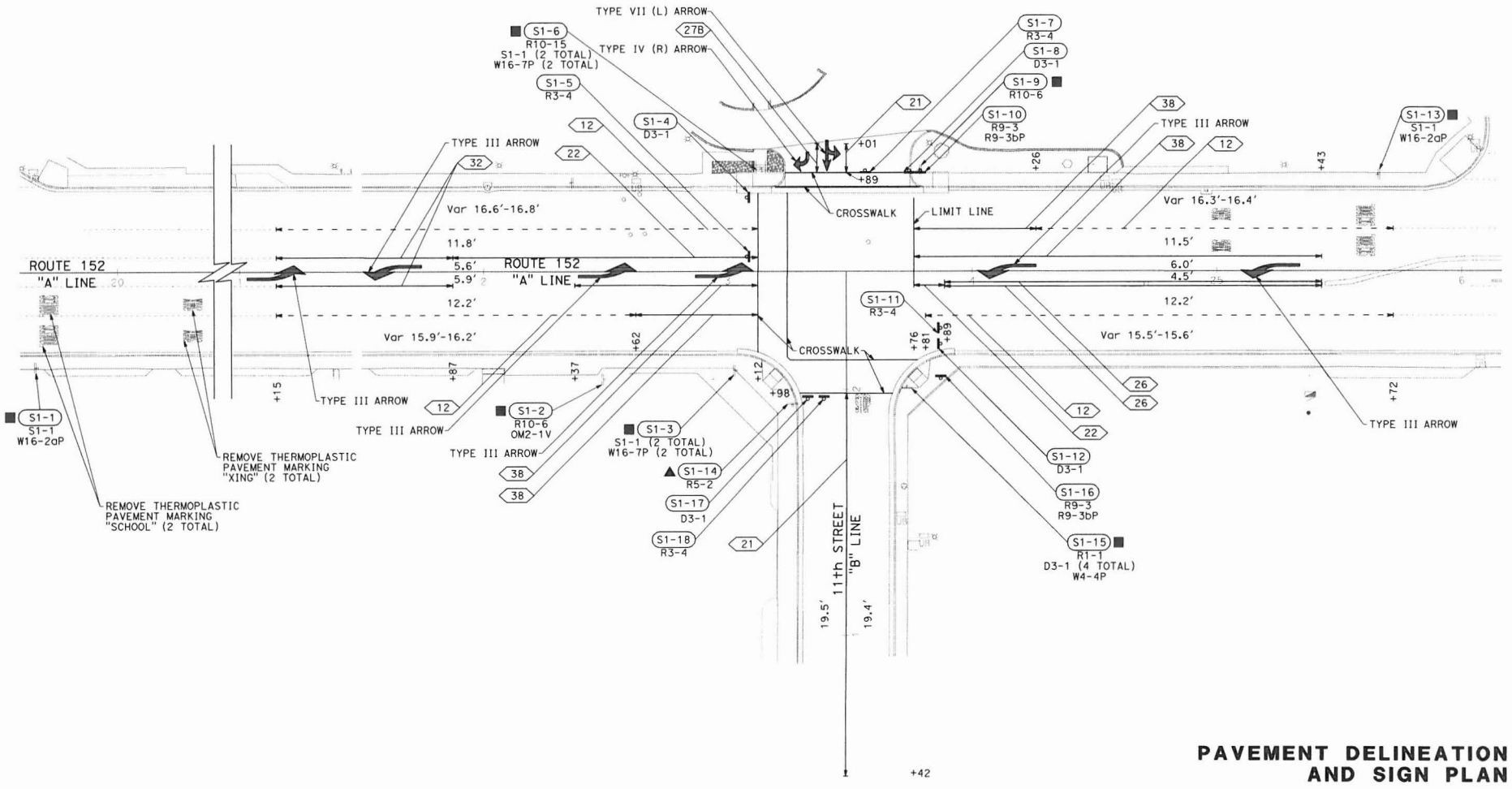
NCM ENGINEERING CORPORATION
1322 East Shaw Ave, Ste 340
Fresno, CA 93710

NOTES:

1. EXACT LOCATION AND POSITION OF ROADSIDE SIGNS TO BE DETERMINED BY THE ENGINEER
2. FEDERAL SIGN CODES ARE SHOWN UNLESS DESIGNATED BY (CA) WHICH INDICATES A CALIFORNIA SIGN CODE

LEGEND:

■ REMOVE ROADSIDE SIGN
▲ RESET ROADSIDE SIGN



APPROVED FOR PAVEMENT DELINEATION AND SIGN WORK ONLY

PAVEMENT DELINEATION AND SIGN PLAN

SCALE: 1"=20'

PD-1

REVISED BY	DATE REVISED
JAMES LOY	MARK GONZALEZ
CALCULATED-DESIGNED BY	CHECKED BY
CONSULTANT FUNCTIONAL SUPERVISOR	STEVE MISLINSKI

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

Caltrans

LAST REVISION 06-23-20 | DATE PLOTTED => 23-JUN-2020 | TIME PLOTTED => 16:49

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
10	Mer	152	21.0	20	??

XX-XX-XX
REGISTERED CIVIL ENGINEER DATE

XX-XX-XX
PLANS APPROVAL DATE

REGISTERED PROFESSIONAL ENGINEER JOSE LUIS BENAVIDES No. 62971 Exp. 6-30-20 CIVIL STATE OF CALIFORNIA

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

JLB TRAFFIC ENGINEERING, INC.
516 West Shaw Ave, Ste 103
Fresno, CA 93704

NOTES:

1. FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.
2. SEE SHEET E-3 FOR EQUIPMENT AND CONDUCTOR SCHEDULE.
3. ALL PULL BOXES MUST BE No. 5(T)(E) UNLESS OTHERWISE NOTED.
4. SEE SIGN PLANS FOR SIGN DETAILS.

ABBREVIATIONS:

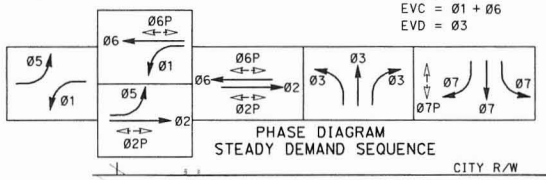
PG&E PACIFIC GAS AND ELECTRIC
PPB PEDESTRIAN PUSH BUTTON

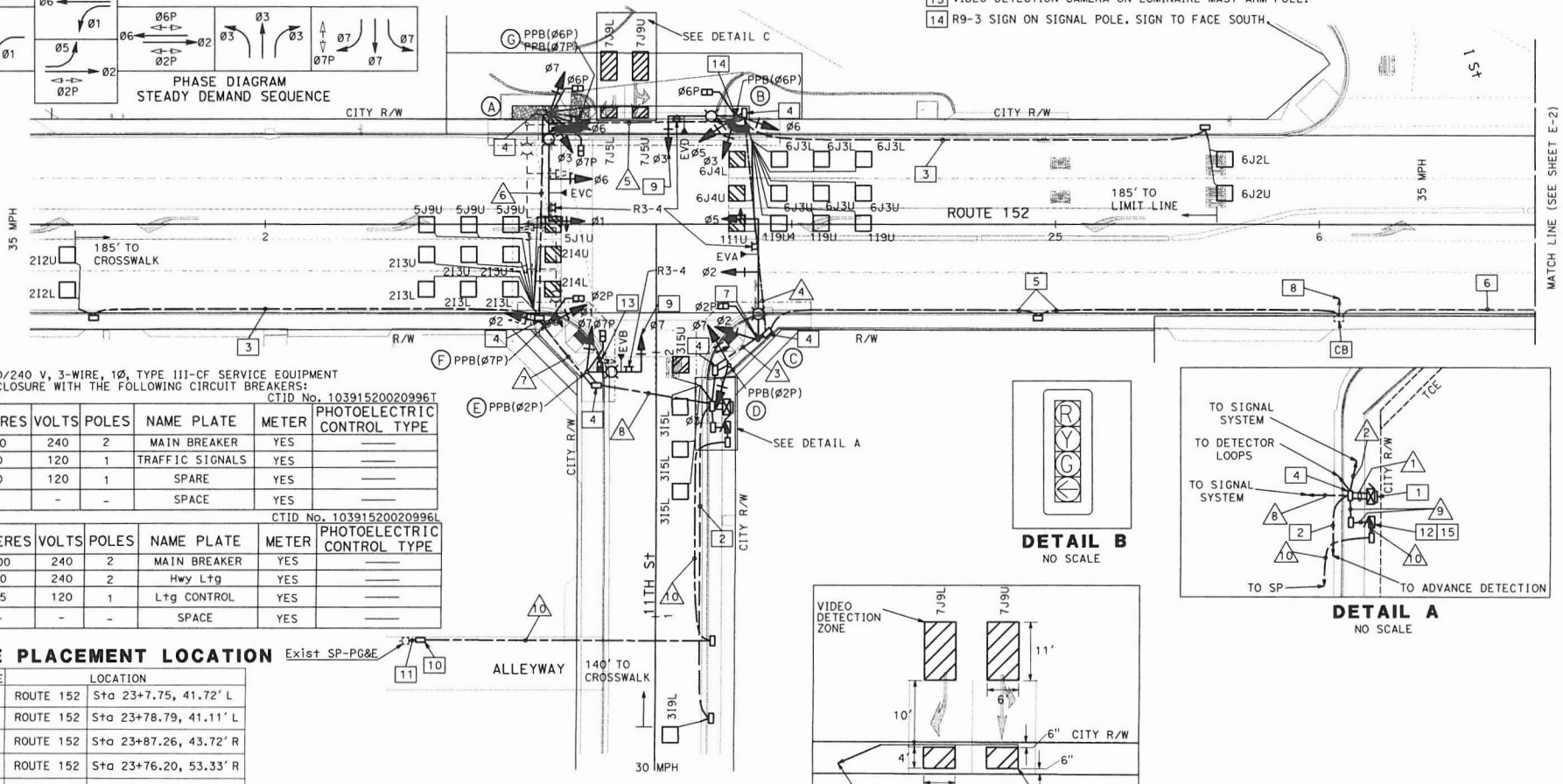
EMERGENCY VEHICLE PREEMPTION (EVP):

EVA = Ø2
EVB = Ø7
EVC = Ø1 + Ø6
EVD = Ø3

LEGEND (FOR SHEET E-1 ONLY):

1. DEPARTMENT-FURNISHED MODEL 332L CABINET AND MODEL 2070E CONTROLLER UNIT. FURNISH AND INSTALL BATTERY BACKUP SYSTEM.
2. 2"C, 1 DLC.
3. 2"C, 2 DLC.
4. TAMPER RESISTANT No. 6(T)(E) PB WITH LOCKABLE TRAFFIC COVER. SEE SHEET ED-1 FOR DETAILS.
5. 2"C, 1 SIC.
6. Exist 1½"C, 2 DLC. ADD 1 SIC.
7. R9-3 SIGN ON SIGNAL POLE. SIGN TO FACE NORTH.
8. TO Exist ADVANCE DETECTION.
9. INSTALL 4-SECTION HEAD PER DETAIL B.
10. PG&E APPROVED PB.
11. 3"C, CONDUCTORS BY PG&E.
12. INSTALL 3 POINT LATCH, HANDLE, AND LOCK COVER PER DETAIL B ON SHEET ED-1.
13. VIDEO DETECTION CAMERA ON LUMINAIRE MAST ARM POLE.
14. R9-3 SIGN ON SIGNAL POLE. SIGN TO FACE SOUTH.





15 120/240 V, 3-WIRE, 1Ø, TYPE III-CF SERVICE EQUIPMENT ENCLOSURE WITH THE FOLLOWING CIRCUIT BREAKERS:

CTID No. 10391520020996T

AMPERES	VOLTS	POLES	NAME PLATE	METER	PHOTOELECTRIC CONTROL TYPE
100	240	2	MAIN BREAKER	YES	——
30	120	1	TRAFFIC SIGNALS	YES	——
20	120	1	SPARE	YES	——
-	-	-	SPACE	YES	——

CTID No. 10391520020996L

AMPERES	VOLTS	POLES	NAME PLATE	METER	PHOTOELECTRIC CONTROL TYPE
100	240	2	MAIN BREAKER	YES	——
40	240	2	Hwy Ltg	YES	——
15	120	1	Ltg CONTROL	YES	——
-	-	-	SPACE	YES	——

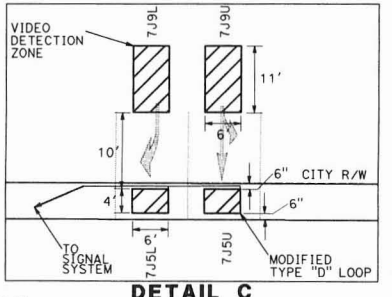
POLE PLACEMENT LOCATION

Exist SP-PG&E

POLE	LOCATION	
Ⓐ	ROUTE 152	Sta 23+7.75, 41.72' L
Ⓑ	ROUTE 152	Sta 23+78.79, 41.11' L
Ⓒ	ROUTE 152	Sta 23+87.26, 43.72' R
Ⓓ	ROUTE 152	Sta 23+76.20, 53.33' R
Ⓔ	ROUTE 152	Sta 23+22.19, 55.86' R
Ⓕ	ROUTE 152	Sta 23+7.11, 38.14' R
Ⓖ	ROUTE 152	Sta 23+18.73, 40.26' L

DETAIL B
NO SCALE

DETAIL A
NO SCALE



DETAIL C
NO SCALE

APPROVED FOR ELECTRICAL WORK ONLY

SIGNAL AND LIGHTING SYSTEM

SCALE: 1"=20'

E-1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
Caltrans
CONSULTANT FUNCTIONAL SUPERVISOR: JOSE LUIS BENAVIDES
CALCULATED-DESIGNED BY: JAMES LOY
CHECKED BY: JOSE LUIS BENAVIDES
REVISED BY / DATE REVISED

LAST REVISION 06-23-20
DATE PLOTTED => 23-JUN-2020
TIME PLOTTED => 16:49

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 7, 2020

TYPE OF REPORT: Consent Item

SUBJECT: Accepting Public Improvements for Dove Hollow The Villages VII, Phase 1B

Recommendation:
That the City Council adopts the Resolution accepting Public Improvements for Dove Hollow The Villages VII, Phase 1B.

Background:
The Tentative Tract Map No. 2017-01 was approved by the City of Los Banos Community Development Department on March 8, 2017 by Resolution No. 2017-07. In April 2019, the Public Works staff was contacted by the developer, Anderson Homes, for Final Map approval for Dove Hollow The Villages VII Phase 1B, Units 1 & 2. The City Council adopted the resolution approving the Final Map for Dove Hollow The Villages VII Phase 1B, Unit 1 on November 8, 2019. The City Council adopted the resolution approving the Final Map for Dove Hollow The Villages VII Phase 1B, Unit 2 on July 15, 2020. In September 2020 the developer, Anderson Homes, reached out to the Public Works Department requesting acceptance of public improvements for The Villages, Phase 1B.

Discussion:
The subject site is generally located within the area bounded by Cardoza Road to the north, Pioneer Road to the south, Badger Flat Road to the east and Merced County AP No. 430-060-002 and Los Banos Creek to the west. The applicant is Anderson Homes, a California corporation. The Villages VII, Phase 1B consists of 50 single family lots on 10.29± acres. The Final Tract Maps are in substantial compliance with Tentative

Subdivision Map No. 2017-01 and Public Improvements were subject to all Subdivision Improvement Agreement Conditions. A Landscape and Lighting District Letter of Inclusion was executed for the parcel.

Fiscal Impact:
All public improvements Dove Hollow The Villages VII, Phase 1B have been completed by the Developer. A Maintenance Bond in the amount of $46,322.82 shall remain on file with the City of Los Banos for a minimum of one year after the acceptance of public improvements. All other required processing, development, plan check and inspection fees to date have been paid.

Reviewed by:

Alex Terrazas, City Manager

Sonya Williams, Finance Director

Attachments:
Resolution
Site Map
Tract Map
Recorded Final Map
Subdivision Improvement Agreement
    Exhibit A Original Engineers Estimate
    Exhibit B Conditions of Approval

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS ACCEPTING PUBLIC IMPROVEMENTS FOR DOVE HOLLOW THE VILLAGES VII, PHASE 1B.

WHEREAS, the City Council of the City of Los Banos has received a request from the developers of Dove Hollow The Villages VII, Phase 1B that public Improvements for Dove Hollow The Villages VII, Phase 1B be accepted by the City of Los Banos; and,

WHEREAS, the City Council of the City of Los Banos has reviewed said request and finds that the public Improvements of said project are in a position to be accepted by the City of Los Banos.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos that is does hereby accept the Public Improvements Dove Hollow The Villages VII, Phase 1B as presented.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October, 2020 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:

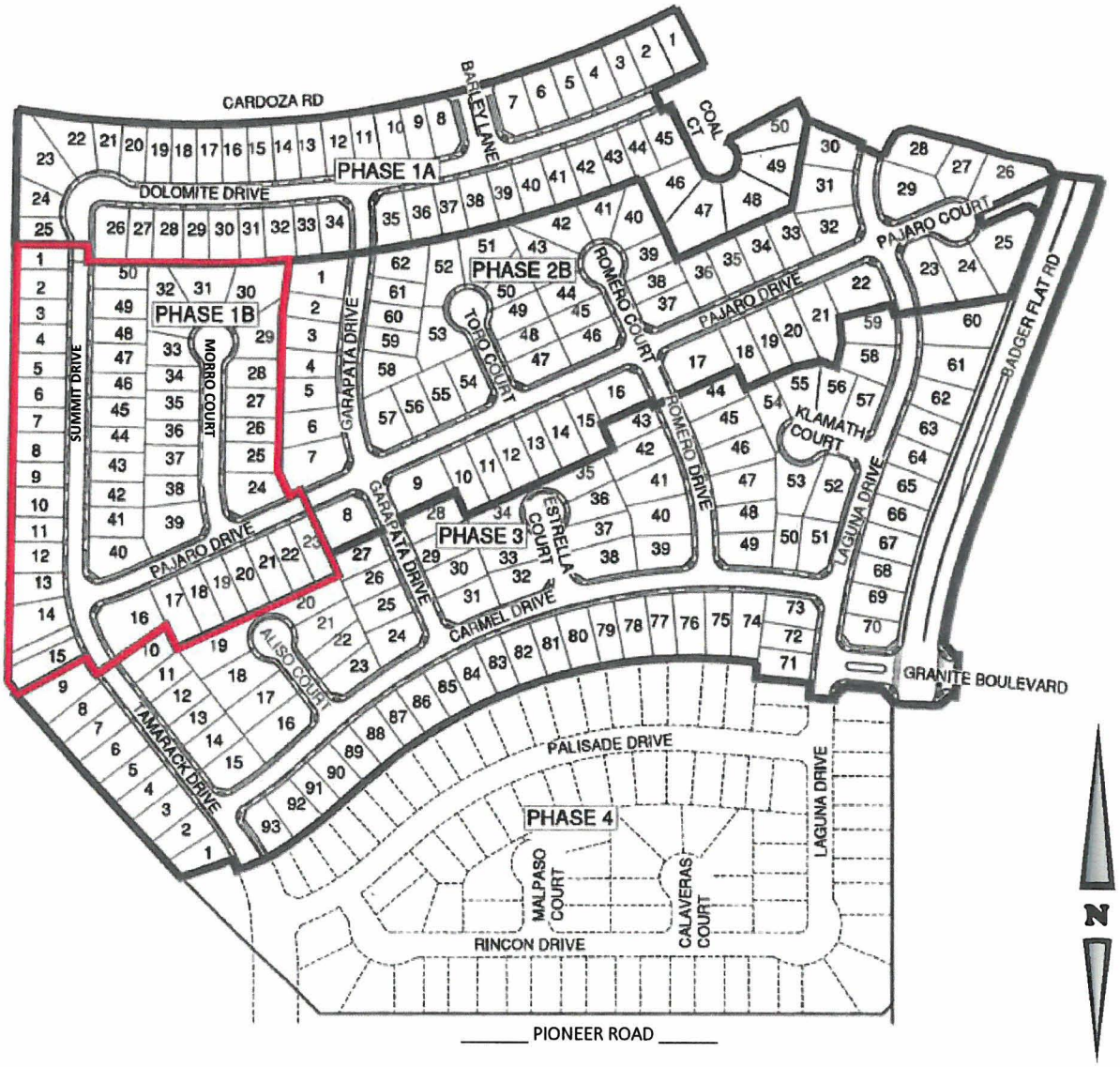
APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

SITE MAP
VILLAGES VII, PHASE 1B



VICINITY MAP

N.T.S.

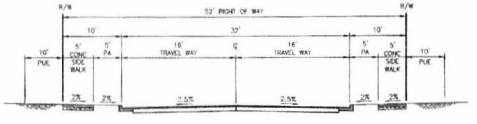
NOTES:

APPLICANTS: STONECREEK PROPERTIES
1851 AIRWAY DRIVE, SUITE B
HOLLISTER, CA 95023
CONTACT: RAY DESA
(831) 630-1853

ENGINEER: O'DELL ENGINEERING
1165 SCENIC DRIVE, SUITE B
MODESTO, CA 95350
(209) 571-1765

SUBDIVIDER'S STATEMENT

1. 75.34 ACRES
   - 343 RESIDENTIAL LOTS
   - LOT A 3,700± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT B 7,000± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT C 8,500± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT D 13,500± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT E 11,800± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT F 13,800± S.F. (GAS EASEMENT/PUBLIC ACCESS)
   - LOT G 5,400± S.F. (GAS EASEMENT/PUBLIC ACCESS)
2. GENERAL PLAN/ZONING DESIGNATION FOR PROPERTY: LOW DENSITY RESIDENTIAL AND PARK.
3. EROSION CONTROL PLAN SHALL BE DONE PER COUNTY ORDINANCES.
4. MINIMUM BUILDING SETBACK LINES SHALL COMPLY WITH CITY STANDARDS.
5. DOMESTIC WATER SUPPLY SHALL BE BY CONNECTION TO CITY OF LOS BANOS WATER SYSTEM.
6. SEWAGE DISPOSAL SHALL BE BY COLLECTION SYSTEM AND CONNECTION TO CITY OF LOS BANOS SANITARY SEWER SYSTEM.
7. STORM DRAINAGE DISPOSAL SHALL BE BY COLLECTION SYSTEM AND CONNECTION TO CITY OF LOS BANOS STORM DRAINAGE SYSTEM.
8. TREE PLANTING SHALL BE PERFORMED IN ACCORDANCE WITH COUNTY AND/OR STATE ORDINANCES.
9. THE APPLICANT PROPOSES TO BUILD ON LOTS, BUT RESERVES THE RIGHT TO SELL LOTS.
10. THIS TENTATIVE SUBDIVISION MAP IS A SUBDIVISION OF PARCEL NUMBERS: 083-030-055, 083-030-056, 083-030-058, 083-061-013
11. THE APPLICANT RESERVES THE RIGHT TO PHASE PROJECT PER THE SUBDIVISION MAP ACT.



1 TYPICAL 52' RIGHT OF WAY SECTION

NOT TO SCALE

APPROVED BY:

STACY SOUZA
COMMUNITY DEVELOPMENT DIRECTOR

DATE 5/1/17

N

0 50 100 200

SCALE: 1" = 100'

PLAN REVISIONS

NO.	DATE	REVISION
NO.		

O'DELL ENGINEERING
Modesto Palo Alto Pleasanton
1165 Scenic Drive, Suite B
Modesto, CA 95350
Ph 209.571.1765 odellengineering.com

PRELIMINARY VESTING TENTATIVE MAP

VILLAGE VII - DOVE HOLLOW

LOS BANOS, CALIFORNIA

LAYOUT

APPROVED:

DESIGNED:	YI/CW
DRAWN:	ABN/CW
CHECKED:	YI
SCALE:	1"=100'
DATE:	02/13/2017
JOB NO.:	31110
FILE NO.:	31110-VTM.DWG

SHEET NO.

1

OF

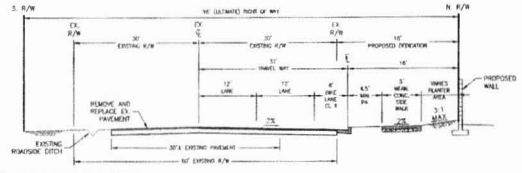
2

LEGEND

- CATCH BASIN
- ELECTROLIER
- FIRE HYDRANT
- WATER VALVE
- SANITARY SEWER MANHOLE
- STORM DRAIN MANHOLE
- UNDERGROUND UTILITY LINE LABEL AND DIRECTION
- LIMIT LINE
- PHASE LINE
- PROPERTY BOUNDARY

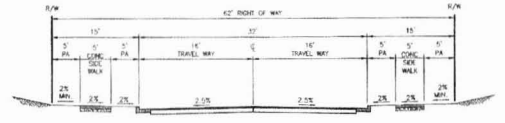
N

0 50 100 200
SCALE: 1" = 100'



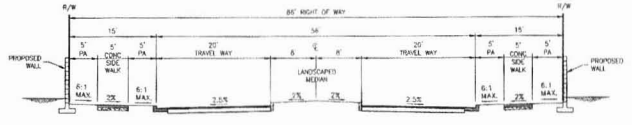
2 PIONEER ROAD SECTION

NOT TO SCALE



3 TYPICAL 62' RIGHT OF WAY SECTION

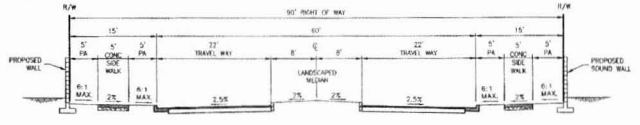
NOT TO SCALE



4 TYPICAL 86' RIGHT OF WAY SECTION

NO PARKING EITHER SIDE

NOT TO SCALE



5 TYPICAL 90' RIGHT OF WAY SECTION

NO PARKING EITHER SIDE

NOT TO SCALE

PLAN REVISIONS

NO.	DATE	REVISION
NO.		

O'DELL ENGINEERING
Modesto Palo Alto Pleasanton
1165 Scenic Drive, Suite B
Modesto, CA 95350
Ph 209.571.1765 odellengineering.com

PRELIMINARY VESTING TENTATIVE MAP

VILLAGE VII - DOVE HOLLOW

LOS BANOS, CALIFORNIA

TENTATIVE GRADING & UTILITIES

APPROVED:

DESIGNED:	YI/CW
DRAWN:	ABV/CW
CHECKED:	YI
SCALE:	1"=100'
DATE:	02/13/2017
JOB NO.:	31110
FILE NO.:	31110-VTM.DWG

SHEET NO.

2

OF

2

H:\31110 Dove Hollow Stonecrest\Planning\Plan\Dwg\31110-VTM.dwg 10:41:28 04/28/2017

TRACT NO: 2017-01
STONECREEK AT LOS BANOS
THE VILLAGES VII-PHASE 1B, UNIT 1

BEING LOT D, TRACT NO. 2017-01, VOLUME 80 OP PAGES 36-40, LYING IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN
CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

SEPTEMBER 2019

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
Ph 209.571.1785 odellengineering.com

OWNER'S STATEMENT

WE, THE UNDERSIGNED, DO HEREBY STATE THAT WE ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP.

WE ALSO HEREBY OFFER AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS IN FEE FOR PUBLIC USE, ALL STREET RIGHTS-OF-WAY AS SHOWN ON THIS FINAL MAP.

WE ALSO HEREBY OFFER AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS AN EASEMENT FOR PUBLIC USE, ALL PUBLIC UTILITY EASEMENTS (P.U.E.) AS SHOWN ON THIS FINAL MAP.

OWNERS: ANDERSON HOMES, A CALIFORNIA CORPORATION

BY: _____ 10/14/2019 DATE

NAME: Michael Anderson (PRINT NAME)

ITS: Vice President (TITLE)

NOTARY STATEMENT (OWNER)

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA

COUNTY OF San Benito }

ON Oct. 14, 2019 (DATE) BEFORE ME, Regina M. Waldron A NOTARY PUBLIC,

PERSONALLY APPEARED Michael Anderson (NAME OF SIGNER(S))

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

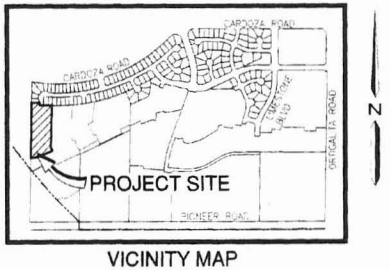
Regina M. Waldron, NOTARY PUBLIC

PRINT NAME: Regina M. Waldron

COMMISSION NUMBER: 2233314

COMMISSION EXPIRES: April 7, 2022 (DO NOT STAMP)

PRINCIPAL OFFICE LOCATION (COUNTY): San Benito



VICINITY MAP
NTS

PLANNING COMMISSION STATEMENT:

I, STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR FOR THE CITY OF LOS BANOS, DO HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 1, AND THAT THE SUBDIVISION IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE VESTING TENTATIVE MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 13TH DAY OF APRIL, 2005, AND THAT THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 1, COMPLIES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 6th DAY OF November, 2019.

BY: _____
STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR
CITY OF LOS BANOS

CITY CLERK'S STATEMENT:

I, LUCILLE L. MALLONEE, CITY OF LOS BANOS, STATE OF CALIFORNIA. DO HEREBY STATE THAT AT THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, STATE OF CALIFORNIA, HELD ON THIS 6th DAY OF November, 2019. THE ACCOMPANYING FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 1, WAS APPROVED AND ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE, THE OFFER OF DEDICATION IN EASEMENT OF ALL PUBLIC UTILITY EASEMENTS (P.U.E.), ALL AS SHOWN ON THIS FINAL MAP; ACCEPTED THE OFFER OF DEDICATION IN FEE OF THE STREET RIGHTS-OF-WAY, AS SHOWN ON THIS FINAL MAP; SAID APPROVAL IS SUBJECT TO IMPROVEMENTS.

DATED THIS 6th DAY OF November, 2019.

BY: _____
LUCILLE L. MALLONEE, CITY CLERK
CITY OF LOS BANOS

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF STONECREEK PROPERTIES, IN NOVEMBER OF 2018. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I FURTHER STATE THAT ALL THE MONUMENTS SHOWN HEREON WILL BE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED BEFORE JULY 30TH, 2020. AND THAT SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS 11th DAY OF October, 2019.

BY: _____
DYLAN CRAWFORD, P.L.S. 7788

PROFESSIONAL LAND SURVEYOR DYLAN CRAWFORD No 7788 STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 1, AND STATE THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

DATED THIS 28th DAY OF October, 2019.

BY: _____
MARK FACHIN, R.C.E. 34614
CITY ENGINEER

REGISTERED PROFESSIONAL ENGINEER MARK FACHIN No. C 34614 Exp. 12-31-21 CIVIL STATE OF CALIFORNIA

CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND IT COMPLIES WITH ALL THE PROVISIONS OF CHAPTER 2 OF THE CALIFORNIA SUBDIVISION MAP ACT, AS AMENDED, AND THAT THIS FINAL MAP IS TECHNICALLY CORRECT.

DATED THIS 23 DAY OF Oct. 2019.

BY: _____
NARINDER SAHOTA, PLS 8719
REVIEWING CITY SURVEYOR

RIGHT TO FARM STATEMENT

PER MERCED COUNTY ORDINANCE NO. 1213

THE PROPERTY DESCRIBED ON THE HEREON SHOWN MAP IS IN THE VICINITY OF LAND UTILIZED FOR AGRICULTURAL PURPOSES AND RESIDENTS OF THIS PROPERTY MAY BE SUBJECT TO INCONVENIENCE OR DISCOMFORT ARISING FROM THE USE OF AGRICULTURAL CHEMICALS, INCLUDING BUT NOT LIMITED TO, PESTICIDES AND FERTILIZERS, AND FROM THE PURSUIT OF AGRICULTURAL OPERATIONS INCLUDING, BY NOT LIMITED TO, PLOWING, SPRAYING AND BURNING WHICH OCCASIONALLY MAY GENERATE DUST, SMOKE, NOISE, AND ODOR.

THE COUNTY OF MERCED HAS ESTABLISHED AGRICULTURE AS A PRIORITY USE IN AGRICULTURAL ZONES WHICH ARE OUTSIDE OF AN ESTABLISHED SPECIFIC URBAN DEVELOPMENT PLAN (SUDP) BOUNDARY, RURAL RESIDENTIAL CENTER (RRC) BOUNDARY, HIGHWAY INTERCHANGE CENTER (HIC) BOUNDARY, OR AGRICULTURAL SERVICE CENTER (ASC) BOUNDARY, AND RESIDENTS OF PROPERTY IN THE VICINITY OF SUCH AGRICULTURAL ZONES SHOULD BE PREPARED TO ACCEPT INCONVENIENCE OR DISCOMFORT FROM NORMAL, NECESSARY AGRICULTURAL OPERATIONS.

RECORDER'S STATEMENT

FILED THIS 13 DAY OF November, 2019, AT 11:09 O'CLOCK, A M. IN VOL 92 OF OFFICIAL PLATS, AT PAGES 10-12, AT THE REQUEST OF DYLAN CRAWFORD.

FEE $ 737.00

BARBARA LEVEY, RECORDER
MERCED COUNTY, CALIFORNIA

BY: _____
ASSISTANT/DEPUTY RECORDER

REFERENCED RECORD DOCUMENTS

MERCED COUNTY RECORDS

(R-1) VOLUME 76 OF OFFICIAL PLATS, PAGES 22-30 M.C.R. (VILLAGES IV, PHASE 1B)
(R-2) VOLUME 108 OF PARCEL MAPS, PAGES 4-5, M.C.R.
(R-3) VOLUME 28 OF SURVEYS, PAGES 9-12, M.C.R.
(R-4) VOLUME 80 OF OFFICIAL PLATS, PAGES 36-40 , M.C.R. (VILLAGES VII, PHASE 1, UNIT 1)
(R-5) VOLUME 99 OF PARCEL MAPS, PAGES 11-12, M.C.R.
(R-6) VOLUME 29 OF PARCEL MAPS, PAGE 20, M.C.R.
(R-7) VOLUME 81 OF OFFICIAL PLATS, PAGES 13-16 , M.C.R. (VILLAGES VII, PHASE 1, UNIT 2)

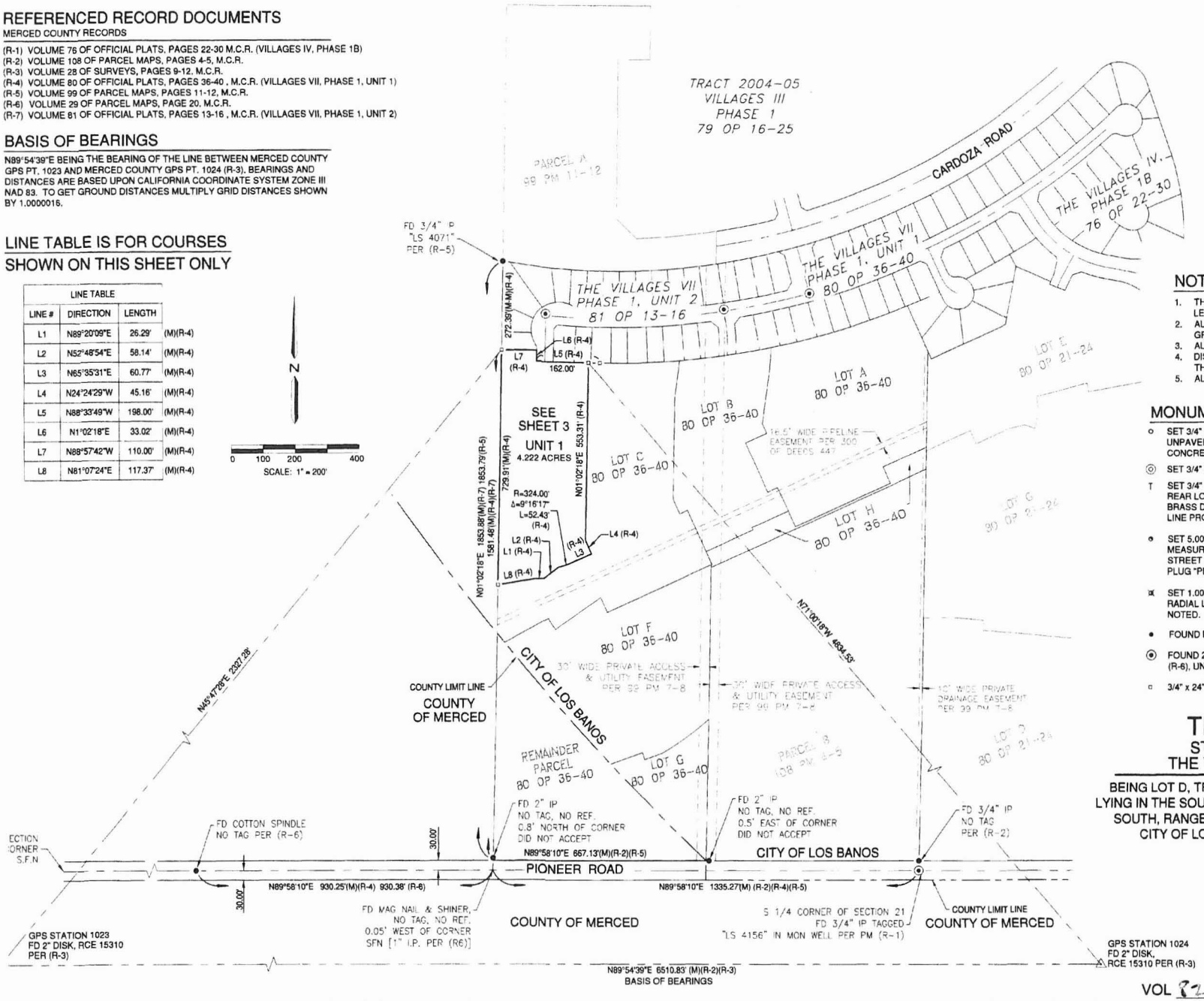
BASIS OF BEARINGS

N89°54'39"E BEING THE BEARING OF THE LINE BETWEEN MERCED COUNTY GPS PT. 1023 AND MERCED COUNTY GPS PT. 1024 (R-3). BEARINGS AND DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE III NAD 83. TO GET GROUND DISTANCES MULTIPLY GRID DISTANCES SHOWN BY 1.0000015.

LINE TABLE IS FOR COURSES SHOWN ON THIS SHEET ONLY

LINE TABLE

LINE #	DIRECTION	LENGTH	
L1	N89°20'09"E	26.29'	(M)(R-4)
L2	N52°48'54"E	58.14'	(M)(R-4)
L3	N65°35'31"E	60.77'	(M)(R-4)
L4	N24°24'29"W	45.16'	(M)(R-4)
L5	N88°33'49"W	198.00'	(M)(R-4)
L6	N1°02'18"E	33.02'	(M)(R-4)
L7	N88°57'42"W	110.00'	(M)(R-4)
L8	N81°07'24"E	117.37'	(M)(R-4)



LEGEND AND ABBREVIATIONS

RESOLVED BOUNDARY LINE
CENTERLINE
EXISTING EASEMENT LINE
BASIS OF BEARING TIE LINE

AC.	ACRES
FD	FOUND
IP	IRON PIPE-DIAMETER NOTED
(M)	MEASURED DISTANCE
(M-M)	MONUMENT TO MONUMENT
OP	OFFICIAL PLATS
PM	PARCEL MAP
M.C.R	MERCED COUNTY RECORDS
(R-#)	REFERENCED RECORD DOCUMENT
(R)	RADIAL BEARING
SFN	SEARCHED, FOUND NOTHING
(T)	TOTAL DISTANCE
W.C.	WITNESS CORNER

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 4.222 ACRES, MORE OR LESS.
2. ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES, MULTIPLY GRID DISTANCES SHOWN BY 1.0000016 TO GET GROUND DISTANCES.
3. ALL DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
5. ALL FOUND MONUMENTS ARE ACCEPTED UNLESS OTHERWISE NOTED.

MONUMENT NOTES

- SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" FOR UNPAVED AREAS OR 1.17" BRASS DISK STAMPED "PLS 7788" FOR CONCRETE AREAS
- SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" IN MONUMENT WELL
- T SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" FOR ALL REAR LOT CORNERS (UNLESS OTHERWISE NOTED). SET 1.17" BRASS DISK STAMPED "PLS 7788" IN SIDEWALK 1.00' ON PROPERTY LINE PROJECTION FOR ALL FRONT LOT CORNERS.
- SET 5.00' WITNESS CORNER, UNLESS OTHERWISE NOTED, MEASURED ALONG LOT LINE, RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788".
- SET 1.00' WITNESS CORNER IN SIDEWALK, MEASURED ALONG RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 1.17" BRASS DISK STAMPED "PLS 7788".
- FOUND MONUMENT AS NOTED
- FOUND 2" BRASS DISK STAMPED "LS 7788" IN MONUMENT WELL PER (R-6), UNLESS OTHERWISE NOTED
- 3/4" x 24" IRON PIPE WITH PLASTIC PLUG "PLS 7788" TO BE SET PER (R-4)

TRACT NO: 2017-01

STONECREEK AT LOS BANOS
THE VILLAGES VII-PHASE 1B, UNIT 1

BEING LOT D, TRACT NO. 2017-01, VOLUME 80 OP PAGES 36-40, LYING IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

SEPTEMBER 2019

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
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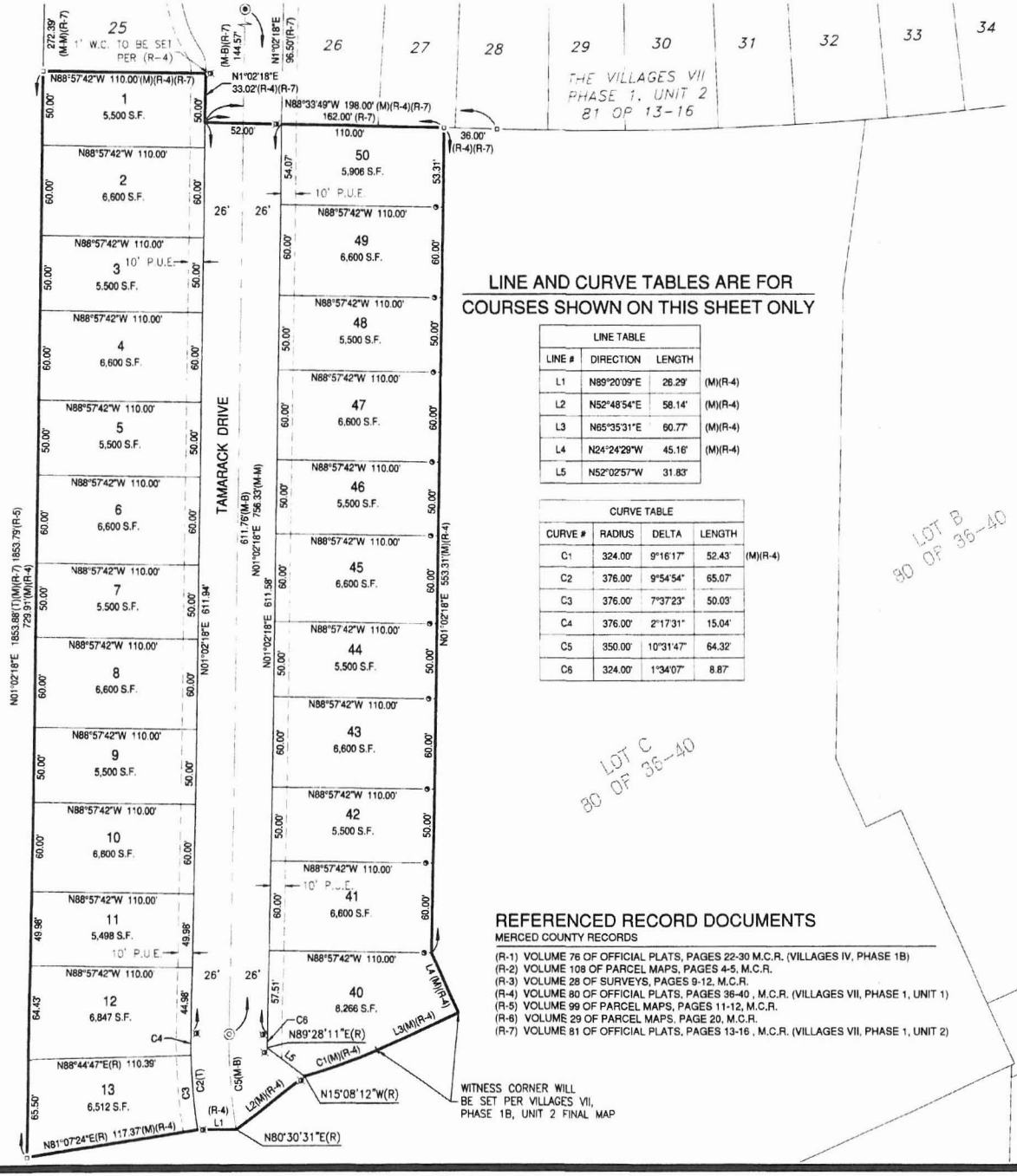

LINE AND CURVE TABLES ARE FOR COURSES SHOWN ON THIS SHEET ONLY

LINE TABLE			
LINE #	DIRECTION	LENGTH	
L1	N89°20'09"E	26.29'	(M)(R-4)
L2	N52°48'54"E	58.14'	(M)(R-4)
L3	N65°35'31"E	60.77'	(M)(R-4)
L4	N24°24'29"W	45.16'	(M)(R-4)
L5	N52°02'57"W	31.83'	

CURVE TABLE				
CURVE #	RADIUS	DELTA	LENGTH	
C1	324.00'	9°16'17"	52.43'	(M)(R-4)
C2	376.00'	9°54'54"	65.07'	
C3	376.00'	7°37'23"	50.03'	
C4	376.00'	2°17'31"	15.04'	
C5	350.00'	10°31'47"	64.32'	
C6	324.00'	1°34'07"	8.87'	

REFERENCED RECORD DOCUMENTS

MERCED COUNTY RECORDS

(R-1) VOLUME 76 OF OFFICIAL PLATS, PAGES 22-30 M.C.R. (VILLAGES IV, PHASE 1B)
(R-2) VOLUME 108 OF PARCEL MAPS, PAGES 4-5, M.C.R.
(R-3) VOLUME 28 OF SURVEYS, PAGES 9-12, M.C.R.
(R-4) VOLUME 80 OF OFFICIAL PLATS, PAGES 36-40 , M.C.R. (VILLAGES VII, PHASE 1, UNIT 1)
(R-5) VOLUME 99 OF PARCEL MAPS, PAGES 11-12, M.C.R.
(R-6) VOLUME 29 OF PARCEL MAPS, PAGE 20, M.C.R.
(R-7) VOLUME 81 OF OFFICIAL PLATS, PAGES 13-16 , M.C.R. (VILLAGES VII, PHASE 1, UNIT 2)

ABBREVIATIONS

FD	FOUND
IP	IRON PIPE-DIAMETER NOTED
(M)	MEASURED DISTANCE
(M-B)	MONUMENT TO BOUNDARY
(M-M)	MONUMENT TO MONUMENT
OP	OFFICIAL PLATS
PM	PARCEL MAP
P.U.E.	PUBLIC UTILITY EASEMENT
M.C.R.	MERCED COUNTY RECORDS
(R-#)	REFERENCED RECORD DOCUMENT
(R)	RADIAL BEARING
SFN	SEARCHED, FOUND NOTHING
S.F.	SQUARE FEET
(T)	TOTAL DISTANCE
W.C.	WITNESS CORNER

LEGEND

RESOLVED BOUNDARY LINE
CENTERLINE
EASEMENT LINE

MONUMENT NOTES

- SET 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" FOR UNPAVED AREAS OR 1.17" BRASS DISK STAMPED "PLS 7788" FOR CONCRETE AREAS
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- FOUND MONUMENT AS NOTED
- FOUND 2" BRASS DISK STAMPED "LS 7788" IN MONUMENT WELL PER (R-6), UNLESS OTHERWISE NOTED
- 3/4" x 24" IRON PIPE WITH PLASTIC PLUG "PLS 7788" TO BE SET PER (R-4)

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 4.222 ACRES, MORE OR LESS.
2. ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES, MULTIPLY GRID DISTANCES SHOWN BY 1.0000016 TO GET GROUND DISTANCES.
3. ALL DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED.
4. DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
5. ALL FOUND MONUMENTS ARE ACCEPTED UNLESS OTHERWISE NOTED.

BASIS OF BEARINGS

N89°54'39"E BEING THE BEARING OF THE LINE BETWEEN MERCED COUNTY GPS PT. 1023 AND MERCED COUNTY GPS PT. 1024 (R-3). BEARINGS AND DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE III NAD 83. TO GET GROUND DISTANCES MULTIPLY GRID DISTANCES SHOWN BY 1.0000016.

N

0 25 50 100
SCALE: 1" = 50'

TRACT NO: 2017-01

STONECREEK AT LOS BANOS
THE VILLAGES VII-PHASE 1B, UNIT 1

BEING LOT D, TRACT NO. 2017-01, VOLUME 80 OP PAGES 36-40, LYING IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

SEPTEMBER 2019

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DECEMBER 2019

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OWNER'S STATEMENT

WE, THE UNDERSIGNED, DO HEREBY STATE THAT WE ARE THE OWNERS OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS MAP AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP.

WE ALSO HEREBY OFFER AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS IN FEE FOR PUBLIC USE, LOT A AND ALL STREET RIGHTS-OF-WAY AS SHOWN ON THIS FINAL MAP.

WE ALSO HEREBY OFFER AN IRREVOCABLE DEDICATION TO THE CITY OF LOS BANOS AN EASEMENT FOR PUBLIC USE, ALL PUBLIC UTILITY EASEMENTS (P.U.E.) AS SHOWN ON THIS FINAL MAP.

OWNERS: LOS BANOS 109 LP , A CALIFORNIA LIMITED PARTNERSHIP

BY: Denise Tschirky 7/28/2020
DATE

NAME: Denise Tschirky (PRINT NAME)

ITS: Vice President (TITLE)

NOTARY STATEMENT (OWNER)

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF San Joaquin

ON July 28, 2020 (DATE) BEFORE ME, Carly Drebert A NOTARY PUBLIC, PERSONALLY APPEARED Denise Tschirky (NAME OF SIGNER(S))

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

_____, NOTARY PUBLIC

PRINT NAME: Carly Drebert

COMMISSION NUMBER: 2192924

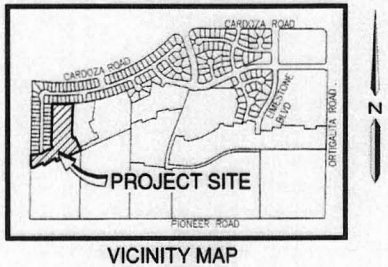
COMMISSION EXPIRES: April 21, 2021 (DO NOT STAMP)

PRINCIPAL OFFICE LOCATION (COUNTY): San Joaquin

SIGNATURE OMISSIONS:

PURSUANT TO SECTION 66436 OF THE CALIFORNIA SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING PARTIES HAVE BEEN OMITTED:

1. COAST NATURAL GAS COMPANY, A CORPORATION (EASEMENT - BOOK 300 PAGE 307, BOOK 300 PAGE 447 AND BOOK 348 PAGE 105).



VICINITY MAP
N.T.S.

PLANNING COMMISSION STATEMENT:

I, STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR FOR THE CITY OF LOS BANOS, DO HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 2, AND THAT THE SUBDIVISION IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE VESTING TENTATIVE MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 13TH DAY OF APRIL, 2005, AND THAT THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 2, COMPLIES WITH ALL REQUIREMENTS OF SAID PLANNING COMMISSION.

DATED THIS 10th DAY OF August, 2020.

BY: Stacy Souza Elms
STACY SOUZA ELMS, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR
CITY OF LOS BANOS

CITY CLERK'S STATEMENT:

I, LUCILLE L. MALLONEE, CITY OF LOS BANOS, STATE OF CALIFORNIA. DO HEREBY STATE THAT AT THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, STATE OF CALIFORNIA, HELD ON THIS 15th DAY OF July, 2020. THE ACCOMPANYING FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 2, WAS APPROVED AND ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE, THE OFFER OF DEDICATION IN EASEMENT OF ALL PUBLIC UTILITY EASEMENTS (P.U.E.), ALL AS SHOWN ON THIS FINAL MAP; ACCEPTED THE OFFER OF DEDICATION IN FEE OF THE STREET RIGHTS-OF-WAY AND LOT A, AS SHOWN ON THIS FINAL MAP; SAID APPROVAL IS SUBJECT TO IMPROVEMENTS.

DATED THIS 18th DAY OF August, 2020.

BY: Lucille L. Mallonee
LUCILLE L. MALLONEE, CITY CLERK
CITY OF LOS BANOS

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF STONECREEK PROPERTIES, IN NOVEMBER OF 2018. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. I FURTHER STATE THAT ALL THE MONUMENTS SHOWN HEREON WILL BE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED BEFORE JUNE 30TH, 2021. AND THAT SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS 27 DAY OF JULY, 2020.

BY: Dylan Crawford
DYLAN CRAWFORD, P.L.S. 7788

PROFESSIONAL LAND SURVEYOR DYLAN CRAWFORD No. 7788 STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO: 2017-01, STONECREEK AT LOS BANOS, THE VILLAGES VII PHASE 1B, UNIT 2, AND STATE THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, IF REQUIRED, HAVE BEEN COMPLIED WITH.

DATED THIS 5th DAY OF August, 2020.

BY: Mark Fachin
MARK FACHIN, R.C.E. 34614
CITY ENGINEER

REGISTERED PROFESSIONAL ENGINEER MARK FACHIN No. C 34614 Exp. 9-30-21 CIVIL STATE OF CALIFORNIA

CITY SURVEYOR'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP AND IT COMPLIES WITH ALL THE PROVISIONS OF CHAPTER 2 OF THE CALIFORNIA SUBDIVISION MAP ACT, AS AMENDED, AND THAT THIS FINAL MAP IS TECHNICALLY CORRECT.

DATED THIS 3 DAY OF AUGUST, 2020.

BY: _____
NARINDER SAHOTA, PLS 8719
REVIEWING CITY SURVEYOR

PROFESSIONAL LAND SURVEYOR NARINDER S SAHOTA No. 8719 STATE OF CALIFORNIA

RIGHT TO FARM STATEMENT

PER MERCED COUNTY ORDINANCE NO. 1213

THE PROPERTY DESCRIBED ON THE HEREON SHOWN MAP IS IN THE VICINITY OF LAND UTILIZED FOR AGRICULTURAL PURPOSES AND RESIDENTS OF THIS PROPERTY MAY BE SUBJECT TO INCONVENIENCE OR DISCOMFORT ARISING FROM THE USE OF AGRICULTURAL CHEMICALS, INCLUDING BUT NOT LIMITED TO, PESTICIDES AND FERTILIZERS, AND FROM THE PURSUIT OF AGRICULTURAL OPERATIONS INCLUDING, BY NOT LIMITED TO, PLOWING, SPRAYING AND BURNING WHICH OCCASIONALLY MAY GENERATE DUST, SMOKE, NOISE, AND ODOR.

THE COUNTY OF MERCED HAS ESTABLISHED AGRICULTURE AS A PRIORITY USE IN AGRICULTURAL ZONES WHICH ARE OUTSIDE OF AN ESTABLISHED SPECIFIC URBAN DEVELOPMENT PLAN (SUDP) BOUNDARY, RURAL RESIDENTIAL CENTER (RRC) BOUNDARY, HIGHWAY INTERCHANGE CENTER (HIC) BOUNDARY, OR AGRICULTURAL SERVICE CENTER (ASC) BOUNDARY, AND RESIDENTS OF PROPERTY IN THE VICINITY OF SUCH AGRICULTURAL ZONES SHOULD BE PREPARED TO ACCEPT INCONVENIENCE OR DISCOMFORT FROM NORMAL, NECESSARY AGRICULTURAL OPERATIONS.

RECORDER'S STATEMENT 2020027049

FILED THIS 7TH DAY OF AUGUST, 2020, AT 2:50 O'CLOCK, P M. IN VOL 83 OF OFFICIAL PLATS, AT PAGES 8-10, AT THE REQUEST OF DYLAN CRAWFORD.

FEE $ 287.00

BARBARA LEVEY, RECORDER
MERCED COUNTY, CALIFORNIA

BY: _____
ASSISTANT/DEPUTY RECORDER

H:\31113 - Village VII Phase 1B\Survey\MapDwg\31113 FM-Phase1B-Unit 2.dwg

REFERENCED RECORD DOCUMENTS

MERCED COUNTY RECORDS

(R-1) VOLUME 76 OF OFFICIAL PLATS, PAGES 22-30 M.C.R. (VILLAGES IV, PHASE 1B)
(R-2) VOLUME 108 OF PARCEL MAPS, PAGES 4-5, M.C.R.
(R-3) VOLUME 28 OF SURVEYS, PAGES 9-12, M.C.R.
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(R-5) VOLUME 99 OF PARCEL MAPS, PAGES 11-12, M.C.R.
(R-6) VOLUME 29 OF PARCEL MAPS, PAGE 20, M.C.R.
(R-7) VOLUME 81 OF OFFICIAL PLATS, PAGES 13-16, M.C.R. (VILLAGES VII, PHASE 1, UNIT 2)
(R-8) VOLUME 82 OF OFFICIAL PLATS, PAGES 10-12, M.C.R. (VILLAGES VII, PHASE 1B, UNIT 1)

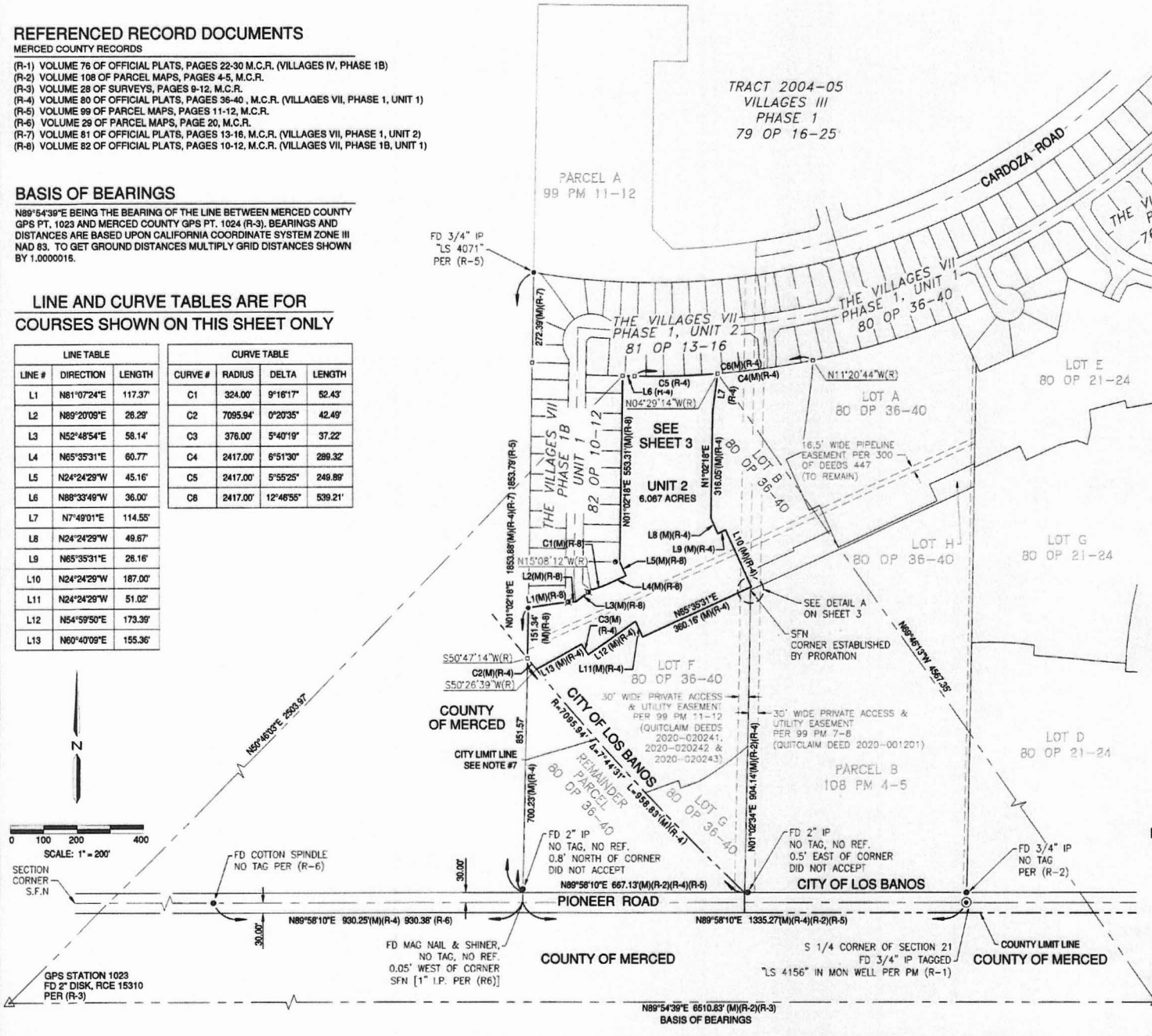
BASIS OF BEARINGS

N89°54'39"E BEING THE BEARING OF THE LINE BETWEEN MERCED COUNTY GPS PT. 1023 AND MERCED COUNTY GPS PT. 1024 (R-3). BEARINGS AND DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE III NAD 83. TO GET GROUND DISTANCES MULTIPLY GRID DISTANCES SHOWN BY 1.0000015.

LINE AND CURVE TABLES ARE FOR COURSES SHOWN ON THIS SHEET ONLY

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N81°07'24"E	117.37'
L2	N89°20'09"E	26.29'
L3	N52°48'54"E	58.14'
L4	N65°35'31"E	60.77'
L5	N24°24'29"W	45.16'
L6	N88°33'49"W	36.00'
L7	N7°49'01"E	114.55'
L8	N24°24'29"W	49.67'
L9	N65°35'31"E	26.16'
L10	N24°24'29"W	187.00'
L11	N24°24'29"W	51.02'
L12	N54°59'50"E	173.39'
L13	N60°40'09"E	155.36'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	324.00'	9°16'17"	52.43'
C2	7095.94'	0°20'35"	42.49'
C3	376.00'	5°40'19"	37.22'
C4	2417.00'	6°51'30"	289.32'
C5	2417.00'	5°55'25"	249.89'
C6	2417.00'	12°46'55"	539.21'



LEGEND AND ABBREVIATIONS

RESOLVED BOUNDARY LINE
CENTERLINE
EXISTING EASEMENT LINE
BASIS OF BEARING TIE LINE

AC.	ACRES
FD	FOUND
IP	IRON PIPE-DIAMETER NOTED
(M)	MEASURED DISTANCE
(M-B)	MONUMENT TO BOUNDARY LINE
(M-M)	MONUMENT TO MONUMENT
OP	OFFICIAL PLATS
PM	PARCEL MAP
M.C.R	MERCED COUNTY RECORDS
(R-#)	REFERENCED RECORD DOCUMENT
(R)	RADIAL BEARING
SFN	SEARCHED, FOUND NOTHING
(T)	TOTAL DISTANCE

NOTES

1. THIS SUBDIVISION CONTAINS A TOTAL OF 6.067 ACRES, MORE OR LESS.
2. ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES, MULTIPLY GRID DISTANCES SHOWN BY 1.0000016 TO GET GROUND DISTANCES.
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5. ALL FOUND MONUMENTS ARE ACCEPTED UNLESS OTHERWISE NOTED.
6. LOT A TO BE DEDICATED TO CITY OF LOS BANOS IN FEE FOR OPEN AREA SPACE.
7. PER DOCUMENT NO. 2005-000344 FOR THE ANNEXATION TO THE CITY, THE CITY LIMIT BOUNDARY IN THIS AREA MAKES REFERENCE TO A CALTRANS MAP AND DOES NOT LIST BEARINGS AND DISTANCES. CALTRANS WAS UNABLE TO LOCATE AND PROVIDE MAP. LINE WORK FOR ANNEXATION WAS PROVIDED BY THE COMPANY WHO PREPARED THE ANNEXATION DOCUMENT TO DETERMINE BEARINGS AND DISTANCES FOR COURSES AND CITY AGREED TO USE IT AS BEST EVIDENCE OF LOCATION.

MONUMENT NOTES

- 5.00' WITNESS CORNER, MEASURED ALONG LOT LINE, 3/4" x 24" IRON PIPE W/ PLASTIC PLUG "PLS 7788" TO BE SET PER (R-8).
- 1.00' WITNESS CORNER IN SIDEWALK, MEASURED ALONG RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 1.17" BRASS DISK STAMPED "PLS 7788" TO BE SET PER (R-8).
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- 3/4" x 24" IRON PIPE WITH PLASTIC PLUG "PLS 7788" TO BE SET PER (R-4)
- FOUND MONUMENT AS NOTED IN MONUMENT WELL.

TRACT NO: 2017-01

STONECREEK AT LOS BANOS
THE VILLAGES VII-PHASE 1B, UNIT 2

BEING LOT C, TRACT NO. 2017-01, VOLUME 80 OP PAGES 36-40, LYING IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

DECEMBER 2019

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ABBREVIATIONS

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LEGEND

RESOLVED BOUNDARY LINE

CENTERLINE

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- SET 1.00' WITNESS CORNER IN SIDEWALK, MEASURED ALONG RADIAL LINE OR PERPENDICULAR TO STREET CENTERLINE AS NOTED. 1.17" BRASS DISK STAMPED "PLS 7788". (UNLESS OTHERWISE SHOWN)
- 3/4" x 24" IRON PIPE WITH PLASTIC PLUG "LS 7788" TO BE SET PER (R-8), UNLESS OTHERWISE NOTED.
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L5	N63°13'21"W	31.17'
L6	N25°19'31"E	25.85'

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C4	376.00'	8°49'03"	57.87'
C5	376.00'	5°40'19"	37.22'
C6	376.00'	26°07'34"	171.45'
C7	350.00'	25°30'41"	155.84'
C8	350.00'	10°31'47"	64.32'
C9	350.00'	36°02'28"	220.16'
C10	324.00'	16°54'49"	95.64'
C11	376.00'	10°35'51"	69.55'
C12	324.00'	9°16'17"	52.43'
C13	324.00'	13°04'30"	73.94'
C14	376.00'	7°37'02"	49.99'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C15	376.00'	7°35'13"	49.79'
C16	376.00'	0°46'32"	5.09'
C17	376.00'	15°58'48"	104.87'
C18	23.00'	47°50'16"	19.20'
C19	50.00'	10°58'05"	9.57'
C20	50.00'	71°52'27"	62.72'
C21	50.00'	39°51'02"	34.78'
C22	50.00'	47°22'23"	41.34'
C23	50.00'	48°16'05"	42.12'
C24	50.00'	57°20'29"	50.04'
C25	23.00'	33°01'45"	13.26'
C26	23.00'	14°48'31"	5.94'
C27	23.00'	47°50'16"	19.20'

RADIAL LINES

R1 N80°30'31"E TAMRACK DR.
N06°16'46"W PAJARO DR.

DETAIL A
NOT TO SCALE

TRACT NO: 2017-01

STONECREEK AT LOS BANOS
THE VILLAGES VII-PHASE 1B, UNIT 2

BEING LOT C, TRACT NO. 2017-01, VOLUME 80 OP PAGES 36-40, LYING IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 10 SOUTH, RANGE 10 EAST MOUNT DIABLO BASE AND MERIDIAN CITY OF LOS BANOS, MERCED COUNTY, CALIFORNIA

DECEMBER 2019

REFERENCED RECORD DOCUMENTS

MERCED COUNTY RECORDS

(R-1) VOLUME 76 OF OFFICIAL PLATS, PAGES 22-30 M.C.R. (VILLAGES IV, PHASE 1B)
(R-2) VOLUME 108 OF PARCEL MAPS, PAGES 4-5, M.C.R.
(R-3) VOLUME 28 OF SURVEYS, PAGES 9-12, M.C.R.
(R-4) VOLUME 80 OF OFFICIAL PLATS, PAGES 36-40 , M.C.R. (VILLAGES VII, PHASE 1, UNIT 1)
(R-5) VOLUME 99 OF PARCEL MAPS, PAGES 11-12, M.C.R.
(R-6) VOLUME 29 OF PARCEL MAPS, PAGE 20, M.C.R.
(R-7) VOLUME 81 OF OFFICIAL PLATS, PAGES 13-16, M.C.R. (VILLAGES VII, PHASE 1, UNIT 2)
(R-8) VOLUME 82 OF OFFICIAL PLATS, PAGES 10-12, M.C.R. (VILLAGES VII, PHASE 1B, UNIT 1)

BASIS OF BEARINGS

N89°54'39"E BEING THE BEARING OF THE LINE BETWEEN MERCED COUNTY GPS PT. 1023 AND MERCED COUNTY GPS PT. 1024 (R-3). BEARINGS AND DISTANCES ARE BASED UPON CALIFORNIA COORDINATE SYSTEM ZONE III NAD 83. TO GET GROUND DISTANCES MULTIPLY GRID DISTANCES SHOWN BY 1.0000016.

O'DELL ENGINEERING
1165 Scenic Drive, Suite A
Modesto, CA 95350
Ph 209.571.1765 odellengineering.com

VOL 83 PAGE 10

Recording Requested By: City of Los Banos And When Recorded Mail to: Lucille L. Mallonee, City Clerk City of Los Banos 520 J Street Los Banos CA 93635	Recorded in Official Records, MERCED COUNTY Doc#: 2019038059 11/19/2019 08:30 AM Space above this line for Recorder's use.

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT made this 8th day of November, 2019, between ANDERSON HOMES, a California Corporation, Parties of the First Part, hereinafter designated and called "DEVELOPER(S)", and the CITY OF LOS BANOS, a municipal corporation, the Parties of the Second Part, hereinafter designated and called "CITY".

WHEREAS, the DEVELOPER(S) have presented to the CITY a certain Final Map located within the corporate limits of the CITY, and known and described as Tract No 2017-01 Stonecreek at Los Banos, The Villages VII Phase 1B Unit 1, comprised of 24 lots, a copy of which is on file at the City of Los Banos Planning Department and made a part of this AGREEMENT by reference, and said DEVELOPER(S)have requested the CITY to accept the dedications delineated and shown on said Final Map in order that the same may be recorded as required by law; and,

WHEREAS, the CITY requires a condition precedent to the acceptance and approval of said Final Map, the dedication of said easements as are delineated and shown on said Final Map, and deems the same as necessary for public use, and requires and deems as necessary for the public use that any and all street improvements delineated and shown thereon shall be improved by the construction thereon and the installation therein of the improvements hereinafter specified in Paragraph One herein; and,

WHEREAS, certain sections of the Los Banos Municipal Code require the DEVELOPER(S) to enter into this AGREEMENT with the CITY whereby DEVELOPER(S) agree to do, perform, and complete the works and matters hereinafter in this AGREEMENT mentioned and set forth in details, within the time hereinafter mentioned, in consideration of the acceptance of the offers of dedication by the CITY; and,

WHEREAS, the City Council of the City of Los Banos has found said Final Map by Resolution No. _____ to be in substantial compliance with the designs and Conditions of Approval of Vesting Tentative Tract Map No. 2017-01.

NOW, THEREFORE, in consideration of the acceptance of the offers of dedication of easements, and facilities as shown and delineated on said Final Map, and the approval of said Final Map for filing and recording as provided and required by law, it is mutually agreed and understood by and between DEVELOPER(S) and CITY as follows:

SUBDIVISION AGREEMENT

1. That the CITY has fixed and does fix the time within which DEVELOPER(S) shall do and perform the work and improvements hereinafter specified and at such time during this period as designated by the Public Works Director/City Engineer of the CITY, but no later than the 30th day of December 2021, with the said provision that this time may be extended by consent of the City Council, and that the DEVELOPER(S) will, within the period of time stated herein above in this paragraph stated and fixed, do or cause to be done and performed, the following described work and improvements,(as detailed in attached Exhibit A) all at their own cost and expense, to the satisfaction of the Public Works Director/City Engineer in accord with the approved subdivision improvement plans and existing City Policies and adopted Standards, including all costs of inspection, to-wit;

IMPROVEMENTS:

1. SITE PREPARATION		$	2,500.00
2. WATER		$	31,460.00
3. SANITARY SEWER		$	23,970.00
4. CONCRETE		$	40,055.00
6. PAVING		$	61,633.60
7. ELECTROLIERS		$	7,500.00
8. MISCELLANEOUS		$	300.00
	TOTAL	$	167,418.60

2. The DEVELOPER(S) shall furnish bonding or other forms of security for the estimated cost of the remaining improvements, agreed to by the CITY for Performance at 100%, **$167,418.60** and Labor and Materials at 50%, **$83,709.30** and prior to the release of other security, for Warranty and Guarantee at 10% in the amount of **$16,741.86**. In addition, the DEVELOPER(S) shall

provide a bond or other form of security in the amount of **$3,500.00** for survey monuments, per §66496 of the Government Code.

3. The DEVELOPER(S) agrees to pay the following fees at the time of signing the AGREEMENT less any amount previously paid.

FINAL MAP REVIEW

Charges for	$	2,165.64		
Less: Deposit for Map Review (Rec#01312231)	$	(1,000.00)		
Less: Payment for Map Review (Rec#1386678)	$	(1,165.64)		
SUB-TOTAL			$	0.00
		TOTAL	**$**	**0.00**

4. In accordance with adopted City Policy, security funds may be released for each category of improvements, as per Engineer's cost estimates for **$167,418.60** (attached as Exhibit "A"), as approved by Public Works Director/City Engineer and accepted by the City Council.

5. The DEVELOPER(S) shall install improvements in accordance with the requirements of the City of Los Banos Municipal Code, the Standard Specifications of the City of Los Banos, the approved Subdivision Improvements and Grading Plans and the Conditions of Approval of Vesting Tentative Tract Map 2017-01. All public improvements and utilities must be installed prior to occupancy of units.

6. In the event that the DEVELOPER(S) shall damage, destroy, or tear up any existing improvements, DEVELOPER(S) agree to repair or replace such destroyed or damaged improvements at their cost whenever such damage shall occur.

7. Street lights shall be furnished and installed by the DEVELOPER(S). It is solely the DEVELOPER(S) responsibility to coordinate the installation of street lights with the Pacific Gas and Electric Company and pay any and all fees necessary for their installation. At the time of acceptance, the street lights, including conductors to utility owner splice boxes, shall become the property of the CITY.

8. Any improvements not shown on the approved Improvement Plans which are to be dedicated to the CITY or which are to be placed within the proposed City right-of-way, including mailboxes, private and utility works, shall not be constructed without written approval from the CITY. It shall be the DEVELOPER(S) responsibility to ensure that mailboxes for use by the U.S.

Postal Service are available for residents at the time of occupancy; installation to be per plans approved by the Postmaster and the CITY.

9. All earthwork and construction shall meet the requirements and recommendations of the Soils Report, the Amended Soils Report for the Project and the adopted Improvement Standards and Specifications of the City. The DEVELOPER(S) shall, at their expense, provide a Soils Engineer whose responsibility includes the professional inspection and approval concerning the preparation of ground to receive fills, excavation and backfill operations, stability of all finished slopes, and testing for required compaction. Prior to the issuance of structural permits and prior to occupancy release, the Soils Engineer shall certify, in writing, that all earthwork including trench backfill meets the requirements and recommendations of the Soils Report and the adopted Improvement Standards and Specifications of the City.

10. Neither the CITY nor any of its officers or agents shall be liable to DEVELOPER(S) or their contractors for any error or omission arising out of or in connection with any work to be performed under this AGREEMENT. During the progress of the work, if it becomes necessary to modify the design because of errors or omissions on the plans or unforeseen conditions which render a portion of the project inoperable, unsafe, or prohibits a part of the project from performing satisfactorily in the opinion of the CITY, the plans shall be modified in accordance with the recommendations of the CITY. The DEVELOPER(S) shall be responsible for all costs incurred in revising the plans and performing the work in accordance with the modified plans.

11. The Improvement Plans may be modified upon approval by the CITY at no cost to the CITY.

12. The CITY shall not be liable to the DEVELOPER(S) or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about the subdivision of said land covered by this AGREEMENT, or any part thereof.

13. The DEVELOPER(S) hereby release and agree to indemnify and hold the CITY harmless from and against any and all injuries to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and

whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in and upon the street rights-of-way in said subdivision and upon the premises adjacent thereto pursuant to this AGREEMENT, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by the DEVELOPER(S), the DEVELOPER(S) agents, employees, and subcontractors, while engaged in the performance of said work.

14. The DEVELOPER(S) agree that the use for any purpose and by any persons of any and all of the improvements herein before specified, shall be at the sole and exclusive risk of the DEVELOPER(S) at all times prior to final acceptance by the CITY of the completed improvements. Thereon and therein; provided, that acceptance by the CITY shall in no way eliminate or lessen any of DEVELOPER(S) obligations and undertakings contained in this AGREEMENT. The issuance of any occupancy permits by the CITY for dwellings located within said subdivision shall not be construed in any manner to constitute an acceptance and approval of any or all of the improvements in said subdivision.

15. It is mutually agreed by the parties hereto that the Public Works Director/City Engineer shall have the right to reject any or all of the work to be performed under this AGREEMENT if such work does not conform with the plans and specifications mentioned herein or the ordinances of the CITY. Reinspection of corrected work shall be at the expense of the DEVELOPER(S). The cost of such reinspection is not included in the Engineering and Inspection Fee described in Paragraph 4 of this AGREEMENT. Any damage to the sewer system, utilities, concrete work, or street paving that occurs after installation shall be repaired by the DEVELOPER(S) to the satisfaction of the Public Works Director/City Engineer by the DEVELOPER(S) before release of bond or final acceptance of completed work.

16. DEVELOPER(S) shall provide for adequate erosion control as determined by the Public Works Director/City Engineer on individual lots and from exterior property draining into the area

of the subdivision, to protect the public rights-of-way and improvements. Erosion control on individual lots shall continue until such a time as front and street side yard landscaping is installed.

17. Without limiting the foregoing, DEVELOPER(S) warrant and guarantee materials used and workmanship performed on said work for a period of one (1) year after completion and acceptance thereof by the City Council, or the Public Works Director/City Engineer.

18. Upon completion of the improvements, specified herein the DEVELOPER(S) shall file a Notice of Completion with Merced County and submit to the City "As Built" drawings on mylar, of the improvements. The Notice of Completion shall be filed no later than thirty-five (35) days prior to consideration for acceptance of the improvements by the City Council. As part of the request for acceptance of improvements, the DEVELOPER(S) shall submit a title report encompassing each of the parcels within the Subdivision which discloses all liens or claims which may have been recorded in or prior to thirty-one (31) days following the date of recordation of the Notice of Completion. If any liens or claims are thus revealed, the DEVELOPER(S) shall either remove the liens and claims and submit an updated title report prior to acceptance of the Subdivision by the CITY, or shall enter into an agreement with the CITY that provides to the satisfaction of the CITY a method for the removal of such liens and claims at no cost to the CITY.

19. It is hereby mutually covenanted and agreed by the parties hereto that DEVELOPER(S) contractors are not agents of the CITY and that the contractors' relations to CITY, if any, are those of independent contractors.

20. That the applicant furnish the CITY with a reproducible 8 1/2" x 11" map of the Final Map of this development prior to issuance of permits.

21. DEVELOPER(S) shall comply with all applicable original or amended Conditions of Approval of Vesting Tentative Tract Map 2017-01 prior to acceptance of public improvements or final of any housing units.

22. No work shall commence under the terms of this AGREEMENT prior to all of the following being completed: deposit of improvement security per City Council resolution; issuance of a Subdivision Improvements grading permit other than rough grading and site preparation; and payment of all required development fees.

23. All costs for engineering and inspection services which exceed the 5% fee specified above will be invoiced to the DEVELOPER(S) and must be paid in full prior to acceptance of the subject improvements by the CITY.

24. If construction of improvements has not begun within one (1) year from the date of this AGREEMENT, then prior to commencement of work the Public Works Director/City Engineer shall review the improvement plans and determine if revisions are required. In any case, a new engineer's cost estimate shall be submitted by the applicant to the Public Works Director/City Engineer. The applicant shall be responsible for any modification to the plans required by the Public Works Director/City Engineer and shall pay all plan check fees plus the difference in inspection fees due based on the new cost estimate.

25. The DEVELOPER(S) acknowledge the requirement to comply with the environmental mitigation measures for Vesting Tentative Tract Map 2017-01, and the conditions of approval for said tentative map, (attached herein as Exhibit 'B'), in the development of this Subdivision.

26. The terms of this AGREEMENT are not intended to, nor do they, relieve the DEVELOPER(S) of any conditions of approval, compliance with City Standards or compliance with mitigation measures of adopted environmental documents, the compliance with which may be placed as a condition of permit issuance or occupancy.

27. Time is of the essence of this AGREEMENT. It is agreed that the provisions of this AGREEMENT shall apply to and bind the heirs, executors, administrators, successors, devisees, and assignees of the respective parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed these presents or caused the same to be executed by the officers thereunto duly authorized on the date and year in this AGREEMENT first above written.

ANDERSON HOMES
A California Corporation

Michael Anderson, Vice President

PARTIES OF THE FIRST PART

CITY OF LOS BANOS
A Municipal Corporation

Michael Villalta, Mayor

PARTIES OF THE SECOND PART

ATTEST:

Lucille L. Mallonee, City Clerk
City of Los Banos

Signatures need to be notarized. Attach a Notary Acknowledgement.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California)
County of San Benito)

On Oct. 14, 2019 before me, Regina M Waldron, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Michael Anderson
Name(s) of Signer(s)

_____,

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

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

WITNESS my hand and official seal.

REGINA M. WALDRON
Notary Public - California
San Benito County
Commission # 2233814
My Comm. Expires Apr 7, 2022

Signature Regina M. Waldron
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Subdivision
Title or Type of Document: Improvement Agreement Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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ACKNOWLEDGMENT

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

State of California
County of Merced)

On November 8, 2019 before me, Jennifer Matthews, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JENNIFER MATTHEWS
Notary Public - California
Merced County
Commission # 2173705
My Comm. Expires Nov 25, 2020

Signature Jennifer Matthews (Seal)

Recording Requested By: City of Los Banos And When Recorded Mail to: Lucille L. Mallonee, City Clerk City of Los Banos 520 J Street Los Banos CA 93635	Filed in Official Records, MERCED COUNTY Doc#: 2020025751 07/30/2020 08:53 AM Space above this line for Recorder's use.

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT made this 21st day of July, 2020, between ANDERSON HOMES, a California Corporation, Parties of the First Part, hereinafter designated and called "DEVELOPER(S)", and the CITY OF LOS BANOS, a municipal corporation, the Parties of the Second Part, hereinafter designated and called "CITY".

WHEREAS, the DEVELOPER(S) have presented to the CITY a certain Final Map located within the corporate limits of the CITY, and known and described as Tract No 2017-01 Stonecreek at Los Banos, The Villages VII Phase 1B Unit 2, comprised of 26 lots on 6.07± acres, a copy of which is on file at the City of Los Banos Planning Department and made a part of this AGREEMENT by reference, and said DEVELOPER(S)have requested the CITY to accept the dedications delineated and shown on said Final Map in order that the same may be recorded as required by law; and,

WHEREAS, the CITY requires a condition precedent to the acceptance and approval of said Final Map, the dedication of said easements as are delineated and shown on said Final Map, and deems the same as necessary for public use, and requires and deems as necessary for the public use that any and all street improvements delineated and shown thereon shall be improved by the construction thereon and the installation therein of the improvements hereinafter specified in Paragraph One herein; and,

WHEREAS, certain sections of the Los Banos Municipal Code require the DEVELOPER(S) to enter into this AGREEMENT with the CITY whereby DEVELOPER(S) agree to do, perform, and complete the works and matters hereinafter in this AGREEMENT mentioned

and set forth in details, within the time hereinafter mentioned, in consideration of the acceptance of the offers of dedication by the CITY; and,

WHEREAS, the City Council of the City of Los Banos has found said Final Map by Resolution No. _____ to be in substantial compliance with the designs and Conditions of Approval of Vesting Tentative Tract Map No. 2017-01.

NOW, THEREFORE, in consideration of the acceptance of the offers of dedication of easements, and facilities as shown and delineated on said Final Map, and the approval of said Final Map for filing and recording as provided and required by law, it is mutually agreed and understood by and between DEVELOPER(S) and CITY as follows:

SUBDIVISION AGREEMENT

1. That the CITY has fixed and does fix the time within which DEVELOPER(S) shall do and perform the work and improvements hereinafter specified and at such time during this period as designated by the Public Works Director/City Engineer of the CITY, but no later than the 30th day of April 2022, with the said provision that this time may be extended by consent of the City Council, and that the DEVELOPER(S) will, within the period of time stated herein above in this paragraph stated and fixed, do or cause to be done and performed, the following described work and improvements,(as detailed in attached Exhibit A) all at their own cost and expense, to the satisfaction of the Public Works Director/City Engineer in accord with the approved subdivision improvement plans and existing City Policies and adopted Standards, including all costs of inspection, to-wit;

IMPROVEMENTS:

1. SITE PREPARATION		$	3,000.00
2. WATER		$	40,970.00
3. SANITARY SEWER		$	34,590.00
4. STORM DRAINAGE		$	32,669.00
5. CONCRETE		$	74,975.00
6. PAVING		$	97,705.60
7. ELECTROLIERS		$	10,000.00
8. MISCELLANEOUS		$	1,900.00
	TOTAL	$	295,809.60

2. The DEVELOPER(S) shall furnish bonding or other forms of security for the estimated cost of the remaining improvements, agreed to by the CITY for Performance at 100%, **$295,809.60** and Labor and Materials at 50%, **$147,904.48** and prior to the release of other security, for Warranty and Guarantee at 10% in the amount of **$29,580.96**. In addition, the DEVELOPER(S) shall provide a bond or other form of security in the amount of **$3,500.00** for survey monuments, per §66496 of the Government Code.

3. The DEVELOPER(S) agrees to pay the following fees at the time of signing the AGREEMENT less any amount previously paid and not to exclude pending invoices from outside consulting firms.

FINAL MAP REVIEW

Charges for	$	3,227.31	
Less: Deposit for Map Review (Rec#01314203)	$	(1,000.00)	
SUB-TOTAL			$ 2,227.31
		TOTAL	**$ 2,227.31**

4. In accordance with adopted City Policy, security funds may be released for each category of improvements, as per Engineer's cost estimates for **$295,809.60** (attached as Exhibit "A"), as approved by Public Works Director/City Engineer and accepted by the City Council.

5. The DEVELOPER(S) shall install improvements in accordance with the requirements of the City of Los Banos Municipal Code, the Standard Specifications of the City of Los Banos, the approved Subdivision Improvements and Grading Plans and the Conditions of Approval of Vesting Tentative Tract Map 2017-01. All public improvements and utilities must be installed prior to occupancy of units.

6. In the event that the DEVELOPER(S) shall damage, destroy, or tear up any existing improvements, DEVELOPER(S) agree to repair or replace such destroyed or damaged improvements at their cost whenever such damage shall occur.

7. Street lights shall be furnished and installed by the DEVELOPER(S). It is solely the DEVELOPER(S) responsibility to coordinate the installation of street lights with the Pacific Gas and Electric Company and pay any and all fees necessary for their installation. At the time of acceptance, the street lights, including conductors to utility owner splice boxes, shall become the property of the CITY.

8. Any improvements not shown on the approved Improvement Plans which are to be dedicated to the CITY or which are to be placed within the proposed City right-of-way, including mailboxes, private and utility works, shall not be constructed without written approval from the CITY. It shall be the DEVELOPER(S) responsibility to ensure that mailboxes for use by the U.S. Postal Service are available for residents at the time of occupancy; installation to be per plans approved by the Postmaster and the CITY.

9. All earthwork and construction shall meet the requirements and recommendations of the Soils Report, the Amended Soils Report for the Project and the adopted Improvement Standards and Specifications of the City. The DEVELOPER(S) shall, at their expense, provide a Soils Engineer whose responsibility includes the professional inspection and approval concerning the preparation of ground to receive fills, excavation and backfill operations, stability of all finished slopes, and testing for required compaction. Prior to the issuance of structural permits and prior to occupancy release, the Soils Engineer shall certify, in writing, that all earthwork including trench backfill meets the requirements and recommendations of the Soils Report and the adopted Improvement Standards and Specifications of the City.

10. Neither the CITY nor any of its officers or agents shall be liable to DEVELOPER(S) or their contractors for any error or omission arising out of or in connection with any work to be performed under this AGREEMENT. During the progress of the work, if it becomes necessary to modify the design because of errors or omissions on the plans or unforeseen conditions which render a portion of the project inoperable, unsafe, or prohibits a part of the project from performing satisfactorily in the opinion of the CITY, the plans shall be modified in accordance with the recommendations of the CITY. The DEVELOPER(S) shall be responsible for all costs incurred in revising the plans and performing the work in accordance with the modified plans.

11. The Improvement Plans may be modified upon approval by the CITY at no cost to the CITY.

12. The CITY shall not be liable to the DEVELOPER(S) or to any other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or

from any cause whatsoever in, on, or about the subdivision of said land covered by this AGREEMENT, or any part thereof.

13. The DEVELOPER(S) hereby release and agree to indemnify and hold the CITY harmless from and against any and all injuries to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or nonperformance of any or all work to be done in and upon the street rights-of-way in said subdivision and upon the premises adjacent thereto pursuant to this AGREEMENT, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever the same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by the DEVELOPER(S), the DEVELOPER(S) agents, employees, and subcontractors, while engaged in the performance of said work.

14. The DEVELOPER(S) agree that the use for any purpose and by any persons of any and all of the improvements herein before specified, shall be at the sole and exclusive risk of the DEVELOPER(S) at all times prior to final acceptance by the CITY of the completed improvements. Thereon and therein; provided, that acceptance by the CITY shall in no way eliminate or lessen any of DEVELOPER(S) obligations and undertakings contained in this AGREEMENT. The issuance of any occupancy permits by the CITY for dwellings located within said subdivision shall not be construed in any manner to constitute an acceptance and approval of any or all of the improvements in said subdivision.

15. It is mutually agreed by the parties hereto that the Public Works Director/City Engineer shall have the right to reject any or all of the work to be performed under this AGREEMENT if such work does not conform with the plans and specifications mentioned herein or the ordinances of the CITY. Reinspection of corrected work shall be at the expense of the DEVELOPER(S). The cost of such reinspection is not included in the Engineering and Inspection Fee described in Paragraph 4 of this AGREEMENT. Any damage to the sewer system, utilities, concrete work, or street paving that occurs after installation shall be repaired by the DEVELOPER(S) to the

satisfaction of the Public Works Director/City Engineer by the DEVELOPER(S) before release of bond or final acceptance of completed work.

16. DEVELOPER(S) shall provide for adequate erosion control as determined by the Public Works Director/City Engineer on individual lots and from exterior property draining into the area of the subdivision, to protect the public rights-of-way and improvements. Erosion control on individual lots shall continue until such a time as front and street side yard landscaping is installed.

17. Without limiting the foregoing, DEVELOPER(S) warrant and guarantee materials used and workmanship performed on said work for a period of one (1) year after completion and acceptance thereof by the City Council, or the Public Works Director/City Engineer.

18. Upon completion of the improvements, specified herein the DEVELOPER(S) shall file a Notice of Completion with Merced County and submit to the City "As Built" drawings on mylar, of the improvements. The Notice of Completion shall be filed no later than thirty-five (35) days prior to consideration for acceptance of the improvements by the City Council. As part of the request for acceptance of improvements, the DEVELOPER(S) shall submit a title report encompassing each of the parcels within the Subdivision which discloses all liens or claims which may have been recorded in or prior to thirty-one (31) days following the date of recordation of the Notice of Completion. If any liens or claims are thus revealed, the DEVELOPER(S) shall either remove the liens and claims and submit an updated title report prior to acceptance of the Subdivision by the CITY, or shall enter into an agreement with the CITY that provides to the satisfaction of the CITY a method for the removal of such liens and claims at no cost to the CITY.

19. It is hereby mutually covenanted and agreed by the parties hereto that DEVELOPER(S) contractors are not agents of the CITY and that the contractors' relations to CITY, if any, are those of independent contractors.

20. That the applicant furnish the CITY with a reproducible 8 1/2" x 11" map of the Final Map of this development prior to issuance of permits.

21. DEVELOPER(S) shall comply with all applicable original or amended Conditions of Approval of Vesting Tentative Tract Map 2017-01 prior to acceptance of public improvements or final of any housing units.

22. No work shall commence under the terms of this AGREEMENT prior to all of the following being completed: deposit of improvement security per City Council resolution; issuance of a Subdivision Improvements grading permit other than rough grading and site preparation; and payment of all required development fees.

23. All costs for engineering and inspection services which exceed the 5% fee specified above will be invoiced to the DEVELOPER(S) and must be paid in full prior to acceptance of the subject improvements by the CITY.

24. If construction of improvements has not begun within one (1) year from the date of this AGREEMENT, then prior to commencement of work the Public Works Director/City Engineer shall review the improvement plans and determine if revisions are required. In any case, a new engineer's cost estimate shall be submitted by the applicant to the Public Works Director/City Engineer. The applicant shall be responsible for any modification to the plans required by the Public Works Director/City Engineer and shall pay all plan check fees plus the difference in inspection fees due based on the new cost estimate.

25. The DEVELOPER(S) acknowledge the requirement to comply with the environmental mitigation measures for Vesting Tentative Tract Map 2017-01, and the conditions of approval for said tentative map, (attached herein as Exhibit 'B'), in the development of this Subdivision.

26. The terms of this AGREEMENT are not intended to, nor do they, relieve the DEVELOPER(S) of any conditions of approval, compliance with City Standards or compliance with mitigation measures of adopted environmental documents, the compliance with which may be placed as a condition of permit issuance or occupancy.

27. Time is of the essence of this AGREEMENT. It is agreed that the provisions of this AGREEMENT shall apply to and bind the heirs, executors, administrators, successors, devisees, and assignees of the respective parties hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed these presents or caused the same to be executed by the officers thereunto duly authorized on the date and year in this AGREEMENT first above written.

ANDERSON HOMES,
A California Corporation.

James Anderson, Vice President PARTIES

OF THE FIRST PART

CITY OF LOS BANOS
A Municipal Corporation

Michael Villalta, Mayor

PARTIES OF THE SECOND PART

ATTEST:

Lucille L. Mallonee, City Clerk
City of Los Banos

Signatures need to be notarized. Attach a Notary Acknowledgement.

CALIFORNIA ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California
County of San Benito }

On April 24. 2020 (Date) before me, Regina M. Waldron, Notary Public. (Here Insert Name and Title of the Officer)

personally appeared James Anderson (Name(s) of Signer(s))

_____,

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

REGINA M. WALDRON
Notary Public – California
San Benito County
Commission # 2233814
My Comm. Expires Apr 7, 2022

Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature Regina M. Waldron
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Subdivision Improvement Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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ACKNOWLEDGMENT

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

State of California
County of Merced)

On July 21, 2020 before me, Jennifer Matthews, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

JENNIFER MATTHEWS
Notary Public - California
Merced County
Commission # 2173705
My Comm. Expires Nov 25, 2020

Signature Jennifer Matthews (Seal)

Exhibit 'A'

31110

O'DELL ENGINEERING

OPINION OF PROBABLE COST

Project name: Dove Hollow, Phase 1A - Unit 1 (24 Lots) **LOS BANOS, CA**

Project progress stage: DESIGN **5/16/2019**

ITEM	DESCRIPTION	UNIT	QUANT.	UNIT COST	AMOUNT
A. SITE PREPARATION					
1	SITE CLEARING	LS	1	$1,000.00	$1,000.00
2	EROSION CONTROL	LS	1	$1,500.00	$1,500.00
			SUB-TOTAL		$2,500.00
B. WATER					
1	10" WATER	LF	704	$20.00	$14,080.00
2	10" WATER VALVE	LF	1	$2,000.00	$2,000.00
3	8" WATER	LF	10	$18.00	$180.00
4	8" WATER VALVE	EA	1	$1,000.00	$1,000.00
5	HYDRANT, BURY & GATE VALVE	EA	1	$2,500.00	$2,500.00
6	CONNECT TO EX. WATER MAIN	EA	1	$1,500.00	$1,500.00
7	HOUSE SERVICE INCLUDING METER BOX (TAP INTO EXISTING)	EA	1	$1,000.00	$1,000.00
8	HOUSE SERVICE INCLUDING METER BOX	EA	23	$400.00	$9,200.00
			SUB-TOTAL		$31,460.00
C. SANITARY SEWER					
1	8" SEWER MAIN	LF	665	$18.00	$11,970.00
2	STD. SEWER MANHOLE	EA	3	$2,000.00	$6,000.00
3	4" STD. LATERAL	EA	24	$250.00	$6,000.00
			SUB-TOTAL		$23,970.00
D. CONCRETE					
1	6" VERTICAL CURB & GUTTER (INCL. RETURNS & DRIVEWAYS)	LF	673	$15.00	$10,095.00
2	SIDEWALK (INCL. RAMPS, RETURNS & DRIVEWAYS)	SF	9,720	$3.00	$29,160.00
3	WHEEL CHAIR RAMP (LABOR ONLY)	EA	1	$800.00	$800.00
			SUB-TOTAL		$40,055.00

E. PAVING					
1	2.5" A.C. OVER 10" A.B.	SF	20,508	$3.00	$61,524.00
2	SAWCUT	LF	60	$1.50	$90.00
3	REMOVE PAVEMENT	SF	56	$0.35	$19.60
			SUB-TOTAL		$61,633.60
F. ELECTROLIERS					
1	ELECTROLIERS	EA	3	$2,500.00	$7,500.00
			SUB-TOTAL		$7,500.00
G. MISCELLANEOUS					
1	MONUMENT WELLS	EA	1	$300.00	$300.00
			SUB-TOTAL		$300.00
			Construction Total		**$167,418.60**
			10% CONSTRUCTION CONTINGENCY		**$16,741.86**
			GRAND TOTAL		***$184,160.46***

Notes:

1. This estimate does not include surveying, engineering, landscaping, street trees, joint trench, or irrigation.
2. This estimate does not include cost for removal and/or replacement of existing utility poles and the utilities associated with the utility poles.
3. This estimate does not include cost for irrigation ditch removal, relocation, or pipe lining.
4. Esitmate grading cost can vary due to shrinkage, stripping, site consolidation and other variable factors associated with earthwork.
5. Items not included as part of this estimate.
   - A. Good Neighbor Fencing
   - B. Permits
   - C. Utility Fees
   - D. City Fees, bond fees
   - E. Engineering/design fees
   - F. Soils engineering cost
   - G. Power Pole Relocation
   - H. Construction Surveying
   - I. Landscaping Fees
   - J. Easement acquisitions
   - K. Wells
   - L. Landscape Design Improvements
   - M. Street Trees
   - N. Tree Removal
   - O. Mail Boxes
   - P. Existing Irrigation Facility Demolition
6. This estimate is not intented for bidding purposes

Exhibit 'A'

31110

O'DELL ENGINEERING

OPINION OF PROBABLE COST

Project name: Dove Hollow, Phase 1B - Unit 2 (26 Lots) **LOS BANOS, CA**

Project progress stage: DESIGN **5/16/2019**

ITEM	DESCRIPTION	UNIT	QUANT.	UNIT COST	AMOUNT
A. SITE PREPARATION					
1	SITE CLEARING	LS	1	$1,500.00	$1,500.00
2	EROSION CONTROL	LS	1	$1,500.00	$1,500.00
			SUB-TOTAL		**$3,000.00**
B. WATER					
1	10" WATER	LF	695	$20.00	$13,900.00
2	10" WATER VALVE	LF	1	$2,000.00	$2,000.00
3	8" WATER	LF	315	$18.00	$5,670.00
4	8" WATER VALVE	EA	1	$1,000.00	$1,000.00
5	HYDRANT, BURY & GATE VALVE	EA	2	$2,500.00	$5,000.00
6	CONNECT TO EX. WATER MAIN	EA	2	$1,500.00	$3,000.00
7	HOUSE SERVICE INCLUDING METER BOX	EA	26	$400.00	$10,400.00
			SUB-TOTAL		**$40,970.00**
C. SANITARY SEWER					
1	8" SEWER MAIN	LF	1,005	$18.00	$18,090.00
2	STD. SEWER MANHOLE	EA	4	$2,000.00	$8,000.00
3	4" STD. LATERAL	EA	26	$250.00	$6,500.00
4	CONNECT TO EX. SEWER MANHOLE	EA	1	$2,000.00	$2,000.00
			SUB-TOTAL		**$34,590.00**
D. STORM DRAINAGE					
1	12" STORM DRAIN	LF	58	$20.00	$1,160.00
2	15" STORM DRAIN	LF	683	$23.00	$15,709.00
3	STD. MANHOLE	EA	4	$2,000.00	$8,000.00
4	CATCH BASIN	EA	4	$1,450.00	$5,800.00
5	CONNECT TO EX. STORM DRAIN	EA	1	$2,000.00	$2,000.00
			SUB-TOTAL		**$32,669.00**
E. CONCRETE					
1	6" VERTICAL CURB & GUTTER (INCL. RETURNS & DRIVEWAYS)	LF	1,813	$15.00	$27,195.00
2	ROLLED CURB & GUTTER	LF	250	$14.00	$3,500.00
3	SIDEWALK (INCL. RAMPS, RETURNS & DRIVEWAYS)	SF	13,960	$3.00	$41,880.00
4	WHEEL CHAIR RAMP (LABOR ONLY)	EA	3	$800.00	$2,400.00
			SUB-TOTAL		**$74,975.00**

F. PAVING					
1	2.5" A.C. OVER 10" A.B.	SF	32,532	$3.00	$97,596.00
2	SAWCUT	LF	60	$1.50	$90.00
3	REMOVE PAVEMENT	SF	56	$0.35	$19.60
			SUB-TOTAL		**$97,705.60**
G. ELECTROLIERS					
1	ELECTROLIERS	EA	4	$2,500.00	$10,000.00
			SUB-TOTAL		**$10,000.00**
H. MISCELLANEOUS					
1	R-1 STOP SIGN W/ STREET SIGN	EA	2	$200.00	$400.00
2	MONUMENT WELLS	EA	5	$300.00	$1,500.00
			SUB-TOTAL		**$1,900.00**
			Construction Total		**$295,809.60**
			10% CONSTRUCTION CONTINGENCY		**$29,580.96**
			GRAND TOTAL		***$325,390.56***

Notes:

1. This estimate does not include surveying, engineering, landscaping, street trees, joint trench, or irrigation.
2. This estimate does not include cost for removal and/or replacement of existing utility poles and the utilities associated with the utility poles.
3. This estimate does not include cost for irrigation ditch removal, relocation, or pipe lining.
4. Esitmate grading cost can vary due to shrinkage, stripping, site consolidation and other variable factors associated with earthwork.
5. Items not included as part of this estimate.
   - A. Good Neighbor Fencing
   - B. Permits
   - C. Utility Fees
   - D. City Fees, bond fees
   - E. Engineering/design fees
   - F. Soils engineering cost
   - G. Power Pole Relocation
   - H. Construction Surveying
   - I. Landscaping Fees
   - J. Easement acquisitions
   - K. Walls
   - L. Landscape Design Improvements
   - M. Street Trees
   - N. Tree Removal
   - O. Mail Boxes
   - P. Existing Irrigation Facility Demolition
6. This estimate is not intented for bidding purposes

EXHIBIT C

CONDITIONS OF APPROVAL FOR VESTING TENTATIVE TRACT MAP #2017-01 – DOVE HOLLOW VILLAGES AT STONECREEK VII

General

1. The applicant shall submit a revised Vesting Tentative Tract Map to the Community and Economic Development Department reflecting any modifications, additions, and/or conditions of approval, within 30 days from Planning Commission approval. If necessary, the revised Vesting Tentative Tract Map shall be reviewed by the City Engineer and the Community and Economic Development Director and signed by the Community and Economic Development Director for purposes of providing a clear record of the approved Vesting Tentative Tract Map.

2. The Vesting Tentative Tract Maps, Final Maps, and Improvement Plans shall be consistent with the Final Development Plan, as conditioned.

3. Approval and life of the Vesting Tentative Tract Maps shall be as set forth in the Los Banos Municipal Code.

4. All development shall be consistent with the Vesting Tentative Tract Map #2017-01 and approved Final Development Plan #2017-01, reflecting any amendments added during approval.

5. The Final Map(s) shall be in substantial compliance with the approved Vesting Tentative Tract Map, including any changes set forth in the conditions of approval.

6. A Final Map shall be prepared by a professional land surveyor licensed in California or a professional engineer licensed in California and qualified to practice land surveying, according to the Subdivision Map Act, and local ordinances.

7. At least two points on the Final Map shall be tied to the California State Plane Coordinate System (NAD 83) with ties shown and closure calculations depicting the tie bearings and distances.

8. A letter from the Tax Collector shall be submitted prior to the recording of the Final Map which indicates that taxes have been paid or a bond has been posted.

9. A Final Map Guarantee shall be prepared and provided to the County Recorder.

10. When the submittal has been technically approved, the original mylars and a conforming mylar will be signed and notarized (notary shall not be stamped on the map) and delivered to the Public Works Department.

11. Developer shall include a Public Utility Easement of ten (10) feet along all road frontages.

12. For all properties within 1,000 feet of agricultural operations, deed notices shall be recorded with the final map. The deed notice shall require property purchasers to acknowledge the existing and ongoing commercial and/or agricultural uses on adjacent and nearby properties, and the Merced County Right-to-farm Ordinance.

13. Building Master Plans shall be approved by the Community and Economic Development Department and Building Department prior to issuance of the first building permit and shall be consistent with Final Development Plan #2017-01.

14. Improvement Plans shall be submitted to the City for approval prior to/or concurrent with the application for each final map and the following note shall be required: "The Contractor is responsible for protecting and preserving survey monuments and other survey markers. Any survey monuments damaged as a direct or indirect result of construction activities shall be re-established by a duly licensed land surveyor at the Contractor's sole expense. A corner record shall be filed in accordance with State law for any reset monuments at the Contractor's sole expense."

15. Improvement Plans shall include a street signage and striping plan to be approved by the Public Works Director.

16. On-site improvements may be constructed prior to the recording of the final map subject to City approval of Improvement Plans and payment of applicable plan check and inspection fees, and satisfaction of all construction conditions of approval.

17. Off-site public improvement plan(s) shall be submitted to the Public Works Department for approval prior to/or concurrent with the application for the Final Map. The developer shall not commence off-site improvements until approval is received by the Public Works Department. The developer shall enter into a subdivision improvement agreement with the City and provide labor and maintenance bonds in an amount of 100% of the Engineer's Estimate for public improvements to be completed following recordation of the Final Map.

18. The project is subject to the appropriate Development Impact Fees as established by the City.

19. Private property owners shall be responsible for the maintenance of sound walls and decorative masonry walls located on private property.

20. The applicant shall obtain City approval in advance for permanent and temporary on-site and off-site signs through separate sign reviews and bonding consistent with the development criteria of the Los Banos Municipal Code – Sign Ordinance.

21. It is the applicant's responsibility to ensure that the development complies with the Americans with Disabilities Act requirements.

22. It shall be the responsibility of the applicant to convey copies of the conditions of approval to all contractors and sub-contractors.

23. Building permits will be issued in accordance with City Subdivision Policy that identifies the improvements required in order for a building permit to be issued.

24. All structures, foundations, and footings for future buildings on the project site shall be designed and constructed to conform with the current Uniform Building Code for Seismic Zone 4 to minimize structural damage resulting from potential seismic activity.

25. An engineering soils report shall be prepared for all projects in order to identify soil characteristics requiring special structural design. On-site and off-site structural design shall conform to the findings and recommendation of the engineering soils report. The report shall be prepared prior to issuance of a grading permit, subject to review and approval of the Los Banos City Engineer.

26. Prior to issuance of building permits for development of sensitive residential land uses (e.g. houses, schools, parks, day care), or other uses in which persons may contact soils), a Phase 1 environmental assessment shall be prepared to determine if soils contain hazardous materials. If necessary, a remediation plan shall be created and implemented. The assessment and any necessary remediation plans shall be subject to the approval of the Community Development Department.

27. Improvement Plans and Grading Plans shall delineate the location and design of all required walls and fences including retaining walls.

28. Improvement Plans shall include mailbox locations, which must be approved by the US Postmaster and the City of Los Banos.

29. Undeveloped portions of the subdivision shall be controlled of weeds and free of debris and litter.

30. Due to the possibility that significant buried cultural resources might be found during construction, the following language shall be included in any permits issued for the project site, including, but not limited to building permits for future development, subject to the review and approval of the Los Banos Planning Division:

    If archaeological resources or human remains are discovered during construction, work shall be halted at a minimum of 200 feet from the find and the area shall be staked off. The project developer shall notify a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

31. In the event of an accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the City shall ensure that this language is included in all permits in accordance with CEQA Guidelines section 15064.5(e):

    If human remains are found during construction there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the Los Banos Police Department contacts the coroner of Merced County to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent from the deceased Native American. The most likely descendent may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

<u>Pre-Construction and Construction</u>

32. A minimum 200-foot separation shall be maintained between residences and material stockpiles, debris piles or containers and equipment storage during the construction process. If such storage must be located within

200 feet of a residence, a six-foot high opaque fence shall shield the storage area from view when the storage area is inactive for more than eight hours. This requirement shall be incorporated into the specifications for all construction plans, subject to review and approval by the City of Los Banos Community and Economic Development Director.

33. Two points of all-weather access shall be provided to all areas of the development during all phases of construction to the satisfaction of the Fire Department in areas where residential units are under construction.

34. Temporary construction trailers shall be permitted only in areas immediately adjacent to or within that portion of the subdivision where active subdivision construction is taking place. Placement of said construction trailer is subject to the Community and Economic Development Director approval in accordance with Title 9, Chapter 3, Article 38, Temporary Use Ordinance of the Los Banos Municipal Code.

35. During construction, and for safety purposes, the developer and assigned contractors shall keep the public right-of-way clear of obstructions, and provide for clean up on a daily basis.

36. Prior to acceptance of public improvements, all entries to the subdivision shall be barricaded to prevent the public from entering the construction site.

37. Undeveloped portions of development sites shall be controlled of weeds and free of debris and litter. The applicant shall provide protection against wind and water soil erosion on undeveloped portions of the project site. Temporary vegetation on undeveloped portions of the project site shall not be allowed to grow taller than eighteen inches.

38. All contractors and subcontractors performing work relative to this project shall obtain City of Los Banos Business Licenses, prior to start of work on the project. All work performed on the project shall comply with the requirements of the State Business and Professions Code.

39. Construction shall be limited to those times allowed by City Ordinance: Monday through Friday from 7:00 am to 7:00 pm; Saturday from 8:00 am to 7:00 pm; and Sunday from 9:00 am to 7:00 pm. Properly muffled equipment shall be used.

40. The developer shall incorporate soil erosion control measures into grading and drainage plans that comply with NPDES storm water regulations. These measures shall be monitored for effectiveness by the City of Los Banos. Such measures may include, but not be limited to, the following:

    a. Limit disturbance of soils and vegetation disturbance removal to the minimum area necessary for access and construction;

b. Confine all vehicular traffic associated with construction to the right-of-way of designated access roads;

c. Silt fencing installed in accordance with the American Society for Testing and Materials standard D6462.

d. Adhere to construction schedules designed to avoid periods of heavy precipitation or high winds;

e. Ensure that all exposed soil is provided with temporary drainage and soil protection when construction activity is shut down during the winter periods;

f. Inform construction personnel prior to construction and periodically during construction activities of environmental concerns, pertinent laws and regulations, and elements of the proposed erosion control measures;

g. Compliance with National Pollution Discharge Elimination System (NPDES) permits administered by the California Regional Water Quality Control Board; and

h. Development of a plan to employ best management practices that reduce the level of pollutants discharged into natural waterways and wetlands.

41. Where standard corner lot side yards abut a street, a minimum three-foot landscaping area shall be provided between the back of sidewalk and the fence.

42. Restricted access rights shall be irrevocably offered for dedication to the City along the rear edge of private property where properties back onto streets, and shall be shown on final maps.

43. Masonry walls shall be decorative and in conformance with the Final Development Plan. A minimum 3 foot landscape area shall be provided between the back of the sidewalk and any masonry walls.

Air Quality:

44. Housing units shall be oriented to maximize passive solar cooling and heating when practicable.

45. Gas fired appliances shall be low NOx emitting appliances complying with California NOx Emission Rule #1121.

46. The developer shall comply with all applicable Indirect Source Rule requirements of the San Joaquin Valley Air Pollution Control District.

Developer shall prepare an air emissions reduction if required.

Access and Circulation:

47. All street traffic impact fee reimbursements shall be per the Transportation Impact Fee program (TIF).

48. Full width street improvements for Badger Flat Road (street to the eastside of Dove Hollow Villages at Stonecreek VII), shall be constructed as approved by the Public Works Director based on a phasing plan which contemplates the surrounding tentative maps.

49. Half-street sections will not be permitted in the construction of VTTM #2017-01.

50. Pavement along Pioneer Road will need to be rebuilt in accordance with the City of Los Banos Standards and Specifications.

51. The bicycle paths shall be designed in conformance with Caltrans design standards, and shall specifically be designed to reduce intersection conflicts between cyclists and automobiles, using signage, lighting, and/or special street pavement treatments at and near points of intersection.

52. The developer shall be responsible for constructing public streets per the Vesting Tentative Tract Maps including, but not limited to curb, gutter and sidewalk, decorative masonry wall, and landscaping where noted. Improvements to arterials and collector streets shall be completed prior to occupancy of any use within the project boundaries, and improvements to neighborhood streets shall be complete prior to occupancy of any house that requires the street for access.

53. All street signage and striping within the project area shall be approved by the Public Works Department and shall meet all line-of-sight requirements.

54. Prior to acceptance of subdivision improvements, the developer shall install all street and traffic control signs, pavement striping, and street name signs in accordance with the public improvement plans and City and/or Caltrans standards.

55. Final Map(s) shall show a non-access strip 12 inches in width on private property along the frontage of arterial and collector streets, except at driveways, for the purpose of constructing sound walls and decorative masonry walls.

56. The developer shall be responsible for obtaining encroachment permits from the City of Los Banos prior to performing any work within the City's right-of-way.

57. Prior to Final Map approval, a Traffic Engineer shall design traffic calming measures throughout the project area to be approved by the Public Works Director/City Engineer. Traffic calming measures may include, but are not limited to, raised intersections, stop signs, varied cross sections, solar speed limit radars, and roundabouts to be installed by the developer.

Landscape and Lighting District:

58. Prior to approval of any final or parcel map, the developer shall form or annex the subject property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the subject property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the developer.

Community Facilities District:

59. Prior to the recordation of a Final Map the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code Section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the subject property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.

Utilities:

60. The applicant shall construct water, sewer, and storm drainage facilities as noted on the Vesting Tentative Tract Map, in accordance with City standards. The project shall comply with the current City Plans, Standards, and Specifications, all Master Plan requirements, and the applicant shall work with the Public Works Department in regards to needed infrastructure and development during the Improvement Plan Review stage.

61. In conformance with the Subdivision Map Act, the developer shall permit installation of underground cable television delivery systems within public utility easements. All dwellings shall be made cable ready.

62. Prior to approval of Improvement Plans or Final Maps, the developer shall obtain any necessary easements for utilities across adjoining properties.

63. All existing overhead utilities shall be placed underground with the exception of high voltage power lines. No new overhead utility lines and equipment shall be shown on Improvement Plans and Grading Plans.

64. Where the invert is six feet or greater below finish grade, a minimum clearance of five feet from lip of gutter to the edge of pipe shall be provided for underground utility lines.

65. Lot layout shall be subject to the approval of Pacific Gas and Electric (PG&E) prior to recordation of any final map.

Water:

66. The proposed project shall conform to the requirements of the Los Banos Water Master Plan, including payment of the water connection impact fee.

67. Approved backflow devices shall be installed as required.

68. Domestic water services shall not be placed in driveways.

69. Prior to recordation of a Final Map, certification shall be obtained by the Central California Irrigation District that the property has been detached from CCID, or that remaining CCID lines will be intact or rerouted to the satisfaction of CCID.

Sewer:

70. The developer shall construct all on-site and off-site sewer facilities necessary to serve the project, subject to reimbursement for over-sizing, as determined by the City.

71. Prior to submission of improvement plans for the first phase of development, a Master Sewer Plan for the development shall be submitted, reviewed, and approved by the City Engineer.

Storm Drainage:

72. Final Improvement Plans for the storm drainage system shall utilize the TR-55 analysis method.

73. Prior to acceptance of Final Improvement Plans, the applicant shall submit verification from the manufacturer that the pump station capacity is adequate for full basin to shut-off operational conditions.

74. All development shall comply with the Phase II storm water regulations.

75. Final Improvement Plans for the storm drainage system shall be submitted to the City and reviewed and approved by the City Engineer prior to issuance of a grading permit.

76. The Developer shall generate a Storm Water Pollution Prevention Plan (SWPPP) for pre and post construction best management practices (BMPs). A Notice of Intent (NOI) shall be submitted and approved prior to construction by the State Department of Water Resources.

Public Safety:

77. Fire department requirements for the placement of fire hydrants shall be complete prior to approval of development permits.

78. Fire hydrants shall be installed at locations approved during the Improvement Plan stage and shall be installed based upon City standards.

79. The developer, as specified by City development standards, shall install "Blue Dot" fire hydrant locators.

80. Each residence shall have a 6-inch lighted address numbers of contrasting color installed on the front elevations or alternative size as agreed to by developer and Fire Chief.

81. The developer shall comply with the City Fire Codes and regulations subject to Fire Department approval in regards to building requirements, fire hydrant placement, and sprinkler requirements.

82. Fire hydrants (or other methods approved by the Fire Chief) shall be in place and functioning prior to approval of the first residential building permit. Fire hydrants (or other methods approved by the Fire Chief) shall be operational to the satisfaction of the Fire Chief prior to combustible material being located on the site.

83. Street names shall be approved by the Fire Department.

84. Driveways, parking lots, water lines, fire hydrants, and underground utilities shall be completed prior to issuance of building permits.

85. Upon completion and approval of the project plans, a CD shall be submitted to the Fire Department providing information on street layout,

hydrant locations, water mains, storm drain inlets (i.e. Fire Department pre-planning).

86. By separate instrument to be recorded, in accordance with the Stonecreek Area Plan and the Stonecreek Area Plan EIR, prior to approval and the recordation of a Final Map within the Dove Hollow Tentative Map boundary the Developer shall reserve for dedication to the City a 1.4+/- acre Fire Station Site for the development of a fire station by the City. The location (generally in the western quadrant of the Stonecreek Area Plan within APN 430-010-035), the form, the terms and the conditions of the reservation for dedication and the dedication of the Fire Station Site shall be as approved by the City Council, in its sole and exclusive discretion, upon recommendation of the Planning Commission and the Fire Chief. The parties shall take all reasonable and necessary steps and actions to satisfy this condition within a reasonable time after the approval of the Vesting Tentative Map (VTTM 2017-01) and Development Agreement.

Landscaping:

87. All residential lots shall have fully landscaped front yards prior to occupancy of each dwelling. Front yard landscape plans shall be submitted with the development Master Plans prior to building permit issuance and shall be approved by the City Engineer and Community and Economic Development Director.

88. Draught tolerant planting may replace front yard turf as approved by the Community and Economic Development Department and Public Works Department.

89. The developer shall comply with the adopted street tree ordinance.

90. Masonry walls shall be landscaped with vines to discourage graffiti.

91. The applicant shall submit landscape and irrigation plans with each phase of the improvement plans for City review and approval of streetscape landscaping.

92. Landscape plans for single-family residences shall utilize drought tolerant plantings for no less than 75 percent of front yards. Turf varieties shall be chosen for drought tolerance. Irrigation systems shall be set to minimize water use and spillage onto paved areas.

93. Landscape plans shall be designed in accordance with any adopted revised Water Efficient Landscape Ordinance and revised landscape standards including adoption of amendments to the existing and revised Ordinance and/or standards, such revised standards shall apply to the Project immediately upon adoption by the City Council. However, said revised landscape standards shall not apply to new landscaping for any

residential lot where a building permit has been issued prior to the adoption of the revised Ordinance and/or standards.

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 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Approval of a Public Employee's Union Local One/AFSCME (Public Works Unit) Side Letter Agreement Regarding Health Benefits

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Recommendation:
Adopt the Resolution approving the Public Employees' Union Local One/AFSCME (Public Works Unit) Side Letter Regarding Health Benefits.

Discussion:
The City has executed a Side Letter Agreement with the Public Employee's Union Local One/AFSCME (Public Works Unit) reflecting an increase to the City's contribution toward monthly health premiums for the 2021 calendar year.

Fiscal Impact:
There is no fiscal impact, the health increases were built into the 2020/2021 Fiscal Year budget.

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 APPROVING A SIDE LETTER AGREEMENT BY AND BETWEEN THE CITY OF LOS BANOS AND THE PUBLIC EMPLOYEES' UNION LOCAL ONE/AFSCME (PUBLIC WORKS UNIT) REGARDING HEALTH BENEFITS

WHEREAS, the City Council of the City of Los Banos has received a request to approve a Side Letter Agreement by and between the City of Los Banos and the Public Employees' Union Local One/AFSCME (Public Works Unit) regarding health benefits; and

WHEREAS, the Side Letter will be in effect from October 1, 2020 to June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Side Letter Agreement by and between the City of Los Banos and the Public Employees' Union Local One/AFSCME (Public Works Unit) is hereby approved as submitted as "Exhibit A" respectively.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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 Member
NOES:
ABSENT:

APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

EXHIBIT A

PROPOSED SIDE LETTER BETWEEN CITY OF LOS BANOS AND PUBLIC EMPLOYEES' UNION LOCAL ONE/AFSCME (PUBLIC WORKS UNIT)
Re: Cafeteria Plan Reopener
September 15, 2020

This side letter is by and between City of Los Banos ("City") and Public Employees' Union Local One/AFSCME (Public Works Unit) ("Union") (collectively referred to as to "parties").

WHEREAS, the City and Union entered a Memorandum of Understanding (MOU) effective September 4, 2019 through June 30, 2021;

WHEREAS, Section VIII of the MOU provides that if the City's Cafeteria Plan Allowance exceeds three thousand dollars ($3,000) per month for family-level coverage, the City and Union agreed to meet and confer over the amount of the City's Cafeteria Plan Allowance;

WHEREAS, the City's Cafeteria Plan Allowance for Tier One family-level coverage will reach $3,000 per month in calendar year 2021;

WHEREAS, the parties agree to eliminate the current MOU language that requires a 10% cost share for Tier Two employees in two-party coverage and a 20% cost share for Tier Two employees in family coverage, and to eliminate the current MOU language that provides for an annual escalator of City contributions up to 10%;

NOW THEREFORE, the parties have met and conferred pursuant to the reopener, and agree to amend the 2019-2021 MOU between the parties as follows:

SECTION VIII – Benefits

The City will contribute toward the City sponsored benefit plans during the life of this MOU as follows:

A. Medical Insurance Benefits

The City will contract with the California Public Employees Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits.

The City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA).

B. Section 125 Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

PROPOSED SIDE LETTER BETWEEN CITY OF LOS BANOS AND PUBLIC EMPLOYEES' UNION LOCAL ONE/AFSCME (PUBLIC WORKS UNIT)
Re: Cafeteria Plan Reopener
September 15, 2020

~~If the City's Cafeteria Plan Allowance as described below exceeds three thousand dollars ($3,000) per month for family-level coverage, the City and Union agreed to meet and confer over the amount of the City's Cafeteria Plan Allowance.~~

1. Tier One: For employees hired before April 1, 2010 and enrolled in City-offered CalPERS ~~health~~ medical insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance based on the employee's level of health care coverage as provided below. The City Cafeteria Plan Allowance will be capped at the amounts listed below, and will not exceed the monthly premium for the plan at the level of coverage selected by the employee, minus the PEMHCA minimum employer contribution for medical insurance; plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

   Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance.~~:~~ If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

   Effective upon Union ratification and City Council approval of this side letter, the City will pay the following amounts for Tier One Cafeteria Plan Allowance:

   a. Employee Only: ~~One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, u~~Up to ~~nine hundred eighty four dollars ($984)~~ one thousand eighty two dollars ($1,082) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.~~, up to a combined maximum of eighty five dollars ($85) per month.~~

   b. Employee Plus One: ~~One hundred percent (100%) of the premium for employee plus one coverage for the plan selected by the employee, u~~Up to ~~one thousand nine hundred sixty eight dollars ($1,968)~~two thousand one hundred sixty five dollars ($2,165) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans~~, up to a combined maximum of eighty five dollars ($85) per month~~.

   c. Employee Plus Family: ~~One hundred percent (100%) of the premium for employee plus family coverage for the plan selected by the employee, u~~Up to two thousand ~~five~~ eight hundred ~~fifty eight~~fourteen dollars ($2,814~~2,558~~) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to

$50,000), dental insurance and vision insurance plans~~, up to a combined maximum of eighty five dollars ($85) per month~~.

Effective January 1, 2021, the Tier One City Cafeteria Plan Allowance will be adjusted as follows:

a. Employee Only: Up to one thousand one hundred fifty four dollars ($1,154) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

b. Employee Plus One: Up to two thousand three hundred eight dollars ($2,308) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

c. Employee Plus Family: Up to three thousand dollars ($3,000) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

~~Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

2. Tier Two: For employees hired on or after April 1, 2010 and enrolled in City-offered CalPERS ~~health~~ medical insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's level of health care coverage as provided below. The City Cafeteria Plan Allowance will be capped at the amounts listed below, and will not exceed the monthly premium for the plan and level of coverage selected by the employee, minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life, dental and vision insurance plans.

Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance. If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

Effective upon Union ratification and City Council approval of this side letter, the City will pay the following amounts for Tier Two Cafeteria Plan Allowance:

PROPOSED SIDE LETTER BETWEEN CITY OF LOS BANOS AND PUBLIC EMPLOYEES' UNION LOCAL ONE/AFSCME (PUBLIC WORKS UNIT)
Re: Cafeteria Plan Reopener
September 15, 2020

a. Employee Only: ~~One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, u~~Up to one thousand eighty two ~~nine hundred eighty four~~ dollars ($1,082~~984~~) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans~~, up to a combined maximum of eighty five dollars ($85) per month~~. ~~Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

b. Employee Plus One: ~~Ninety percent (90%) of the premium for employee plus one dependent coverage for the plan selected by the employee, u~~Up to one thousand nine hundred forty eight~~seven hundred seventy one~~ dollars ($1,948~~1,771~~) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; eighty five dollars ($85) per month in recognition of plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans~~, up to a combined maximum of eighty five dollars ($85) per month~~. ~~Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

c. Employee Plus Family: ~~Eighty percent (80%) of the premium for employee plus family coverage for the plan selected by the employee, u~~Up to two thousand ~~forty six~~two hundred fifty one dollars ($~~2,046~~2,251) per month; minus the PEMHCA minimum employer contribution for ~~health~~ medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans~~, up to a combined maximum of eighty five dollars ($85) per month~~. ~~Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

Effective January 1, 2021, the Tier Two City Cafeteria Plan Allowance will be adjusted as follows:

a. Employee Only: Up to one thousand one hundred fifty four dollars ($1,154) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

b. Employee Plus One: Up to two thousand seventy seven dollars ($2,077) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition

of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

c. Employee Plus Family: Up to two thousand four hundred dollars ($2,400) per month; minus the PEMHCA minimum employer contribution for medical insurance; plus eighty five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

3. Employee enrollment in dental, vision and life insurance plans offered by the City is mandatory.

4. Employees who opt out of medical plans sponsored by the City, and sign an Attestation and Release, and provide proof of Minimum Essential Coverage as defined by the ACA for the employee and members of the employee's tax family, will receive a Cafeteria Plan Allowance of four hundred eighty five dollars ($485) per month, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.

5. At the City's request, the City and Union shall reopen to discuss the impact of healthcare legislation, including but not limited to the issue of payment of Affordable Care Act Excise Tax ("Cadillac Tax"), the Affordable Care Act, and/ or its impacts. In 2021 negotiations for a successor MOU, the parties will discuss the option of a future percentage escalator for the City's cafeteria plan contribution.

This side letter agreement is tentative subject to the ratification of the bargaining unit and adoption by the City Council of Los Banos.

SO AGREED:

FOR THE CITY

Date: 9/23/2020

FOR THE UNION

Date: 9/23/20

City of Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

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

DATE: October 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Approval of a Tentative Agreement (TA) / Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Police Officers Association (LBPOA)

Recommendation:

Adopt the Resolution approving the TA / MOU between the City of Los Banos and the LBPOA.

Discussion:

The City has bargained in good faith with the LBPOA and reached agreement on a new MOU for October 1, 2020 – June 30, 2021. The changes to the MOU include:

- Amendment to the Medical Insurance/Cafeteria Plan Allowance for the 2021 Calendar year as it pertains to creating a dollar cap amount associated with Peace Officers Research Association of California (PORAC) health plans, which will be hard capped when family coverage reaches $2,600.

- Salary increase of four percent (4%) on October 1, 2020.

- Effective October 1, 2020, Police Officers assigned to Field Training Officer (FTO) will receive a salary differential of five percent (5%) for time spent training only.

- Approval of the Police Officer Hiring Incentive Pilot Program.

Fiscal Impact:

There is an estimated increase of $96,700 to salaries & benefits and a decrease of $22,900 to benefits, costing the City approximately $73,800 for the nine (9) months remaining in the 2020/2021 Fiscal Year. Staff will continue to further analyze the fiscal impact and prepare a budget adjustment at a later date, if needed.

Reviewed by:

Sonya Williams, Finance Director

Alex Terrazas, City Manager

Attachments:

Resolution

RESOLUTION NO. __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A TENTATIVE AGREEMENT / MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LOS BANOS AND THE LOS BANOS POLICE OFFICERS ASSOCIATION

WHEREAS, the City Council of the City of Los Banos has received a request to approve a Tentative Agreement / Memorandum of Understanding by and between the City of Los Banos and the Los Banos Police Officers Association (LBPOA); and

WHEREAS, the Memorandum of Understanding will be in effect from October 1, 2020 to June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Understanding by and between the City of Los Banos and the LBPOA is hereby approved as submitted as "Exhibit A" respectively.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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 Member
NOES:
ABSENT:

APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

EXHIBIT A

TENTATIVE AGREEMENT BETWEEN CITY OF LOS BANOS AND LOS BANOS POLICE OFFICERS' ASSOCIATION 2020-2021

The following document contains the Tentative Agreement between the City of Los Banos (hereinafter called "City") and the Los Banos Police Officers' Association (hereinafter called "LBPOA" or "Association") (hereinafter collectively called "the parties") on wages, hours and terms and conditions of employment. The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees covered by the Memorandum of Understanding (MOU) between the City and the Association.

Upon ratification and adoption, this Agreement will amend the MOU between the parties dated July 1, 2018– June 30, 2020.

The amended MOU shall supersede all other Memoranda of Understanding and agreements between the parties. Language in the MOU between the parties not amended by this Tentative Agreement will remain unchanged. The parties agree that any and all Tentative Agreements are hereby incorporated. Any outstanding proposals not agreed to are hereby withdrawn by the parties.

This Tentative Agreement is subject to ratification by Association membership and approval by the City Council of the City of Los Banos.

FOR THE CITY	FOR THE ASSOCIATION
_____	_____
Date: September 23, 2020	Date: 9/23/20

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF LOS BANOS

AND

THE LOS BANOS POLICE OFFICERS ASSOCIATION (LBPOA)

October 1, 2020 – June 30, 2021

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MEMORANDUM OF UNDERSTANDING
City of Los Banos and
Los Banos Police Officers Association
October 1, 2020 – June 30, 20212020

SECTION I - Preamble

This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into by the City of Los Banos (hereafter referred to as "City") and the Los Banos Police Officers Association (hereafter referred to as "Association") on wages, hours and terms and conditions of employment.

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees covered by the MOU between the City and the Association.

The term will be July 1, 2018October 1, 2020, and through June 30, 20202021.
Employees defined for the purpose of this MOU will mean a full-time Police Officer.
This MOU is subject to Section 3500-35110 of the Government Code of the State of California otherwise known as the Meyers Milias Brown (MMB) Act, the City of Los Banos Municipal Code, and Resolution No. 1719.

SECTION II - No Abrogation of Rights

The parties acknowledge that the City responsibilities and rights and management responsibilities and rights as indicated in the City of Los Banos Personnel Rules and Regulations Resolution and all applicable State or Municipal laws and rights of the City Council are neither abrogated nor made subject to the meet and confer process by the adoption of this MOU.

SECTION III - Past Practices

The parties agree that this MOU supersedes any past practice covered by this Memorandum but does not affect any other written understanding agreed to by the parties not addressed in this MOU.

SECTION IV - No Discrimination

The City and the Association will cooperate in pursuing a policy of no discrimination and affirmative action.

The City and Association further agree that no person employed by or applying for employment will be discriminated against because of race, religion, creed political affiliation, color, national origin, ancestry, age, or sex. The parties further agree to protect the rights of individuals by complying with the provisions of the MMB Act.

Unit employees will have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Unit employees also will have the right to refuse to join or participate in the activities of the Association and will have the right to represent themselves individually in their employment relations with the City. No employee will be interfered with, intimidated, restrained, coerced, or discriminated against by the City of Los Banos or by any employee organization because of his/her exercise of these rights.

SECTION V – Recognition

A. Recognition

Pursuant to Section 3500-351~~0~~10 of the Government Code of the State of California, and Resolution No. 2491, the City has certified the Association as the recognized employee organization of the representing unit consisting of all full-time Police Officers.

B. Payroll Deduction

The City will deduct Association membership dues, fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization (hereinafter "payroll deductions"), the amount to be designated by the Association, ~~and any other mutually agreed upon payroll deductions from the monthly pay of member employees~~, upon receipt of written certification by the Association that it has and will maintain an authorization, signed by individual employees described in Section V, Subsection A of this MOU, entitled "Recognition," from whose salary or wages the deduction is to be made.

The City will provide the Association with a copy of previously submitted authorization cards provided to the City.

~~The dues or other mutually agreed payroll deductions must be authorized in writing by the employee on an authorization card acceptable to the City.~~ The City will remit the ~~deducted dues and other mutually agreed~~ payroll deductions to the Association as soon as reasonably possible after the deduction

The Association shall certify to the City in writing as soon as reasonably possible, any changes in the required payroll deduction, and any changes to employee authorization.

If an employee member in the bargaining unit desires to revoke, cancel or change prior dues deduction authorization, the City shall direct the employee member to the Association. Any such dues deduction revocation, cancellation and/or change shall only be effective when submitted by the Association directly to the City and is subject to the terms and conditions set forth in the original payroll deduction/authorization.

The City shall apply amended payroll deduction/authorization terms in the first full pay period following notice from the Association, if received before or on the date that time sheets are due. Otherwise, amended terms will be applied the following pay period. The Association will not unreasonably request payroll deductions.

The Association agrees it will provide a copy of individual authorizations to the City should a dispute arise about the existence or terms of the authorization.

The Association agrees to hold the City harmless and indemnify the City against any and all claims, demands, causes of action, or lawsuits, and other forms of liability that may arise~~ing~~ out of, or by reason of, any action taken by the City, or any department of the City for the purpose of complying with payroll ~~the~~ deductions, ~~or transmittal of such funds to the Association, except the intentional failure of the City to transmit moneys deducted from employees to the Association pursuant to this Article.~~ This includes, but is not limited to, the City's attorney fees and costs. The City shall provide written notice of any claim it receives to the Association.

C. Policies

During the term of this Agreement, changes to City of Los Banos policies referred to in this MOU that affect wages, hours and terms and conditions of employment will be subject to the meet and confer process as required by law.

D. Public Employee Communication

1. New Employee Orientation

The parties acknowledge that the City provides a new employee orientation meeting ("orientation") to all new employees hired by the City. For new employees hired after the date of this Agreement who are appointed to a classification within the bargaining unit for which the Association is recognized as the exclusively recognized employee organization, the Association will be provided with at least ten (10) calendar days advanced notice of the time, date and location of the orientation. The Association will be given up to thirty (30) minutes as part of and at the end of, the new employee orientation meeting in a room designated by bargaining unit for one (1) representative to present Association membership information. Management representatives will excuse themselves during the Association portion of the orientation.

The Association representative will be provided reasonable paid release time sufficient to attend the Association membership portion of the orientation, with the approval of such leave subject to any operational needs.

2. Information Provided

The City will provide the Association a digital file via email, to the email address designated by the Association, containing the following information, to the extent it is maintained on file by the City:

Name
Job title
Department
Work location

Such information will be provided within thirty (30) days of the date of hire for new hires, and on a quarterly basis for all bargaining unit employees.
The parties agree that this Section fully complies with and exhausts the parties' obligation to negotiate pursuant to Government Code Sections 3557 and 3558.

SECTION VI – ~~Management~~ Rights of the Parties

~~It is understood and agreed that the City retains all of its powers and authority to direct, manage, and control operations to the full extent of the law. The exercise of the~~

foregoing powers, rights, authority, duties, and responsibilities of the City, the adoption of policies, rules, regulations, and practices in furtherance thereof, and the use of judgment and discretion in connection therewith, will be limited only by the terms of this Agreement, to the extent such specific and express terms are in conformance with law.

A. Management Rights

The Association agrees that all of the functions, rights, powers, responsibilities and authority of the City in regard to the operation of its work and business and the direction of its work force that the City have not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are and will remain exclusively those of the City. Accordingly, except as otherwise limited by this Agreement or State or Federal law (including but not limited to the Meyers-Milias-Brown Act), the City specifically reserves the exclusive right to:

1. Decide the scope of service to be performed, and the standards and method of service;

2. Exercise control and discretion over its organization and the technology of performing its work;

3. Train, direct, and assign its employees;

4. Hire, rehire, fire, demote, suspend or otherwise discipline for just and proper cause, promote on the basis of merit, layoff employees due to a lack of work or lack of funds;

5. Transfer employees from location to location for non-punitive purposes;

6. Determine the content of job classifications, any change to the current job classifications or addition of new classifications will be subject to meet and confer when those changes fall within the scope of representation;

7. Establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith;

8. Maintain the efficiency of City operations;

9. Take all necessary action to carry out its mission in emergencies, and

10. Expand or curtail or discontinue temporarily or permanently, in whole or in part, operations whenever in the sole discretion of the City, good business judgment makes such curtailment or discontinuance advisable, subject to meet and confer obligations over effects of the exercise of these rights in accordance with legal requirements

B. Association Rights

The Association will be afforded all rights under the Meyers Milias Brown Act. Except in cases of emergency, reasonable advance written notice shall be given to the Association if it is affected by any ordinance, rule, resolution, policy or regulation relating to matters within the scope of representation proposed to be adopted by the City Council, by any board or commission of the City, or by any department, and the Association shall be given the opportunity to meet and confer with such body prior to any final decision being made. In cases of emergency when the City management determines that an ordinance, rule, resolution, policy, or regulation must be adopted immediately without prior notice or meeting with the Association, City Management shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

SECTION VII - Benefits

The City will contribute towards the City sponsored benefit plans during the life of the MOU as follows:

A. Medical Insurance Benefits

The City will contract with the California Public Employees Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits.

The City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA).

B. Cafeteria Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal

Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

The City Cafeteria Plan Allowance will be capped at the amounts listed below, and will not exceed the monthly premium for the plan at the level of coverage selected by the employee, minus the PEMHCA minimum employer contribution for health insurance, plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance. If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

If the City's ~~Cafeteria Plan~~ Allowance as ~~described below exceeds three thousand dollars ($3,000) per month for family-level coverage, the City and Association agreed to meet~~ and confer over the ~~amount of the~~ City's ~~Cafeteria Plan Allowance~~

1. Tier One. For employees hired before March 17, 2010 and enrolled in City-offered CalPERS health insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance based on the employee's level of health care coverage as provided below:

   a. For remainder of calendar year 2019~~2020~~:

      i. Employee Only: ~~One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee. u~~Up to one thousand eighty two dollars ($1,082)~~$984~~; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85)

per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans ~~up to a combined maximum of $85.00 per month~~.

ii. Employee Plus One: ~~One hundred percent (100%) of the premium for employee plus one coverage for the plan selected by the employee.~~ u Up to two thousand one hundred sixty five dollars ($2,165)p to $1,968; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans ~~up to a combined maximum of $85.00 per month~~.

iii. Employee Plus Family: ~~One hundred percent (100%) of the premium for employee plus family coverage for the plan selected by the employee.~~ Up to two thousand eight hundred fourteen dollars ($2,814) per month~~up to $2,558~~; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans~~, up to a combined maximum of $85 per month~~.

~~b. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by the amount of the increase to the second highest HMO plan offered by CalPERS within the CalPERS region incorporating the City of Los Banos, not to exceed a ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

2. Tier Two: For employees hired on or after March 17, 2010 and enrolled in City-offered CalPERS health insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's level of health care coverage as provided below:

a. For 2019remainder of calendar year 2020:

i. Employee Only: ~~One hundred percent (100%) of the premium~~

for employee only coverage for the plan selected by the employee. u Up to one thousand eighty two dollars ($1,082) p to $984 per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans up to a combined maximum of $85.00 per month.

ii. Employee Plus One: Ninety percent (90%) of the premium for employee plus one dependent coverage for the plan selected by the employee up to one thousand nine hundred forty eight dollars ($1,948)$1,771 per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans up to a combined maximum of $85.00 per month.

iii. Employee Plus Family: Eighty percent (80%) of the premium for employee plus family coverage for the plan selected by the employee uUp to two thousand two hundred fifty one dollars ($2,251)$2,046 per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans up to a combined maximum of $85 per month.

b Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by the amount of the increase to the second highest HMO plan offered by CalPERS within the CalPERS region incorporating the City of Los Banos, not to exceed a ten percent (10%) increase from the prior year's premium for the plan selected by the employee.

3 Effective January 1, 2021, for all employees enrolled in City-offered CalPERS health insurance regardless of hire date, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's plan and level of health care coverage, not to exceed the

premiums for the PORAC Region that includes Los Banos for the employee's level of health care coverage, minus the PEMHCA minimum employer contribution for health insurance, plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

Employees enrolled in City offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance.

If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

For 2021, PORAC Region 1 plan rates are $799 per month for single party coverage, $1,725 per month for 2-party coverage, and $2,199 per month for family coverage.

F. If the cost of family coverage in PORAC for the Region that includes Los Banos reaches or exceeds two thousand six hundred dollars ($2,600) per month, the City's contribution to the cafeteria plan for all levels of coverage will be capped and will cease to automatically escalate based on annual PORAC premium increases. If the upcoming year's PORAC premium for family coverage will exceed $2,600, the City contribution for family coverage for the upcoming year will be capped at $2,600. If that occurs, the City contribution for single and two-party coverage for the upcoming year will be increased by the same percentage necessary to reach $2,600 for family coverage, and will be capped at those amounts.

4. Employee enrollment in dental, vision and life insurance plans offered by the City is mandatory.

5. Effective July 1, 2010, employees who opt out of medical plans sponsored by the City, and who sign an Attestation and Release, and provide proof of Minimum Essential Coverage as defined by the ACA for the employee and members of the employee's tax family, will receive a Cafeteria Plan Allowance of $485 per month, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.

6. ~~Effective July 1, 2017, s~~Subject to the City's request, the City and Association shall reopen to discuss the impact of healthcare legislation including but not limited to~~the issue of payment of Affordable Care Act Excise Tax ("Cadillac Tax")~~, the Affordable Care Act, and/or its impacts.

C. Sick Leave

The City will provide Sick Leave benefits in accordance with the City of Los Banos Sick Leave Policy, and as amended during the term of the MOU (refer to City of Los Banos Policy & Procedures Manual).

D. Pension Program and Cost Sharing

1. Pension Formula.

a. Tier One: Regular employees, hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 3% @ 50 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 50 Plan.

b. Tier Two: Regular employees, hired on or after January 1, 2011, will receive a CalPERS retirement benefit based on the 3% @ 55 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 55 Plan.

c. Tier Three: Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2.7% at age 57 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

2. Pension Cost Sharing.

~~Effective July 1, 2017, In addition to the employee's member contribution to CalPERS for pension.~~ In accordance with Section 20516(a) of the

California Government Code, each employee defined as a "classic" member of CalPERS enrolled in 3% @ 50 or 3% @55 pension formulas shall have deducted from their compensation a ~~a total cost share of three percent (3%)) as cost sharing toward pension in accordance with Section 20516(f) of the California Government Code to pay for a portion of the City's required contribution to CalPERS. Each employee will pay the~~ three percent (3%) cost share in addition to the nine percent (9%) member contribution (i.e., 12% total contribution). ~~Effective as soon as administratively feasible the City shall amend the contract between the City and CalPERS to reflect the additional three percent (3%) employee cost share will be credited to each member's account as normal contributions in accordance with Government Code Section 20516(a).~~

The parties mutually recognize and acknowledge that the cost-sharing provisions provided herein satisfy the terms set forth in Government Code 20516.5.

The City makes no representation as to the tax consequences of cost sharing contributions. The above described cost-sharing contributions shall be made in accordance with IRS requirements.
~~If at any time the parties no longer have agreement that employees will cost share three percent (3%) to the employer's contribution to pension as described above employee's base salary will be reduced by an equal percentage.~~

F. Retiree Medical

1. The City will provide access to medical insurance coverage for those employees who retire from employment with the City and who constitute "annuitants" as defined by the PEMHCA.

   The City's maximum monthly contribution for each eligible annuitant will be equal to the minimum employer contribution required under the PEMHCA. The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

G. Retiree Longevity Pay

1. Employees hired before October 1, 2002 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will

receive the following:

a. From the date of retirement and until such time the retiree becomes eligible for Medicare, the City will contribute an amount equal to the health premium for the employee's elected health care plan and level of coverage, less the City's minimum monthly employer contribution under PEMHCA.

b. Upon attaining Medicare eligibility, the City will contribute an equal to the premium cost for the supplemental Medicare plan offered by CalPERS, less the amount of the City's minimum monthly employer contribution under PEMHCA.

c. Employees will not be entitled to City payments into the Health Savings Plan during employment.

2. Employees hired between October 1, 2002 and March 16, 2010 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:

a. From the date of retirement and until such time that the retiree becomes eligible for Medicare, the City will contribute an amount equal to fifty percent (50%) of the Blue Shield Access HMO plan for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the Blue Shield Access HMO plan for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the Blue Shield Access HMO plan after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

b. Upon attaining Medicare eligibility, the City's contribution to the Health Savings Plan Account will equal the cost of fifty percent (50%) of the supplemental Medicare plan offered by CalPERS for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the supplemental Medicare plan offered by CalPERS for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the supplemental Medicare plan offered by CalPERS after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

c. Employees will not be entitled to City payments into the Health Savings Plan during employment.

H. Health Savings Account

1. For employees hired on or after March 17, 2010, the City will establish a Health Savings Plan to which the City and employees contribute to save, on a tax-deferred basis, money to help pay the cost of healthcare once an individual retires. The Health Savings Plan may be used for health-related expenses as provided under the terms of the Plan. Any tax consequences resulting from City contributions to the Health Savings Plan are the sole responsibility of the employee.

   a. Participation is mandatory for all employees hired on or after March 17, 2010;

   b. For employees **hired on or after March 17, 2010:**

      i. Starting after an employee has successfully completed his or her initial probationary period, the City will contribute fifty dollars ($50) per month to the employee's Health Savings Plan account. Likewise the employee will contribute fifty dollars ($50) per month to his or her Health Savings Plan account.

      ii. During an employee's initial hire probationary period with the City, neither the employee nor the City will contribute to the employee's Health Savings Plan account. Upon successful completion of the initial hire probationary period, the City will contribute a lump sum of fifty dollars ($50) per month for each month served in the employee's initial probationary period.

      iii. Upon cessation of employment with the City, the City will cease contributions to the individual's Health Savings Plan Account.

      iv. Employees hired on or after March 17, 2010 will have no vested right in City contributions to the Health Savings Plan Account.

SECTION VIII - Leave Provisions

A. Vacation

Vacation benefits will be accrued, credited, and used in accordance with the City of Los Banos Vacation Leave Policy, and as amended during the term of this agreement (refer to City of Los Banos Policy & Procedures Manual).

B. Holidays

Holidays will be handled in accordance with the provisions of the City of Los Banos Holiday Leave Policy, and as amended during the term of the MOU (refer to City of Los Banos Policy & Procedures Manual, Holiday Leave Policy Division 5-D, Section 4, Approved Holidays). Officers performing twenty-four (24) hour shift work will accrue one hundred (100) holiday hours per year, at a rate of ten (10) hours per month between January and October. Holiday hours cannot be banked and must be used in the month in which they are accrued, or will be lost.

SECTION IX - Pay Rates and Practices

A. Salary

1. Regular

Effective ~~February 1, 2019~~October 1, 2020, contingent on Association ratification of this successor MOU no later than ~~February 1, 2019~~October 1, 2020, the salary schedules for employees in the represented classes shall be increased ~~a three percent (3%)~~ by four percent (4%) to reflect a monthly salary range as follows:

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
~~5,009~~	~~5,249~~	~~5,522~~	~~5,798~~	~~6,088~~	~~6,240~~
5,365	5,634	5,916	6,212	6,523	6,686

~~Effective the first full pay period following July 1, 2019, the salary schedules for employees in the represented classes shall be increased a three percent (3%), to reflect a monthly salary range as follows.~~

~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~	~~Step 5~~	~~Step 6~~
~~5,159~~	~~5,417~~	~~5,688~~	~~5,972~~	~~6,271~~	~~6,428~~

2. Overtime

Overtime pay will continue to be handled in accordance with the

guidelines set forth in the City's Overtime Compensation Policy, City Policy & Procedures Manual Division 5, and as amended during the term of this agreement.

The City will provide overtime compensation for all time worked in excess of the employee's regularly assigned work shift, for any time worked in excess of forty (40) hours in a week, and for time worked in excess of one hundred seventy one (171) hours, during the established Twenty-Eight (28) Day Cycle.

3. Canine Handlers/Police Officers; Special Pay

Police sworn personnel assigned to the position of Canine Handler are authorized and will be compensated to work up to twenty-five (25) hours per month during their non-regularly scheduled work hours to perform associated duties such as feeding, caring for and training a City provided canine for law enforcement work. In consideration of the time expended to perform these duties during the Canine Officer's non-regularly scheduled work hours, the City will provide the Canine officer twenty-five (25) hours of pay at the Minimum Hourly Wage required by law. Partial months served will be paid on a pro-rata basis.

By and through the Association, those unit members assigned to canine duty agree that the above additional hours provided each week are reasonably necessary to provide for the care and maintenance of the assigned canine and that these additional "hours worked" are intended to compensate unit members assigned to canine duty for all off duty hours spent caring for and maintaining their assigned canine, in compliance with the Fair Labor Standards Act (FLSA) and interpretive cases and rulings.

The parties acknowledge that the FLSA, which governs the entitlement to compensation for canine care and maintenance, entitles the parties to agree to a reasonable number of hours per month for the performance of off duty care and maintenance duties. The hours derived at in this agreement were determined after an actual inquiry of the officers assigned to canine duty, as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9th Cir. 2004.) It is the intent of the parties through the provisions of this section to fully comply with the requirements of the FLSA. In addition, all parties believe that this section of the MOU does comply with the requirements of the FLSA.

4. Investigators; Special Pay

Investigators assignments will be made by administrative directive. Compensation will be:

Step 1 – five percent (5%) above regular salary
Step 2 – seven and one-half percent (7 1/2%) above regular salary.

An Officer with two (2) years of investigations experience with City of Los Banos will be placed at Step 2.

5. Officer in Charge (OIC) Patrol; Special Pay

Officer in Charge (OIC) Patrol assignments will be made by the Police Chief. Compensation will be one hundred fifty dollars ($150) a month.

OICs will be a temporary assignment and serve at the discretion of the Police Chief. There will be no maximum term limit. The total number of OICs will be based upon Department needs. Individuals working under special assignment will in most cases be removed from OIC status. OICs must volunteer to adjust their shift based on department needs. The Police Chief will attempt to maintain one (1) OIC per patrol shift.

6. Bilingual Pay

Bilingual pay will be paid in accordance with the City's Bilingual Pay Policy, City Policy & Procedures Manual Division 5-L, and as amended during the term of this agreement.

7. Motorcycle Incentive Pay

Police sworn personnel assigned to motorcycle duty will receive incentive pay in the amount of two and one half percent (2.5%) of salary.

8. Motorcycle Duty and Maintenance

Police sworn personnel assigned to motorcycle duty will be compensated by the Minimum Hourly Wage required by law in consideration for working up to an additional three and one half (3.5) hours each week during their

non-regularly scheduled work hours to perform associated duties such as motorcycle cleaning and maintenance. Partial months served will be paid on a pro-rata basis. Said time shall be counted as hours worked for overtime compensation purposes; this level of compensation is affirmed by the bargaining unit as appropriate to meet FLSA requirements.

By and through the Association, those unit members assigned to motorcycle duty agree that the above additional hours provided each week are reasonably necessary to provide for the cleaning and maintenance of the assigned motorcycle and that these additional "hours worked" are intended to compensate unit members assigned to motorcycle duty for all off duty hours spent cleaning and maintaining their assigned motorcycle, in compliance with the FLSA and interpretive cases and rulings.

The parties acknowledge that the FLSA, which governs the entitlement to compensation for motorcycle cleaning and maintenance, entitles the parties to agree to a reasonable number of hours per month for the performance of off duty maintenance and cleaning duties. The hours derived at in this agreement were determined after an actual inquiry of the officers assigned to motorcycle duty, as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9th Cir. 2004.) It is the intent of the parties through the provisions of this section to fully comply with the requirements of the FLSA. In addition, all parties believe that this section of the MOU does comply with the requirements of the FLSA.

9. Master Officer Incentive Program

Effective February 1, 2019, ~~contingent on Association ratification of this successor MOU no later than February 1, 2019.~~ Police Officers who meet specified requirements of years of employment, performance standards, education, Peace Officer Standard Training (POST) certification, and perform a specialty assignment, shall receive Master Police Officer Incentive pay as follows:

MASTER OFFICER LEVEL	Years of Service	Education	POST Certificate	Performance Evaluation	Specialty Assignment
ONE (I) $150.00/mo	7 years (with LBPD in the	A.A./A.S. or sixty (60)	Intermediate	Satisfactory or Better ("Meets	Defensive Tactics* EVOC*

	classification of Police Officer)	college units		Standards")	POST-Cert-ified FTO* Investigations K-9 Magnet Task Force Motorcycle OIC PAL Rangemaster SRO SWAT
TWO (II) $300.00/mo	15 years (with LBPD in the classification of Police Officer)	B.A./B.S. <u>or</u> one hundred and twenty (120) college units	Advanced		

For sporadic Special Assignments, Police Officers who meet all other Master Police Officer requirements will receive Master Police Officer pay for the pay period in which the Special Assignment is assigned and performed.

10. Field Training Officer (FTO) Incentive Pay

Effective October 1, 2020, Police Officers assigned to Field Training Officer will receive a salary differential of five percent (5%) for time spent training only.

C. Education Incentive - Allowance

~~In accordance with the City's Educational Incentive Policy (Policy & Procedures Manual Division 5-G, and as amended during the term of this agreement), qualified Police Officers will be entitled to receive Educational Incentive pay as follows:~~

~~$75 per month for an AA/AS Degree, or~~
~~$150 per month for a BA/BS Degree, or~~
~~$200 per month for a Masters Degree~~

Effective February 1, 2019, ~~contingent on Association ratification of this successor MOU no later than February 1, 2018,~~ qualified Police Officers will be entitled to receive Educational Incentive pay as follows:

- One hundred dollars ($100) per month for an AA/AS Degree, or
- One hundred seventy five dollars ($175) per month for a BA/BS Degree, or
- Two hundred twenty-five dollars ($225) per month for a Masters Degree

D. Certificate Pay

~~In accordance with the City's Certificate Inventive Pay (City of Los Banos Policy & Procedures Manual Division 5 and as amended during the term of this agreement) Police Officers who have been nominated or approved by Chief of Police will be entitled to receive the following compensation when they have been awarded and hold the specified California Commission on Peace Officers Standards (P.O.S.T.) Certificate as follows:~~

~~$75 per month for a P.O.S.T. Intermediate Certificate, or~~
~~$150 per month for a P.O.S.T. Advanced Certificate, or~~
~~$200 per month for a P.O.S.T. Supervisory Certificate~~

Effective February 1, 2019, ~~contingent on Association ratification of this successor MOU no later than February 1, 2019~~ Police Officers who have been nominated or approved by Chief of Police will be entitled to receive the following compensation when they have been awarded and hold the specified California Commission on Peace Officers Standards (P.O.S.T.) Certificate as follows:

- Fifty dollars ($50) per month for a P.O.S.T. Basic Certificate, or
- One hundred dollars ($100) per month for a P.O.S.T. Intermediate Certificate, or
- Two hundred twenty five dollars ($225) per month for a P.O.S.T. Advanced Certificate

D. Tuition Reimbursement

The City will provide reimbursement for schools, tuition, and specific expenses in accordance with the guidelines set forth in the City of Los Banos Tuition Reimbursement Policy, and as amended during the term of this agreement (refer to City of Los Banos Policy & Procedures Manual).

E. Call Back Time

Employees who are required to report to work during their assigned off-duty

hours will be entitled to receive a minimum of four (4) hours Call Out Overtime Compensation even if the actual time worked is less than four (4) hours; except in the following instances:

1. In the event the off-duty time being worked extends into or begins immediately following the employee's assigned shift, he/she will be entitled to overtime compensation for only the actual off-duty hours worked.

2. In the event the off-duty time being worked is in response to a special assignment mutually agreed upon between the employee and the City, the employee will be entitled to overtime compensation for only the actual hours worked.

3. Employees will be entitled to receive the four (4) hours Call Back Overtime Pay only one (1) time during any twenty-four (24) hour period. A twenty-four (24) hour period for the purpose of this benefit is 0001 hours through 2400 hours. In the event an employee is called out several times during a given twenty-four (24) hour period, he or she will only receive four (4) hours compensation if the total hours worked are four (4) or less. If the total hours worked exceed four (4), the employee will be compensated for the actual hours worked.

Special Note: The expressed purpose of Call Back Pay is to compensate employees who have their normal off-duty hours disrupted due to unscheduled call backs, court appearances, and other such job demands. In the event of a disagreement over entitlement to four (4) hour call back pay, the stated intent of this benefit will be the guiding factor in resolving disputes.

F. Compensatory Time Off

Effective ~~the first full pay period following City Council adoption of a successor MOU~~February 1, 2019, Police Officers are permitted to accumulate a maximum amount of one hundred sixty (160) hours Compensatory Time Off (CTO), with forty (40) hours maximum cash out annually. Officers may cash out accrued CTO in excess of sixteen (16) hours, up to a total of eighty (80) hours maximum cash out annually, to be paid on June 5th and December 5th. Cash out of CTO will be paid by separate check upon request.

CTO will be handled in accordance with provisions outlined in the City's CTO Policy, and as amended during the term of this agreement (refer to City of Los

Banos Policy & Procedures Manual).

SECTION X - Miscellaneous

A. Uniform Issuance, Replacement, and Cleaning

The City will provide all required uniforms and safety equipment. The Police Chief will be the sole authority for determining the type of uniforms and equipment to be purchased and utilized. Additionally, the City of Los Banos will accept responsibility for payment of uniform cleaning in accordance with the following guidelines; a) two (2) shirts and two (2) trousers each work week; and b) one (1) jacket each calendar month. The Department will take inventory of everyone's current supply, including newly issued 511 uniforms and make adjustments as needed.

For classic CalPERS members, which the parties define as those who are not defined as "new members" by the Public Employee Pension Reform Act (PEPRA), the City will report to CalPERS the monetary value for providing and maintaining required uniforms. The City will report the uniform costs on a semi-monthly basis. The uniform purchase and maintenance amount reported to CalPERS will be derived from the City's total annual cost for providing the employee's uniforms, not to exceed one thousand dollars ($1,000) per fiscal year, per employee.

B. Work Schedule

The 4 x 10 work schedule in effect as of March 4, 2010 will remain in force. The schedule may be changed by management during the term of the agreement, subject to providing the Association the opportunity to meet and confer over the schedule change in accordance with the Meyers Milias Brown Act.

C. Personnel Rules Update

During the term of the agreement, the City shall provide the Association with notice and the opportunity to meet and confer over updates to the City's Personnel Rules.

D. No Strike

The Association, its members and representatives, agree that it and they will not engage in, authorize, sanction or support any unlawful strike, slowdown,

stoppage of work, curtailment of production, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties, and neither the Association nor any representatives thereof shall engage in unlawful job action for the purpose of effecting changes in the directives or decisions of management of the City, nor to effect a change of personnel or operations of management or of employees not covered by this Memorandum of Understanding. No lockout of employees shall be instituted by the City during the term of this MOU.

SECTION XI - Provision of the Law

This MOU is subject to all applicable current and future Federal and State laws, State regulations, the Municipal Code of the City of Los Banos and the Constitution of the State of California.

Should any of the provisions herein contained be rendered or declared invalid by reason of the State or Federal legislation or court action, such invalidations of such part of portions hereof will not invalidate the remaining portions hereof and they will remain in full force and effect, insofar as such remaining portions are severable.

SECTION XII - TERM

The term of this MOU will commence July 1, 2018October 1, 2020, and will expire June 30, ~~2020~~2021, except as otherwise provided in this MOU.

SO AGREED:

LOS BANOS POLICE OFFICERS ASSOCIATION	CITY OF LOS BANOS
_____	_____
Signature	Signature
_____	_____
Title:	Title: City Manager
Date:_____	Date:_____

NON-MOU SIDE LETTER OF AGREEMENT
BETWEEN CITY OF LOS BANOS AND
LOS BANOS POLICE OFFICERS ASSOCIATION (LBPOA)
RE: POLICE OFFICER HIRING INCENTIVE PILOT PROGRAM

This Side Letter of Agreement ("Agreement") between the City of Los Banos ("City") and the Los Banos Police Officers Association ("LBPOA") (collectively referred to as the "Parties") is entered into with respect to the following:

WHEREAS, the current Memorandum of Understanding ("MOU") between the City and LBPOA has a term of October 1, 2020 - June 30, 2021; and

WHEREAS, the City currently employs only 30 police officers despite budgeting 36 full time positions in the Police Officer classification;

WHEREAS, in light of recruitment challenges faced by the City, the Parties seek to enhance its recruitment of qualified sworn and non-sworn law enforcement personnel, and wish to pilot a program for hiring and referral incentives; and

WHEREAS, revenue from Measure H is intended, in part, to support police recruitment and retention, and therefore the City intends to use partial Measure H funding for police officer hiring incentives and law enforcement referral incentives; and

WHEREAS, the City and LBPOA have met and conferred and have agreed to the following hiring and referral incentive pilot program;

NOW THEREFORE, the parties hereby agree to the following:

1. For the sole purpose of attracting qualified police officer candidates to work for the City, effective upon City Council approval of this side letter and for the duration of the pilot program as specified herein, Police Officers hired by the City are eligible to receive up to fifteen thousand dollars ($15,000) as a hiring incentive, paid as follows:

    a. A lump sum hiring incentive of three thousand, seven hundred fifty dollars ($3,750) will be paid the first pay period following successful completion, as determined by the Police Chief or designee, of one (1) month of work as a Los Banos Police Officer;

b. A lump sum hiring incentive of three thousand, seven hundred fifty dollars ($3,750) will be paid the first pay period following successful completion, as determined by the Police Chief or designee, of field training as a Los Banos Police Officer; and

c. A lump sum hiring incentive of seven thousand five hundred dollars ($7,500) will be paid the first pay period following successful completion, as determined by the Police Chief or designee, of the probationary period for a Los Banos Police Officer.

2. Effective upon City Council approval of this side letter and for the duration of the pilot program as specified herein, current Los Banos Police Officers who refer an eligible Police Officer, Dispatcher or Community Service Officer (CSO) candidate hired by the City are eligible to receive a referral incentive of up to a total of one thousand dollars ($1,000), paid as follows:

   a. A lump sum referral incentive of five hundred dollars ($500) will be paid the first full pay period following the eligible hire's successful completion, as determined by the Police Chief or designee, of one (1) month of work as a Los Banos Police Officer, Dispatcher or CSO; and

   b. A lump sum referral incentive of five hundred dollars ($500) will be paid the first full pay period following the eligible hire's successful completion, as determined by the Police Chief or designee, of the probationary period for a Los Banos Police Officer, Dispatcher or CSO.

   Only one current Los Banos Police Department employee can be identified as the referring employee for each eligible hire for purposes of the referral incentive. The current Los Banos Police Department employee referring the eligible hire must be identified in writing by the eligible hire at the time the application for employment is submitted to obtain the referral incentive.

   An individual Los Banos Police Department employee may not receive more than five (5) referral incentives.

   Participation in the referral process is strictly voluntary. Recruitment efforts by Los Banos Officers should be limited to after-hours solicitation done among friends, relatives, neighbors and acquaintances as part of the employees' social affairs.

3. It is the intent of the parties that such hiring and referral incentive payments will not be treated as salary or wages, as the incentive payments are not provided as compensation for hours of employment. The hiring and referral incentive payments will not be included in overtime/regular rate of pay calculations, will not be treated as pensionable compensation, and there will be no "roll up" effect.

4. The City has authorized a cap of one hundred thousand dollars ($100,000) for the Police Officer hiring/referral incentive pilot program and a cap of fifteen thousand dollars for the Police Dispatcher/CSO hiring/referral incentive pilot program. Total City expenditures for each Hiring and Referral Incentive Pilot Program shall not exceed the authorized spending cap. This includes the amount spent for hiring incentives. Upon reaching the cap, the pilot program will cease and no further hiring or referral incentives will be provided. While the pilot program is in effect, the City will earmark a full fifteen thousand dollars ($15,000) per officer hired, unless, at the time of hire, the City has less than fifteen thousand dollars ($15,000) left in the pilot program allotment.

5. Upon the end of the pilot program, the parties will evaluate the success of the program, and meet and confer over possible continuation of the hiring incentive.

SO AGREED:

FOR THE LBPOA	FOR THE CITY
9/23/20	September 23, 2020
DATE	DATE

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 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Approval of a Tentative Agreement (TA) / Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Police Sergeants Association (LBPSA)

Recommendation:

Adopt the Resolution approving the TA / MOU between the City of Los Banos and the LBPSA.

Discussion:

The City has bargained in good faith with the LBPSA and reached agreement on a new MOU for October 1, 2020 – June 30, 2021. The changes to the MOU include:

- Amendment to the Medical Insurance/Cafeteria Plan Allowance for the 2021 calendar year as it pertains to creating a dollar cap amount associated with Peace Officers Research Association of California (PORAC) health plans, which will be hard capped when family coverage reaches $3,000 for employees hired before July 1, 2010 and at $2,400 for employees hired on or after July 1, 2010.

- Salary increase of four percent (4%) on October 1, 2020.

Fiscal Impact:

There is an estimated increase of $34,000 to salaries & benefits and a decrease of $14,900 to benefits, costing the City approximately $19,600 for the nine (9) months remaining in the 2020/2021 Fiscal Year. Staff will continue to further analyze the fiscal impact and prepare a budget adjustment at a later date, if needed.

Reviewed by:

Sonya Williams, Finance Director

Alex Terrazas, City Manager

Attachments:

Resolution

RESOLUTION NO. __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A TENTATIVE AGREEMENT / MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LOS BANOS AND THE LOS BANOS POLICE SERGEANTS ASSOCIATION

WHEREAS, the City Council of the City of Los Banos has received a request to approve a Tentative Agreement / Memorandum of Understanding by and between the City of Los Banos and the Los Banos Police Sergeants Association (LBPSA); and

WHEREAS, the Memorandum of Understanding will be in effect from October 1, 2020 to June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Understanding by and between the City of Los Banos and the LBPOA is hereby approved as submitted as "Exhibit A" respectively.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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 Member
NOES:
ABSENT:

APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

EXHIBIT A

TENTATIVE AGREEMENT BETWEEN
CITY OF LOS BANOS
AND LOS BANOS POLICE SERGEANTS' ASSOCIATION
2020-2021

The following document contains the Tentative Agreement between the City of Los Banos (hereinafter called "City") and the Los Banos Police Sergeants' Association (hereinafter called "LBPSA" or "Association") (hereinafter collectively called "the parties") on wages, hours and terms and conditions of employment. The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees covered by the Memorandum of Understanding (MOU) between the City and the Association.

Upon ratification and adoption, this Agreement will amend the MOU between the parties dated July 1, 2018– June 30, 2020.

The amended MOU shall supersede all other Memoranda of Understanding and agreements between the parties. Language in the MOU between the parties not amended by this Tentative Agreement will remain unchanged. The parties agree that any and all Tentative Agreements are hereby incorporated. Any outstanding proposals not agreed to are hereby withdrawn by the parties.

This Tentative Agreement is subject to ratification by Association membership and approval by the City Council of the City of Los Banos.

FOR THE CITY	FOR THE ASSOCIATION
Lucy Mallnee	SGT. JUSTIN MELDEN #708
Date: 9/29/2020	Date: 9/28/20

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF LOS BANOS

AND

THE LOS BANOS POLICE SERGEANTS' ASSOCIATION (LBPSA)

October 1, 2020 – June 30, 2021

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MEMORANDUM OF UNDERSTANDING
City of Los Banos and
Los Banos Police Sergeants Association
~~July 1, 2018 – June 30, 2020~~October 1, 2020 – June 30, 2021

SECTION I - Preamble

This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into by the City of Los Banos (hereafter referred to as "City") and the Los Banos Police Sergeants' Association (hereafter referred to as "Association") on wages, hours and terms and conditions of employment.

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees covered by the MOU between the City and the Association.

The term will be ~~July 1, 2018~~October 1, 2020 and through June 30, ~~2020~~ 2021. Employees defined for the purpose of this MOU will mean a full time Police Sergeant. This MOU is subject to Section 3500-351~~0~~1 of the Government Code of the State of California otherwise known as the Meyers Milias Brown ("MMB") Act, the City of Los Banos Municipal Code, and Resolution No. 1719.

SECTION II - No Abrogation of Rights

The parties acknowledge that the City responsibilities and rights and management responsibilities and rights as indicated in the City of Los Banos Personnel Rules and Regulations Resolution and all applicable State or Municipal laws and rights of the City Council are neither abrogated nor made subject to the meet and confer process by the adoption of this MOU.

SECTION III - Past Practices

The parties agree that this MOU supersedes any past practice covered by this Memorandum but does not affect any other written understanding agreed to by the parties not addressed in this MOU.

SECTION IV - No Discrimination

The City and the Association will cooperate in pursuing a policy of no discrimination and affirmative action.

The City and Association further agree that no person employed by or applying for employment will be discriminated against because of race, religion, creed, political affiliation, color, national origin, ancestry, age, or sex. The parties further agree to protect the rights of individuals by complying with the provisions of the MMB Act.

Unit employees will have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Unit employees also will have the right to refuse to join or participate in the activities of the Association and will have the right to represent themselves individually in their employment relations with the City. No employee will be interfered with, intimidated, restrained, coerced, or discriminated against by the City of Los Banos or by any employee organization because of his/her exercise of these rights.

SECTION V - Recognition

A. Recognition

Pursuant to Section 3500-3511~~0~~ of the Government Code of the State of California, and Resolution No. 2491, the City has certified the Association as the recognized employee organization of the representing unit consisting of all full-time Police Sergeants.

B. Payroll Deduction

The City will deduct Association membership dues, the amount to be designated by the Association, and any other mutually agreed upon payroll deductions from the monthly pay of member employees, upon receipt of written certification by the Association that it has and will maintain an authorization, signed by individual employees described in Section V, Subsection A of this MOU, entitled "Recognition," from whose salary or wages the deduction is to be made. ~~The dues or other mutually agreed payroll deductions must be authorized in writing by the employee on an authorization card acceptable to the City.~~

The City will remit the deducted dues and other mutually agreed payroll deduction to the Association as soon as reasonably possible after the deduction, so long as the Association remains the exclusive representative for the bargaining unit, and so long as the Association continues to provide written certification of employee authorization to the City.

The Association shall certify to the City in writing as soon as reasonably possible any changes in the required payroll deduction, and any changes to employee authorization. The Association will not unreasonably request payroll deductions.

The Association agrees it will provide a copy of individual authorizations to the City should a dispute arise about the existence or terms of the authorization.

The Association agrees to hold the City harmless and indemnify the City against any and all claims, demands, causes of action, ~~or~~ lawsuits, and other forms of liability that may arise~~ing~~ out of, or by reason of, any action taken by the City, or any department of the City for the purpose of complying with payroll ~~the~~ deductions, ~~or transmittal of such funds to the Association, except the intentional failure of the City to transmit moneys deducted from employees to the Association pursuant to this Article.~~ This includes, but is not limited to, the City's attorney fees and costs.

C. Policies

During the term of this Agreement, changes to City of Los Banos policies referred to in this MOU that affect wages, hours and terms and conditions of employment will be subject to the meet and confer process as required by law.

SECTION VI - Public Employee Communication

A. New Employee Orientation

The parties acknowledge that the City provides a new employee orientation meeting ("orientation") to all new employees hired by the City. For new employees hired after the date of this Agreement who are appointed to a classification within the bargaining unit for which the Association is recognized as the exclusively recognized employee organization, the Association will be provided with at least ten (10) calendar days' advanced notice of the time, date and location of the orientation. The Association will be given up to thirty (30) minutes as part of, and at the end of, the new employee orientation meeting in a room designated by bargaining unit for one (1) representative to present Association membership information. Management representatives will excuse themselves during the Association portion of the orientation and the Association agrees in its portion of the orientation not to engage in speech that is opprobrious, flagrant, insulting, defamatory, insubordinate or fraught with malice as to cause substantial disruption of or material interference with City activities.

The Association will be represented at the orientation by a City employee who is a Association officer, who shall be provided up to thirty (30) minutes of paid

release time to attend the orientation, with the approval of such leave subject to any operational needs.

B. Information Provided

The City will provide the Association a digital file via email to the email address designated by the Association, containing the following information, to the extent it is maintained on file by the City:

Name
Job title
Department
Work location

Such information will be provided within thirty (30) days of the date of hire for new hires and on a quarterly basis for all bargaining unit employees.

The parties agree that this Section fully complies with and exhausts the parties' obligation to negotiate pursuant to Government Code Sections 3557 and 3558

SECTION VII – Management Rights

~~It is understood and agreed that the City retains all of its powers and authority to direct, manage, and control operations to the full extent of the law. The exercise of the foregoing powers, rights, authority, duties, and responsibilities of the City; the adoption of policies, rules, regulations, and practices in furtherance thereof; and the use of judgment and discretion in connection therewith, will be limited only by the terms of this Agreement, to the extent such specific and express terms are in conformance with law.~~ The Union agrees that all of the functions, rights, powers, responsibilities and authority of the City in regard to the operation of its work and business and the direction of its work force which the City has not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are, and will remain exclusively those of the City. Accordingly, the City specifically, except as otherwise limited by this Agreement, reserves the exclusive right to:

A. Decide the scope of service to be performed, and the standards and method of service;

B. Exercise complete control and discretion over its organization and the technology of performing its work; subject to statutory obligations;

C. Train, direct, and assign its employees;

D. Hire, rehire, fire, demote, suspend or otherwise discipline for just and proper cause, promote, layoff, and determine the qualifications of employees;

E. Transfer employees from location to location;

F. Determine work shift start and end times, and the number of hours and shifts to be worked subject to the provisions of the Fair Labor Standards Act;

G. Determine the content of job classifications; any change to the current job classifications or addition of new classifications will be subject to meet and confer when those changes fall within the scope of representation;

H. Establish employee performance standards including, but not limited to quality and quantity standards, and to require compliance therewith;

I. Maintain the efficiency of City operations;

J. Take all necessary action to carry out its mission in emergencies; and

K. Merge, consolidate expand or curtail or discontinue temporarily or permanently in whole or in part, operations whenever in the sole discretion of the City, good business judgment makes such curtailment or discontinuance advisable; subject to meet and confer obligations over "effects" of the exercise of these rights in accordance with legal requirements.

SECTION VIII - Benefits

The City will contribute toward the City sponsored benefit plans during the life of this MOU as follows:

A. Medical Insurance Benefits

The City will contract with the California Public Employees Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits.

Effective July 1, 2010, the City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA).

B. Section 125 Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for

out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

The City Cafeteria Plan Allowance will be capped at the amounts listed below and will not exceed the monthly premium for the plan at the level of coverage selected by the employee minus the PEMHCA minimum employer contribution for health insurance plus eighty-five dollars ($85) per month in recognition of premiums for City's life dental and vision insurance plans.

Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance. If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month the employee can apply the difference toward the employee's medical insurance premium.

~~If the City's Cafeteria Plan Allowance as described below exceeds three thousand dollars ($3,000) per month for family level coverage, the City and Association agreed to meet and confer over the amount of the City's Cafeteria Plan Allowance.~~

1. Tier One: For employees hired before July 1, 2010 and enrolled in City-offered CalPERS health insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance based on the employee's level of health care coverage as provided below:

    a. For remainder of calendar year 2020:

        i. Employee Only: Up to one thousand eighty two dollars ($1,082); minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

        ~~i.~~ii. Employee Plus One: Up to two thousand one hundred sixty five dollars ($2,165); minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85)

per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

~~ii.~~iii. Employee Plus Family: Up to two thousand eight hundred fourteen dollars ($2,814) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

~~For 2018, one hundred percent (100%) of the health insurance premium for the employee (and qualifying dependent(s) if applicable) up to a maximum of the premium for the Blue Shield Access HMO plan for the employee's selected level of coverage (i.e., employee only, employee plus one or employee plus family); minus the PEMHCA contribution specified in Section A; plus the premium for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~b. For 2019:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to nine hundred eighty four dollars ($984) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month.~~

~~ii. Employee Plus One: One hundred percent (100%) of the premium for employee plus one coverage for the plan selected by the employee, up to one thousand nine hundred sixty eight dollars ($1,968) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month.~~

~~iii. Employee Plus Family: One hundred percent (100%) of the premium for employee plus family coverage for the plan selected by the employee, up to two thousand five hundred fifty eight dollars ($2,558) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental~~

~~insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month.~~

~~c. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

2. Tier Two: For employees hired on or after July 1, 2010 and enrolled in City-offered CalPERS health insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's level of health care coverage as provided below:

   a. For remainder of calendar year 2020:

      i. Employee Only: Up to one thousand eighty two dollars ($1,082) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

      ~~i.~~ii. Employee Plus One: p to one thousand nine hundred forty eight dollars ($1,948) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

      ~~ii.~~iii. Employee Plus Family: Up to two thousand two hundred fifty one dollars ($2,251) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

      ~~For 2018:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to 100% of the premium for employee only coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment~~

~~in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~ii. Employee Plus One: Ninety percent (90%) of the premium for employee only coverage for the plan selected by the employee, up to 90% of the premium for employee plus one coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~iii. Employee Plus Family: Eighty percent (80%) of the premium for employee only coverage for the plan selected by the employee, up to 80% of the premium for employee plus family coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~b. For 2019:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to nine hundred eighty four dollars ($984) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

~~ii. Employee Plus One: Ninety percent (90%) of the premium for employee plus one dependent coverage for the plan selected by the employee, up to one thousand seven hundred seventy one dollars ($1,771) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental~~

~~insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

~~Employee Plus Family: Eighty percent (80%) of the premium for employee plus family coverage for the plan selected by the employee, up to two thousand forty six dollars ($2,046) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

3. Effective January 1, 2021, for all employees enrolled in City-offered CalPERS health insurance regardless of hire date, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's plan and level of health care coverage, not to exceed the premiums for the PORAC Region that includes Los Banos for the employee's level of health care coverage, minus the PEMHCA minimum employer contribution for health insurance, plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

   Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance.

   If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

   For 2021, PORAC Region 1 plan rates are $799 per month for single party coverage; $1,725 per month for 2-party coverage; and $2,199 per month for family coverage.

For employees hired by the City before July 1, 2010, if the cost of family coverage in PORAC for the Region that includes Los Banos reaches or exceeds three thousand dollars ($3,000) per month, the City's contribution to the cafeteria plan for all Tier One levels of coverage will be capped and will cease to automatically escalate based on annual PORAC premium increases. If the upcoming year's PORAC premium for family coverage will exceed $3,000, the City contribution for family coverage for the upcoming year will be capped at $3,000. If that occurs, the City contribution for single and two-party coverage for the upcoming year will be increased by the same percentage necessary to reach $3,000 for family coverage, and will be capped at those amounts.

For employees hired by the City on or after July 1, 2010, if the cost of family coverage in PORAC for the Region that includes Los Banos reaches or exceeds two thousand four hundred dollars ($2,400) per month, the City's contribution to the cafeteria plan for all Tier One levels of coverage will be capped and will cease to automatically escalate based on annual PORAC premium increases. If the upcoming year's PORAC premium for family coverage will exceed $2,400, the City contribution for family coverage for the upcoming year will be capped at $2,400. If that occurs, the City contribution for single and two-party coverage for the upcoming year will be increased by the same percentage necessary to reach $2,400 for family coverage, and will be capped at those amounts.

4. Employee enrollment in dental, vision and life insurance plans offered by the City is mandatory.

5~~4~~. Employees who opt out of medical plans sponsored by the City, and sign an Attestation and Release, and provide proof of Minimum Essential Coverage as defined by the ACA for the employee and members of the employee's tax family, will receive a Cafeteria Plan Allowance of four hundred eighty five dollars ($485) per month, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.

6~~5~~. ~~Effective July 1, 2017, s~~Subject to the City's request, the City and Association shall reopen to discuss the impact of healthcare legislation, including but not limited to~~the issue of payment of Affordable Care Act Excise Tax ("Cadillac Tax")~~, the Affordable Care Act, and/or its impacts.

D. Sick Leave

The City will provide eight (8) hours of Sick Leave for each calendar month of service to the City, in accordance with the City of Los Banos Sick Leave Policy and as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

E. Pension Program and Cost Sharing

1. Pension Formula.

a. Tier One: Regular employees, hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 3% @ 50 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 50 Plan.

b. Tier Two: Regular employees, hired on or after January 1, 2011, will receive a CalPERS retirement benefit based on the 3% @ 55 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 55 Plan.

c. Tier Three: Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2.7% at age 57 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

2. Pension Cost Sharing.

~~Effective July 1, 2017, i~~In addition to the employee's member contribution to CalPERS for pension, In accordance with Section 20516(a) of the California Government Code each employee defined as a "classic" member of CalPERS enrolled in 3% @ 50 or 3% @55 pension formulas shall have deducted from their compensation a ~~a total cost share of three percent (3%)) as cost sharing toward pension in accordance with Section 20516(f) of the California Government Code, to pay for a portion of the City's required contribution to CalPERS. Each employee will pay the~~ three percent (3%) cost share in addition to the nine percent (9%) member contribution (i.e. 12% total contribution). ~~Effective as soon as administratively feasible, the City shall amend the contract between the City and CalPERS to reflect the additional three percent (3%) employee cost share will be credited to each member's~~

~~account as normal contributions in accordance with Government Code Section 20516(a).~~

The parties mutually recognize and acknowledge that the cost-sharing provisions provided herein satisfy the terms set forth in Government Code 20516.5.

The City makes no representation as to the tax consequences of cost sharing contributions. The above described cost-sharing contributions shall be made in accordance with IRS requirements.
~~If, at any time, the parties no longer have agreement that employees will cost share three percent (3%) to the employer's contribution to pension as described above, employee's base salary will be reduced by an equal percentage.~~

F. Retiree Medical

The City will provide access to medical insurance coverage for those employees who retire from employment with the City and who constitute "annuitants" as defined by the PEMHCA.

The City's maximum monthly contribution for each eligible annuitant will be equal to the minimum employer contribution required under the PEMHCA. The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

G. Retiree Longevity Pay

1. Employees hired before October 1, 2002 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:

   a. From the date of retirement and until such time the retiree becomes eligible for Medicare, the City will contribute an amount equal to the health premium for the employee's elected health care plan and level of coverage, less the City's minimum monthly employer contribution under PEMHCA.

   b. Upon attaining Medicare eligibility, the City will contribute an equal to the premium cost for the supplemental Medicare plan offered by CalPERS, less the amount of the City's minimum monthly employer contribution

under PEMHCA.

c. Employees will not be entitled to City payments specified above during employment.

2. Employees hired between October 1, 2002 and March 16, 2010 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:

   a. From the date of retirement and until such time that the retiree becomes eligible for Medicare, the City will contribute an amount to cover fifty percent (50%) of the Blue Shield Access HMO plan for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the Blue Shield Access HMO plan for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the Blue Shield Access HMO plan after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

   b. Upon attaining Medicare eligibility, the City's contribution will equal the cost of fifty percent (50%) of the supplemental Medicare plan offered by CalPERS for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the supplemental Medicare plan offered by CalPERS for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the supplemental Medicare plan offered by CalPERS after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

   c. Employees will not be entitled to City payments specified above during employment.

3. <u>Health Savings Account</u>

   a. For employees hired on or after July 1, 2010, the City will establish a Health Savings Plan to which the City and employees contribute to save, on a tax-deferred basis, money to help pay the cost of healthcare once an individual retires. The Health Savings Plan may be used for health-related expenses as provided under the terms of the Plan. Any tax consequences resulting from City contributions to the Health Savings Plan are the sole responsibility of the employee.

      i. Participation is mandatory for all employees;

ii. Starting after an employee has successfully completed his or her initial probationary period, the City will contribute fifty dollars ($50) per month to the employee's Health Savings Plan account. Likewise the employee will contribute fifty dollars ($50) per month to his or her Health Savings Plan account.

iii. During an employee's initial hire probationary period with the City, neither the employee nor the City will contribute to the employee's Health Savings Plan account. Upon successful completion of the initial hire probationary period, the City will contribute a lump sum of fifty dollars ($50) per month for each month served in the employee's initial probationary period.

iv. Upon cessation of employment with the City, the City will cease contributions to the individual's Health Savings Plan Account. Employees will have no vested right in City contributions to the Health Savings Plan Account.

H. State Disability Insurance (SDI)

The bargaining unit may elect to participate in SDI at the sole cost to employees.

SECTION ~~VIII~~ IX - Leave Provisions

A. Vacation

1. All regular employees earn vacation leave, beginning with the date of hire, in accordance with the following:

   a. Regular employees with five (5) full years of service or less earn six and six hundred sixty four thousandths (6.664) hours vacation leave for each calendar month of employment, and may save a maximum of one hundred sixty (160) hours.

   b. Regular employees who have completed from five (5) to fifteen (15) full years of service earn ten (10) hours vacation leave for each calendar month of employment, and may save a maximum of two hundred forty (240) hours.

   c. Regular employees who have completed over fifteen (15) full years of

service earn thirteen and three hundred sixty thousandths (13.360) hours of vacation leave for each calendar month of employment, and may save a maximum of three hundred twenty (320) hours.

2. Vacation benefits will be accrued, credited, and used in accordance with the City of Los Banos Vacation Leave Policy, and as amended during the term of this agreement; refer to City of Los Banos Policy Manual.

B. Holidays

Effective January 1, 2016, Sergeants performing twenty-four (24) hour shift work will receive holiday in lieu pay. In lieu of receiving time off for holidays, employees will be paid one hundred (100) hours per year, to be paid in a lump sum the first pay period in November. Payments will be handled in accordance with CalPERS regulations. Holiday pay will be paid by separate check.

Sergeants not performing twenty-four (24) hour shift work will receive holiday time off in accordance with provisions of the City of Los Banos Holiday Leave Policy; City of Los Banos Policy & Procedures Manual, and as amended during the term of this agreement.

SECTION IX - Pay Rates and Practices

A. Salary

1. Regular

Effective October 1 2020 contingent on Association ratification of this successor MOU no later than October 1 2020, the salary schedule for Police Sergeants shall be increased by four percent (4%) to reflect a monthly salary range as follows:

STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
7,158	7,516	7,892	8,287	8,701	8,919

~~Effective the first full pay period following City Council adoption of a successor MOU, the salary schedules for employees in the represented classes shall be increased by three percent (3%), to reflect a monthly salary range as follows:~~

~~Effective the first full pay period following July 1, 2019, the salary schedules for employees in the represented classes shall be increased by three percent~~

~~(3%), to reflect a monthly salary range as follows:~~

*The City will maintain a seven percent (7%) pay differential between the Top Step Police Officer salary range and the Start Step Police Sergeant salary range during the term of this Agreement.

2. Overtime

The City will provide overtime compensation for all time worked in excess of the employee's regularly assigned work shift, for any time worked in excess of 40 hours in a week, and for time worked in excess of 171 hours, during the established Twenty-Eight (28) Day Cycle.

Overtime pay will continue to be handled in accordance with the guidelines set forth in the City's Overtime Compensation Policy, City Policy & Procedures Manual Division 5-F, and as amended during the term of this agreement.

3. Investigators; Special Pay

The purpose of this special pay is to provide appropriate compensation for the unique and demanding work schedule required of Police Investigators. Effective July 1, 2005 Sergeants who serve in the Job assignment of Investigator will be compensated, by administrative directive, as follows:

- Step 1 – five percent (5%) above regular salary
- Step 2 – seven and one-half percent (7½%) above regular salary. A Sergeant with two (2) years of investigations experience with City of Los Banos will be placed at Step 2.

4. Bilingual Pay

Bilingual pay will be paid in accordance with the City's Bilingual Pay Policy, City Policy & Procedures Manual Division 5-L, and as amended during the term of this agreement.

The purpose of this special pay is to provide compensation for employees who provide bilingual services on behalf of the City as follows:

- $50 per month – Basic Verbal Skills, or
- $100 per month – Comprehensive Verbal Skills, or
- $150 per month – Verbal, written presentation skills

In order to qualify for bilingual pay, employees will be required to use their bilingual skills and pass a comprehension test given by the City, in accordance with the guidelines set forth in the City of Los Banos Bilingual Pay Policy; refer to City of Los Banos Policy & Procedures Manual.

5. Canine Handlers Special Pay

Police Sergeants assigned to the position of Canine Handler or as the designated Canine Supervisor are authorized and will be compensated to work up to twenty-five (25) hours per month during their non-regularly scheduled work hours to perform associated duties such as feeding, caring for and training a City provided canine for law enforcement work. In consideration of the time expended to perform these duties during the Canine Handler's non-regularly scheduled work hours, the City will provide the Canine Handler twenty-five (25) hours of pay at the Minimum Hourly Wage required by law. Partial months served will be paid on a pro-rata basis.

By and through the Association, those unit members assigned to canine duty agree that the above additional hours provided each week are reasonably necessary to provide for the care and maintenance of the assigned canine and that these additional "hours worked" are intended to compensate unit members assigned to canine duty for all off duty hours spent caring for and maintaining their assigned canine, in compliance with the Fair Labor Standards Act (FLSA) and interpretive cases and rulings.

The parties acknowledge that the FLSA, which governs the entitlement to compensation for canine care and maintenance, entitles the parties to agree to a reasonable number of hours per month for the performance of off duty care and maintenance duties. The hours derived at in this agreement were determined after an actual inquiry of the officers assigned to canine duty, as addressed by *Leever v. City of Carson City*, 360 F.3d 1014 (9th Cir. 2004.) It is the intent of the parties through the provisions of this section to fully comply with the requirements of the FLSA. In addition, all parties believe that this section of the MOU does comply with the requirements of the FLSA.

C. Education Incentive - Allowance

In accordance with the City's Educational Incentive Policy, City of Los Banos Policy & Procedures Manual Division 5-G, and as amended during the term of this agreement, effective the first full pay period following City Council adoption of

a successor MOU, qualified Sergeants will be entitled to receive Educational Incentive pay as follows:

- One hundred dollars ($100) per month for an AA/AS Degree, or
- One hundred seventy-five dollars ($175) per month for a BA/BS Degree, or
- Two hundred twenty-five dollars ($225) per month for a Master's Degree.

D. Certificate Pay

Effective July 1, 2005, Sergeants will be entitled to receive the following compensation when they have been awarded and hold the specified California Commission on Peace Officers Standards (P.O.S.T.) Certificate as follows:

- Seventy five dollars ($75) per month for a P.O.S.T. Intermediate Certificate, or
- One hundred fifty dollars ($150) per month for a P.O.S.T. Advanced Certificate, or
- Two hundred dollars ($200) per month for a P.O.S.T. Supervisory Certificate

E. Code Enforcement Sergeant 5% Special Assignment Pay

Effective the first full pay period following City Council adoption of a successor MOU, the City will establish a Code Enforcement Sergeant Assignment pay of five percent (5%) base pay.

F. Tuition Reimbursement

The City will provide reimbursement for schools, tuition, and specific expenses in accordance with the guidelines set forth in the City of Los Banos Tuition Reimbursement Policy and as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

G. Call Back Time

Employees who are required to report to work during their assigned off duty hours will be entitled to receive a minimum of three (3) hours Call Out Overtime Compensation even if the actual time worked is less than three (3) hours; except in the following instances:

1. In the event the off-duty time being worked extends into or begin immediately following the employee's assigned shift, he/she will be entitled to overtime

compensation for only the actual off-duty hours worked.

2. In the event the off-duty time begin worked is in response to a special assignment mutually agreed upon between the employee and the City, the employee will be entitled to overtime compensation for only the actual hours worked.

3. Employees will be entitled to receive the three (3) hour Call Back Overtime Pay only one (1) time during any twenty-four (24) hour period. A twenty-four (24) hour period for the purpose of this benefit is 0001 hours through 2400 hours. In the event an employee is called out several times during a given twenty-four (24) hour period, he or she will only receive three (3) hours compensation if the total hours worked are three (4) or less. If the total hours worked exceeded three (3), the employee will be compensated for the actual hours worked.

Special Note: The expressed purpose of Call Back Pay is to compensate employees who have their normal off-duty hours disrupted due to unscheduled call backs, court appearances, and other such Job demands. In the event of a disagreement over entitlement to three (3) hour call back pay, the stated intent of this benefit will be the guiding factor in resolving disputes.

H. Compensatory Time Off

Effective the first full pay period following City Council adoption of a successor MOU, Police Sergeants are permitted to accumulate a maximum amount of one hundred sixty (160) hours compensatory time. Sergeants may cash out compensatory time in excess of sixteen (16) hours, up to a total of eighty (80) hours maximum cash out annually, to be paid on June 5th and December 5th. Cash out of compensatory time will be paid by separate check upon request.

Comp Time will be handled in accordance with provisions outlined in the City's Compensatory Time Off (CTO) Policy, refer to City of Los Banos Policy & Procedures Manual.

H. Promotion

An employee who is promoted to a classification having a greater maximum salary will be placed on the lowest step of the new range that results in not less than a five percent (5%) increase above the employee's current regular salary.

SECTION XI - Miscellaneous

A. Uniform Issuance, Replacement, and Cleaning

The City will provide all required uniforms and safety equipment. The Police Chief will be the sole authority for determining the type of uniforms and equipment to be purchased and utilized. Additionally, the City of Los Banos will accept responsibility for payment of uniform cleaning in accordance with the following guidelines; a) two (2) shirts and two (2) trousers each work week; and b) one (1) jacket each calendar month.

For classic CalPERS members which the parties define as those who are not defined as "new members" by the Public Employee Pension Reform Act (PEPRA), the City will report to CalPERS the monetary value for providing and maintaining required uniforms. The City will report the uniform costs on a semi-monthly basis. The uniform purchase and maintenance amount reported to CalPERS will be derived from the City's total annual cost for providing the employee's uniforms not to exceed one thousand dollars ($1,000) per fiscal year per employee.

B. No Strike

The Association, its members and representatives, agree that it and they will not engage in, authorize, sanction or support any strike, slowdown, stoppage of work curtailment of production, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties; and neither the Association nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management of the City, nor to effect a change of personnel or operations of management or of employees not covered by this Memorandum of Understanding. No lockout of employees shall be instituted by the City during the term of this MOU.

SECTION XII – Personnel Rules Meet and Confer

Upon notice from the City, the Association shall have the opportunity to meet and confer over updates to the City's Personnel Rules.

SECTION XIII - Provision of the Law

This MOU is subject to all applicable current and future Federal and State laws, State

regulations, the Municipal Code of the City of Los Banos and the Constitution of the State of California.

Should any of the provisions herein contained be rendered or declared invalid by reason of the State or Federal legislation or court action, such invalidations of such part of portions hereof will not invalidate the remaining portions hereof and they will remain in full force and effect, insofar as such remaining portions are severable.

SECTION XI~~VII~~ - Term

The term of this MOU will commence ~~July 1, 2018~~October 1, 2020 and will expire June 30, ~~2020~~2021, except as otherwise provided in this MOU.

LOS BANOS POLICE SERGEANTS ASSOCIATION	CITY OF LOS BANOS
#708	
Signature	Signature
SERGEANT	
Title:	Title:
Date: 9/28/20	Date:

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 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Approval of a Tentative Agreement (TA) / Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Fire Fighters Association (LBFFA)

Recommendation:

Adopt the Resolution approving the TA / MOU between the City of Los Banos and the LBFFA.

Discussion:

The City has bargained in good faith with the LBFFA and reached agreement on a new MOU for October 1, 2020 – June 30, 2021. The changes to the MOU include:

- Amendment to the Medical Insurance/Cafeteria Plan Allowance for the 2021 calendar year as it pertains to creating a dollar cap amount associated with Peace Officers Research Association of California (PORAC) health plans, which will be hard capped when family coverage reaches $3,000 for employees hired before July 1, 2010 and at $2,400 for employees hired on or after July 1, 2010.

- Salary increase of four percent (4%) on October 1, 2020.

- Effective October 1, 2020, Fire Fighters, Fire Engineers, Fire Captains will receive uniform pay in the amount of $29.17 per pay period ($700 a fiscal year), which will be used for the purchase, replacement, cleaning and maintenance of uniform.

- Side Letter Agreement for a Training Pilot Program, which will allow for four (4) hours of training each month for the remainder of the Fiscal Year 2020/2021.

Fiscal Impact:

There is an estimated increase of $46,700 to salaries & benefits, increase of $14,600 to training, and a decrease of $32,400 to benefits, costing the City approximately $28,900 for the nine (9) months remaining in the 2020/2021 Fiscal Year. Staff will continue to further analyze the fiscal impact and prepare a budget adjustment at a later date, if needed.

Reviewed by:

Sonya Williams, Finance Director

Alex Terrazas, City Manager

Attachments:

Resolution

RESOLUTION NO. __

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A TENTATIVE AGREEMENT / MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LOS BANOS AND THE LOS BANOS FIRE FIGHTERS ASSOCIATION

WHEREAS, the City Council of the City of Los Banos has received a request to approve a Tentative Agreement / Memorandum of Understanding by and between the City of Los Banos and the Los Banos Fire Fighters Association (LBFFA); and

WHEREAS, the Memorandum of Understanding will be in effect from October 1, 2020 to June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Memorandum of Understanding by and between the City of Los Banos and the LBFFA is hereby approved as submitted as "Exhibit A" respectively.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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 Member
NOES:
ABSENT:

APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

Exhibit A

TENTATIVE AGREEMENT BETWEEN CITY OF LOS BANOS AND LOS BANOS FIRE FIGHTERS' ASSOCIATION 2020-2021

The following document contains the Tentative Agreement between the City of Los Banos (hereinafter called "City") and the Los Banos Fire Fighters' Association (hereinafter called "LBFFA" or "Association") (hereinafter collectively called "the parties") on wages, hours and terms and conditions of employment. The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees covered by the Memorandum of Understanding (MOU) between the City and the Association.

Upon ratification and adoption, this Agreement will amend the MOU between the parties dated July 1, 2018– June 30, 2020.

The amended MOU shall supersede all other Memoranda of Understanding and agreements between the parties. Language in the MOU between the parties not amended by this Tentative Agreement will remain unchanged. The parties agree that any and all Tentative Agreements are hereby incorporated. Any outstanding proposals not agreed to are hereby withdrawn by the parties.

This Tentative Agreement is subject to ratification by Association membership and approval by the City Council of the City of Los Banos.

FOR THE CITY	FOR THE ASSOCIATION
_____	_____
Date: October 1, 2020	Date: 10/1/2020

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF LOS BANOS

AND

THE LOS BANOS FIRE FIGHTERS ASSOCIATION (LBFFA)

October 1, 2020 – June 30, 2021

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MEMORANDUM OF UNDERSTANDING
City of Los Banos and
Los Banos Firefighters Association
~~July 1, 2018~~October 1, 2020 – June 30, ~~2020~~2021

SECTION I – Preamble

This Memorandum of Understanding (hereinafter referred to as "MOU") is entered into by the City of Los Banos (hereinafter referred to as "City") and the Los Banos Firefighters Association (hereinafter referred to as "LBFFA" or "Association") (hereinafter collectively referred to as the "parties") describing the parties' agreement on wages, hours and terms and conditions of employment.

The salaries, hours, fringe benefits and working conditions set forth in this MOU have been mutually agreed upon by the designated bargaining representatives of the City and the Association, and will apply to all employees in the bargaining unit represented by the ~~covered by the MOU between the City and the~~ Association.

The term will be ~~July 1, 2018~~October 1, 2020 through June 30, ~~2020~~2021.

Employees defined for the purpose of this MOU include full-time Firefighters, Fire Engineers and Fire Captains.

This MOU is subject to Section 3500-35110 of the Government Code of the State of California otherwise known as the Meyers Milias Brown (MMB) Act, the City of Los Banos Municipal Code, and Resolution No. 1719.

SECTION II – No Abrogation of Rights

The parties acknowledge that the City responsibilities and rights and management responsibilities and rights as indicated in the City of Los Banos Personnel Rules~~,~~ and Regulations, Resolutions, and all applicable State or Municipal laws and rights of the City Council are neither abrogated nor made subject to the meet and confer process by the adoption of this MOU.

SECTION III – Past Practices

The parties agree that this Memorandum of Understanding supersedes any past practice covered by this Memorandum but does not affect any other written understanding agreed to by the parties not addressed in this MOU.

SECTION IV – No Discrimination

The City and the Association will cooperate in pursuing a policy of no discrimination and affirmative action.

The City and Association further agree that no person employed by or applying for employment will be discriminated against because of race, religion, creed, political affiliation, color, national origin, ancestry, age, or sex. The parties further agree to protect the rights of individuals by complying with the provisions of the MMB Act.

Unit employees will have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including but not limited to wages, hours, and other terms and conditions of employment. Unit employees also will have the right to refuse to join or participate in the activities of the Association and will have the right to represent themselves individually in their employment relations with the City. No employee will be interfered with, intimidated, restrained, coerced, or discriminated against by the City of Los Banos or by any employee organization because of his/her exercise of these rights.

SECTION V – Recognition

A. Recognition

Pursuant to Section 3500-3511~~0~~ of the Government Code of the State of California, the City ~~acknowledges~~ has certified the Association as the recognized employee organization of the representing unit consisting of all full-time Firefighters, Fire Engineers and Fire Captains.

B. Payroll Dues Deduction

The City will deduct Association membership dues and other payments, the amount to be designated by the Association, ~~and any other mutually agreed upon payroll deductions~~ from the monthly pay of member employees upon receipt of written certification by the Association that it has and will maintain an authorization for deductions, signed by individual represented employees.

~~The dues or other mutually agreed payroll deductions must be authorized in writing by the employee on an authorization card acceptable to the City.~~ The City will remit the deducted dues and other mutually agreed payroll deduction to the Association as soon as the next pay period ~~reasonably possible~~ after the deduction, so long as the Association continues

to provide written certification of employee authorization to the City.

The Association shall certify to the City in writing as soon as reasonably possible, any changes in the required payroll deduction, and any changes to employee authorization. The Association will not unreasonably request payroll deductions. The City shall apply amended payroll deduction/authorization terms in the first full pay period following notice from the Association, if received before or on the date that time sheets are due. Otherwise, amended terms will be applied the following pay period.

The Association agrees it will provide a copy of individual authorizations to the City should a dispute arise about the existence or terms of the authorization.

The Association agrees to hold the City harmless and indemnify the City against any and all claims, demands, causes of action, ~~or~~ lawsuits, and other forms of liability that may arise~~ing~~ out of, or by reason of, any action taken by the City, or any department of the City for the purpose of complying with payroll ~~the~~ deductions. ~~or transmittal of such funds to the Association, except the intentional failure of the City to transmit moneys deducted from employees to the Association pursuant to this Article.~~ The City shall provide the Association with any documents for such claims for the Association counsel to handle and shall transfer the defense of such claims to the Association.

C. Policies

During the term of this Agreement, changes to City of Los Banos policies referred to in this MOU that affect wages, hours and terms and conditions of employment will be subject to the meet and confer process as required by law.

SECTION VI – Public Employee Communication

A. New Employee Orientation

The parties acknowledge that the City provides a new employee orientation meeting ("orientation") to all new employees hired by the City. For new employees in the bargaining unit, , the Association will be provided with at least ten (10) calendar days' advanced notice of the time, date and location of the orientation. The Association will be given up to thirty (30) minutes as part of, and at the end of, the new employee orientation meeting in a room designated by bargaining unit for one (1) representative to present Association membership information. Management representatives will excuse themselves during the Association portion of the orientation.

If the Association is represented at the orientation by a City employee who is an Association officer, this employee shall be provided up to thirty (30) minutes of paid release time to attend the orientation, with the approval of such leave subject to any operational needs.

B. Information Provided

The City will provide the Association a digital file via email, to the email address designated by the Association, containing the following information, to the extent it is maintained on file by the City:

Name
Job title
Department
Work location
Work, home and personal cellular telephone numbers
Personal email addresses on file with the City
Home address.

Such information will be provided within thirty (30) days of the date of hire for new hires, and on a quarterly basis for all bargaining unit employees.

Notwithstanding the foregoing, limited to the express purpose of the requirements of Government Code section 3558 only, an employee may opt out via written request to the City (with a copy to the Association) to direct the City to withhold disclosure of the employee's home address, home telephone number, personal cellular telephone number, personal email address, and birth date.

The parties agree that this Section fully complies with and exhausts the parties' obligation to negotiate pursuant to Government Code Sections 3557 and 3558.

SECTION VII – Management Rights

The Association agrees that all of the functions, rights, powers, responsibilities and authority of the City in regard to the operation of its work and business and the direction of its work force which the City has not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are, and will remain, exclusively those of the City. Accordingly, the City specifically, except as otherwise limited by this Agreement, reserves the exclusive right to:

A. Decide the scope of service to be performed, and the standards and method of service;
B. Exercise complete control and discretion over its organization and the technology of performing its work; subject to statutory obligations (e.g. CalOSHA 2 in 2 out)
C. Train, direct, and assign its employees;
D. Hire, rehire, fire, demote, suspend or otherwise discipline for just and proper cause, promote, layoff, and determine the qualifications of employees;
E. Transfer employees from location to location;
F. Determine work shift start and end times, and the number of hours and shifts to be worked; subject to the provisions of the Fair Labor Standards Act.
G. Determine the content of job classifications; any change to the current job classifications or addition of new classifications will be subject to meet and confer when those changes fall within the scope of representation.
H. To establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith;
I. Maintain the efficiency of City operations;
J. Take all necessary action to carry out its mission in emergencies;
K. Merge, consolidate, expand or curtail or discontinue temporarily or permanently, in whole or in part, operations whenever in the sole discretion of the City, good business judgment makes such curtailment or discontinuance advisable; subject to meet and confer obligations over "effects" of the exercise of these rights in accordance with legal requirements.

SECTION VIII – Benefits

The City will contribute toward the City sponsored benefit plans during the life of this MOU as follows:

A. Medical Insurance Benefits

The City will contract with the California Public Employees' Retirement System (CalPERS) for the purpose of providing employees with medical insurance benefits.

Effective April 1, 2010, the City's maximum monthly contribution for each eligible active employee for the purchase of medical insurance will be equal to the minimum monthly employer contribution required under the Public Employees Medical and Hospital Care Act (PEMHCA).

B. Section 125 Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

The City Cafeteria Plan Allowance will be capped at the amounts listed below, and will not exceed the monthly premium for the plan at the level of coverage selected by the employee, minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance. If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.~~If the City's Cafeteria Plan Allowance as described below exceeds three thousand dollars ($3,000) per month for family level coverage, the City and Association agree to meet and confer over the amount of the City's Cafeteria Plan Allowance.~~

1. Tier One: For Employees Hired Before April 1, 2010 and enrolled in City-offered CalPERS health insurance: The City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance based on the employee's level of health care coverage as provided below:

   a. For remainder of calendar year 2020:

      i. Employee Only: Up to one thousand eighty two dollars ($1,082); minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

ii. Employee Plus One: Up to two thousand one hundred sixty five dollars ($2,165); minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

iii. Employee Plus Family: Up to two thousand eight hundred fourteen dollars ($2,814) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

~~For 2018, one hundred percent (100%) of the health insurance premium for the employee (and qualifying dependent(s) if applicable), up to a maximum of the amount of the Blue Shield Access HMO premium for the employee's selected level of coverage (i.e., employee only, employee plus one or employee plus family); minus the PEMHCA contribution specified in Section A; plus the premium for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~a. For 2019:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to nine hundred eighty four dollars ($984) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars eighty five dollars ($85) per month.~~

~~ii. Employee Plus One: One hundred percent (100%) of the premium for employee plus one coverage for the plan selected by the employee, up to one thousand nine hundred sixty eight dollars ($1,968) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month.~~

~~iii. Employee Plus Family: One hundred percent (100%) of the~~

~~premium for employee plus family coverage for the plan selected by the employee, up to two thousand five hundred fifty eight dollars ($2,558) per month; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month.~~

~~b. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employees.~~

2. Tier Two: For Employees Hired On or After April 1, 2010 and enrolled in City-offered CalPERS health insurance, the City will provide, on a monthly basis, for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's level of health care coverage as provided below:

   a. For remainder of calendar year 2020:

      i. Employee Only: Up to one thousand eighty two dollars ($1,082) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

      ii. Employee Plus One: p to one thousand nine hundred forty eight dollars ($1,948) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

      iii. Employee Plus Family: Up to two thousand two hundred fifty one dollars ($2,251) per month; minus the PEMHCA minimum employer contribution for health insurance; plus eighty-five dollars ($85) per month in recognition of the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans.

3. Effective January 1, 2021, for all employees enrolled in City-offered CalPERS health insurance regardless of hire date, the City will provide, on a monthly basis,

for the purpose of providing minimum essential coverage to employees and dependents, a Cafeteria Plan Allowance, based on the employee's plan and level of health care coverage, not to exceed the premiums for the PORAC Region that includes Los Banos for the employee's level of health care coverage, minus the PEMHCA minimum employer contribution for health insurance, plus eighty-five dollars ($85) per month in recognition of premiums for City's life, dental and vision insurance plans.

Employees enrolled in City-offered CalPERS medical insurance plans are not eligible to receive cash for unused portions of the cafeteria plan allowance.

If the combined premiums for the employee's dental, vision and life insurance plans and level of coverage are less than eighty-five dollars ($85) per month, the employee can apply the difference toward the employee's medical insurance premium.

For 2021, PORAC Region 1 plan rates are $799 per month for single party coverage; $1,725 per month for 2-party coverage; and $2,199 per month for family coverage.

For employees hired by the City before April 1, 2010, if the cost of family coverage in PORAC for the Region that includes Los Banos reaches or exceeds three thousand dollars ($3,000) per month, the City's contribution to the cafeteria plan for all Tier One levels of coverage will be capped and will cease to automatically escalate based on annual PORAC premium increases. If the upcoming year's PORAC premium for family coverage will exceed $3,000, the City contribution for family coverage for the upcoming year will be capped at $3,000. If that occurs, the City contribution for single and two-party coverage for the upcoming year will be increased by the same percentage necessary to reach $3,000 for family coverage, and will be capped at those amounts.

For employees hired by the City on or after April 1, 2010, if the cost of family coverage in PORAC for the Region that includes Los Banos reaches or exceeds two thousand four hundred dollars ($2,400) per month, the City's contribution to the cafeteria plan for all Tier One levels of coverage will be capped and will cease to automatically escalate based on annual PORAC premium increases. If the upcoming year's PORAC premium for family coverage will exceed $2,400, the City contribution for family coverage for the upcoming year will be capped at $2,400. If that occurs, the City contribution for single and two-party coverage for the upcoming year will be increased by the same percentage necessary to reach

$2,400 for family coverage, and will be capped at those amounts.

~~a. For 2018:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to 100% of the premium for employee only coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~ii. Employee Plus One: Ninety percent (90%) of the premium for employee only coverage for the plan selected by the employee, up to 90% of the premium for employee plus one coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~iii. Employee Plus Family: Eighty percent (80%) of the premium for employee only coverage for the plan selected by the employee, up to 80% of the premium for employee plus family coverage in the Blue Shield Access HMO plan; minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a maximum of eighty five dollars ($85) per month.~~

~~b. For 2019:~~

~~i. Employee Only: One hundred percent (100%) of the premium for employee only coverage for the plan selected by the employee, up to nine hundred eighty four dollars ($984); minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each~~

~~subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee.~~

~~ii. Employee Plus One: Ninety percent (90%) of the premium for employee plus one dependent coverage for the plan selected by the employee, up to one thousand seven hundred and seventy one dollars ($1,771); minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee~~

~~iii. Employee Plus Family: Eighty percent (80%) of the premium for employee plus family coverage for the plan selected by the employee, up to two thousand forty six dollars ($2,046); minus the PEMHCA minimum employer contribution for health insurance; plus the premiums for enrollment in the City's life insurance (coverage up to $50,000), dental insurance and vision insurance plans, up to a combined maximum of eighty five dollars ($85) per month. Each subsequent calendar year, the City's maximum Cafeteria Plan Allowance shall be adjusted by an up to ten percent (10%) increase from the prior year's premium for the plan selected by the employee~~

3. Enrollment in dental, vision, and life Insurance plans offered by the City is mandatory.

4. Employees who opt out of a medical plan sponsored by the City, and sign an Attestation and Release, and provide proof of Minimum Essential Coverage as defined by the ACA for the employee and members of the employee's tax family, will receive a Cafeteria Plan Allowance of $485 per month, of which part must be used to enroll in mandatory dental, vision, and life insurance.

5. ~~Effective July 1, 2017, s~~Subject to the City's request, the City and Association shall reopen to discuss the impact of healthcare legislation, including but not limited to~~the issue of payment of Affordable Care Act Excise Tax ("Cadillac Tax")~~, the Affordable Care Act, and/or its impacts.

C. Pension Program and Cost Sharing

1. Pension Formula:

a. Tier One: Regular employees, hired before January 1, 2011 will receive a CalPERS retirement benefit based on the 3% @ 50 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 50 Plan.

b. Tier Two: Regular employees, hired on or after January 1, 2011, will receive a CalPERS retirement benefit based on the 3% @ 55 formula as set forth in CalPERS regulations. The City shall pay the full share of the employer contribution to CalPERS. The employee will be responsible to pay the employee contribution to the CalPERS 3% @ 55 Plan.

c. Tier Three: Qualifying employees hired on or after January 1, 2013 and considered new members of CalPERS as defined by the Public Employee Pension Reform Act (PEPRA) will receive the 2.7% at age 57 retirement formula, and shall be subject to the provisions of PEPRA, including provisions governing reportable compensation.

2. Pension Cost Sharing

~~Effective July 1, 2017, i~~In ~~addition to the employee's member contribution to CalPERS for pension,~~ In accordance with Section 20516(a) of the California Government Code, each employee defined as a "classic" member of CalPERS enrolled in 3% @ 50 or 3% @55 pension formulas shall have deducted from their compensation a ~~a total cost share of three percent (3%)) as cost sharing toward pension in accordance with Section 20516(f) of the California Government Code, to pay for a portion of the City's required contribution to CalPERS. Each employee will pay the~~ three percent (3%) cost share in addition to the nine percent (9%) member contribution (i.e., 12% total contribution). ~~Effective as soon as administratively feasible, the City shall amend the contract between the City and CalPERS to reflect the additional three percent (3%) employee cost share will be credited to each member's account as normal contributions in accordance with Government Code Section 20516(a).~~

The parties mutually recognize and acknowledge that the cost-sharing provisions

provided herein satisfy the terms set forth in Government Code 20516.5.

The City makes no representation as to the tax consequences of cost sharing contributions. The above described cost-sharing contributions shall be made in accordance with IRS requirements.
~~If, at any time, the parties no longer have agreement that employees will cost share three percent (3%) to the employer's contribution to pension as described above, employee's base salary will be reduced by an equal percentage.~~

D. Retiree Medical

1. The City will provide access to medical insurance coverage for those employees who retire from employment with the City and who constitute "annuitants" as defined by the PEMHCA.

   The City's maximum monthly contribution for each eligible annuitant will be equal to the minimum employer contribution required under the PEMHCA, referred to in Section IV(A). The provisions of the PEMHCA will govern medical insurance coverage for annuitants.

E. Retiree Longevity Pay

1. Employees hired before October 1, 2002 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will receive the following:

   a. From the date of retirement and until such time the retiree becomes eligible for Medicare, the City will contribute an amount equal to the health premium for the employee's elected health care plan and level of coverage, less the City's minimum monthly employer contribution under PEMHCA.

   b. Upon attaining Medicare eligibility, the City will contribute an amount equal to the premium cost for the supplemental Medicare plan offered by CalPERS, less the amount of the City's minimum monthly employer contribution under PEMHCA.

   c. Employees will not be entitled to City payments specified above during employment.

2. Employees hired between October 1, 2002 and March 16, 2010 and who, at the time of retirement, constitute an "annuitant" as defined by the PEMHCA, will

receive the following:

a. From the date of retirement and until such time that the retiree becomes eligible for Medicare, the City will contribute an amount to cover fifty percent (50%) of the Blue Shield Access HMO plan for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the Blue Shield Access HMO plan for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the Blue Shield Access HMO plan after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

b. Upon attaining Medicare eligibility, the City's contribution will equal the cost of fifty percent (50%) of the supplemental Medicare plan offered by CalPERS for employees with ten (10) years of service, plus an additional five percent (5%) of the cost of the supplemental Medicare plan offered by CalPERS for each additional year of service beyond ten (10) years, up to one-hundred percent (100%) of the supplemental Medicare plan offered by CalPERS after twenty (20) years of service, less the amount of the City's minimum monthly employer contribution under PEMHCA.

c. Employees will not be entitled to City payments specified above during employment.

F. Health Savings Plan:

1. For employees hired on or after March 17, 2010, the City will establish a Health Savings Plan to which the City and employees contribute to save, on a tax-deferred basis, money to help pay the cost of healthcare once an individual retires. The Health Savings Plan may be used for health-related expenses as provided under the terms of the Plan. Any tax consequences resulting from City contributions to the Health Savings Plan are the sole responsibility of the employee.

a. Participation is mandatory for all employees hired on or after March 17, 2010.

b. Starting after an employee has successfully completed his or her initial probationary period, the City will contribute fifty dollars ($50) per month to the employee's Health Savings Plan account. The employee will also contribute fifty dollars ($50) per month to his or her Health Savings Plan account.

c. During an employee's initial hire probationary period with the City, neither the

employee nor the City will contribute to the employee's Health Savings Plan account. Upon successful completion of the initial hire probationary period, the City will contribute a lump sum of fifty dollars ($50) per month for each month served in the employee's initial probationary period.

d. Upon cessation of employment with the City, the City will cease contributions to the individual's Health Savings Plan Account.

e. Employees hired on or after March 17, 2010 will not be vested in ongoing City contributions.

SECTION ~~VIII~~ IX – Leave Provisions

A. Vacation

Vacation benefits will be accrued, credited, and used in accordance with the City of Los Banos Vacation Leave Policy in effect on the date of this agreement; refer to City of Los Banos Policy & Procedures Manual.

Vacation Leave accrual for periods shorter than one calendar month will be pro-rated on the basis of actual service time during that partial month.

Regular Employees on a 56-hour workweek earn Vacation Leave, beginning with the date of hire, in accordance with the following guidelines:

- Regular Employees with five (5) full years of service or less earn nine and three tenths (9.3) hours Vacation Leave for each full calendar month of employment.
- Regular Employees who have completed from five (5) to fifteen (15) full years of service earn fourteen (14) hours Vacation Leave for each full calendar month of employment.
- Regular Employees who have completed over fifteen (15) full of years of service earn nineteen and twelve one hundredths (19.12) hours Vacation Leave for each calendar month of employment.

For regular employees on a 56-hour workweek, vacation Leave may be accumulated and saved in accordance with the following guidelines:

- Employees who have less than five (5) full years of service may save a maximum of two hundred twenty four (224) hours;
- Employees who have from five (5) to fifteen (15) full years of service may save a

maximum of three hundred thirty six (336) hours;

- Employees who have in excess of fifteen (15) full years of service may save a maximum of four hundred forty eight (448) hours.

Should any employee exceed the maximum accrual of vacation, accrual will cease until vacation accrual reduces to below the maximum amount allowed.

Regular Employees on a 40-hour workweek earn Vacation Leave, beginning with the date of hire, in accordance with the following guidelines:

- Regular Employees with five (5) full years of service or less earn six and sixty-seven one hundredths (6.67) hours Vacation Leave for each full calendar month of employment.
- Regular Employees who have completed from five (5) to fifteen (15) full years of service earn ten (10) hours Vacation Leave for each full calendar month of employment.
- Regular Employees who have completed over fifteen (15) full of years of service earn thirteen and thirty six one hundredths (13.36) hours Vacation Leave for each calendar month of employment.

For regular employees on a 40-hour workweek, vacation Leave may be accumulated and saved in accordance with the following guidelines:

- Employees who have less than five (5) full years of service may save a maximum of one hundred sixty (160) hours;
- Employees who have from five (5) to fifteen (15) full years of service may save a maximum of two hundred forty (240) hours;
- Employees who have in excess of fifteen (15) full years of service may save a maximum of three hundred twenty (320) hours.

Should any employee exceed the maximum accrual of vacation, accrual will cease until vacation accrual reduces to below the maximum amount allowed.

B. <u>Holidays</u>

In lieu of receiving time off for holidays, employees on a 56-hour workweek will be paid one hundred thirty four and four tenths (134.4) holiday hours per year, to be paid on a pay period basis. Payments will be handled in accordance with CalPERS regulations.

For regular employees on a 40-hour workweek, holidays will be handled in accordance with provisions of the City of Los Banos Holiday Leave Policy; City of Los Banos Policy & Procedures Manual in effect on the date of this agreement.

C. Sick Leave

The City will provide Sick Leave benefits in accordance with the City of Los Banos Sick Leave Policy; refer to City of Los Banos Policy & Procedures Manual in effect on the date of this agreement.

1. Regular Employees receiving full salary and benefits from the City are considered entitled employees for the purpose of Sick Leave and Vacation accrual.

2. Regular Employees on a 56-hour workweek earn Sick Leave at the rate of eleven and two tenths (11.2) hours for each calendar month of full-time service to the City.

3. Regular employees on a 40-hour workweek earn Sick Leave at the rate of eight (8) hours for each calendar month of full-time service to the City.

4. Sick Leave accrual for periods shorter than one calendar month will be pro-rated on the basis of actual service time during that partial month.

D. Education Leave

Effective July 1, 2015, the City will grant each employee in the bargaining unit thirty-two (32) hours of Education Leave to be used to attend non-mandatory training in the Incident Qualification and Certification System (IQCS), training to qualify for future promotion, or other voluntary job-related training that is not required by the Department. Training must be approved in advance by the Fire Chief.

The City shall not be responsible for payment of training fees or travel costs related to such non-mandatory training. However, employees may be eligible for tuition reimbursement in accordance with City policy.

Such leave shall not have a cash value and shall not be converted to pay in lieu of paid time off, either during employment or upon separation.

Each fiscal year, the City shall replenish used Education Leave up to thirty-two (32) hours. An employee's Education Leave bank shall not exceed thirty-two (32) hours.

Education leave may be used during an employee's regular work shift. Education leave used shall be paid at the employee's straight time rate, and shall not count as hours worked for the purpose of calculating overtime eligibility.

Employees shall be required to submit documentation to substantiate course attendance.

SECTION IX - Workday/Week Schedule

A. Fifty-six (56) Hour Schedule.

Shifts for 56-hour employees will be designated "A," "B," and "C." Each working shift will be forty-eight (48) hours' duration. Shifts will commence at 0800 hours (8:00 am) and terminate at 0800 hours (8:00 am), 48 hours later.

The applicable work period for purposes of determining Fair Labor Standards Act (FLSA) overtime will be a one-hundred eighty-two (182) hour, twenty-four (24) day work period. Employees on the 182 hour/24 day work period will receive premium overtime compensation at the rate of one and one-half (1.5) times their "regular rate of pay," for all time worked in excess of 182 hours worked in a 24-day work period. The overtime premium for hours between 182 and 192 is half time because the employee's regular pay is intended to compensate him or her for 192 hours of straight time.

1. When employees are asked to work on their days off or to hold-over into their regular day off, the City will compensate the employee at time-and-a-half (1½) of their regular rate of pay.

2. The agreement to exclude sleep time from hours worked expires April 15, 2010. Unused accrued leave banks (CTO, vacation and sick leave) as of April 15, 2010 will be converted by a factor of 1.4, with the understanding that as of April 15, 2010, twenty-four (24) hours of leave will be used to cover a period of twenty-four (24) hours' time off.

B. Forty (40) Hour Personnel

The workday begins at 0800 hours (8:00 am) and ends at 1700 (5:00 pm), Monday through Friday.

SECTION XI - Pay Rates and Practices

A. Promotions

An employee who is promoted to a classification having a greater maximum salary will be placed on the lowest step of the new salary range that results in not less than a five percent (5%) increase above the employee's current regular salary.

B. Pay Provisions

1. Regular

Effective ~~July 1, 2018~~October 1, 2020, contingent on Association ratification of this successor MOU no later than October 1, 2020, salary schedules for employees in the represented classes listed below shall be increased by ~~three~~ four percent (4~~3~~%) to reflect monthly salary ranges as follows:

EMPLOYEE CLASSIFICATION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
Fire Captain	~~5,599~~	~~5,879~~	~~6,173~~	~~6,482~~	~~6,806~~	~~6,976~~
	5,823	**6,114**	**6,420**	**6,741**	**7,078**	**7,255**
Fire Engineer	~~5,334~~	~~5,494~~	~~5,659~~	~~5,829~~	~~6,004~~	~~6,154~~
	5,547	**5,714**	**5,885**	**6,062**	**6,244**	**6,400**
Fire Fighter	~~4,387~~	~~4,606~~	~~4,836~~	~~5,078~~	~~5,332~~	~~5,465~~
	4,562	**4,791**	**5,031**	**5,283**	**5,547**	**5,686**

~~Effective the first full pay period following July 1, 2019, salary schedules shall be increased by three percent (3%) to reflect monthly salary ranges as follows:~~

~~EMPLOYEE CLASSIFICATION~~	~~STEP 1~~	~~STEP 2~~	~~STEP 3~~	~~STEP 4~~	~~STEP 5~~	~~STEP 6~~
~~Fire Captain~~	~~5,436~~	~~5,708~~	~~5,993~~	~~6,293~~	~~6,608~~	~~6,773~~
	~~**5,599**~~	~~**5,879**~~	~~**6,173**~~	~~**6,482**~~	~~**6,806**~~	~~**6,976**~~
~~Fire Engineer~~	~~5,179~~	~~5,334~~	~~5,494~~	~~5,659~~	~~5,829~~	~~5,975~~
	~~**5,334**~~	~~**5,494**~~	~~**5,659**~~	~~**5,829**~~	~~**6,004**~~	~~**6,154**~~
~~Fire Fighter~~	~~4,259~~	~~4,472~~	~~4,696~~	~~4,931~~	~~5,178~~	~~5,307~~
	~~**4,387**~~	~~**4,606**~~	~~**4,836**~~	~~**5,078**~~	~~**5,332**~~	~~**5,465**~~

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2. Overtime

Shifts will be covered in accordance with the Department's Shift Coverage Policy in effect on the date of this agreement.

Overtime pay will continue to be handled in accordance with the guidelines set forth in the City's Overtime Compensation Policy, refer to City of Los Banos Policy & Procedures Manual.

All hours in paid status will be considered as hours worked for the purpose of calculating overtime.

3. Fire Prevention/Code Enforcement Incentive Pay

The purpose of this incentive pay is to provide appropriate compensation for the unique and demanding work schedule required of Fire Prevention/Code Enforcement Officers. Firefighters who serve in the Job assignment of Fire Prevention/Code Enforcement Officer will be compensated, by administrative directive, at five percent (5%) above regular salary.

4. Bilingual Pay

Bilingual pay will be paid in accordance with the City's Bilingual Pay Policy, refer to City of Los Banos Policy & Procedures Manual, or as amended during the term of this agreement.

5. Call Back Pay

Employees who are required to report to work during assigned off duty hours shall be entitled to receive a minimum of three (3) hours Call Out compensation even though the actual time worked was less than three (3) hours; except in the following instances:

a. In the event the off duty time being worked extends into or begins immediately

following the employees assigned shift, he/she shall be entitled to compensation for only the actual off duty hours worked.

b. In the event the off duty time being worked is in response to a special assignment mutually agreed upon between the employee and the City, the employee shall be entitled to compensation for only the actual hours worked.

c. Employees shall be entitled to receive the three (3) hours Call Back Pay only one (1) time during any Twenty-Four (24) hour period. A Twenty-Four hour period, for the purpose of this benefit, shall be considered as 0001 hours–2400 hours. Essentially, an employee could be called out several times during a given Twenty-Four hour period and would receive three (3) hours compensation if the total hours worked were three (3) or less. Conversely, if the total hours worked exceeds four three (3), the employee would be compensated for the actual hours worked.

D. Education Incentive - Allowance

1. Effective July 1, 2018, in accordance with the City's Educational Incentive Policy (refer to City of Los Banos Policy & Procedures Manual), qualified Firefighters, Fire Engineers and Fire Captains will be entitled to receive Educational Incentive pay as follows:

   One Hundred Dollars ($100) per month for an AA/AS Degree, or
   One Hundred Seventy Five Dollars ($175) per month for a BA/BS Degree, or
   Two Hundred Twenty Five Dollars ($225) per month for a Masters' Degree

E. Certificate Pay

1. Firefighters will be entitled to receive the following compensation when they have been awarded and hold the specified State of California Firefighter Certificates as follows:

   Fifty Dollars ($50) per month for a Firefighter II – Certificate, or
   One Hundred Dollars ($100) per month for a California State Fire Marshall Fire Officer Certificate

F. Tuition Reimbursement

The City will provide reimbursement for schools, tuition, and specific expenses in

accordance with the guidelines set forth in the City of Los Banos Tuition Reimbursement Policy, or as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

G. Compensatory Time Off

Compensatory Time Off (CTO) will be handled in accordance with provisions outlined in the City's Compensatory Time Off Policy, or as amended during the term of this agreement; refer to City of Los Banos Policy & Procedures Manual.

Firefighters are permitted to accumulate a maximum amount of one hundred twenty (120) hours CTO. Employees may cash out CTO in excess of sixteen (16) hours, up to a total of eighty (80) hours maximum cash out annually, to be paid on June 5th and December 5th. Cash out of CTO will be paid by separate check upon request.

SECTION XII - Miscellaneous

A. Uniforms

1. Uniform Allowance

Effective October 1, 2020, the City will provide an annual uniform allowance of seven hundred dollars ($700) per year (prorated for Fiscal Year 20/21). Effective October 1, 2020, such allowance will be paid on a semi-monthly basis with each payroll ($29.17 per pay period).

The Uniform Allowance will be used for the purchase, replacement, cleaning and maintenance of uniform items. The Fire Chief and Union representatives will work together to compile a list of approved uniform items. The final approval of the uniform list will come from the Fire Chief. Employees are required to maintain uniforms in a clean and presentable manner in accordance with department requirements.

The City will provide accommodations and cleaning supplies at the stations to launder uniforms.

2. Uniform Issuance for New Hires ~~, Replacement, and Cleaning~~

~~The City will continue to provide required uniforms and equipment in accordance with provisions outlined in the City of Los Banos Personnel Benefits section of the City of Los Banos Policy & Procedures Manual. The City will report uniform expenses to CalPERS in accordance with applicable regulations. Additionally, the City of Los Banos will provide accommodations and cleaning supplies at the stations to launder~~

~~uniforms, with the following guidelines:~~

For new hire employees, the City will purchase an initial set of uniforms, to include four (4) Nomex shirts, four (4) pants, six (6) t-shirts, one (1) hat, and one (1) sweatshirt. Upon the employee's successful completion of the initial probationary period, the City will purchase one (1) Class A uniform.

~~4. Fire Department employees who are working a fifty-six (56) hour workweek will be issued a minimum of seven (7) work uniforms.~~

~~On an as needed basis as determined by the Fire Chief, the City will provide up to five Fire Department t-shirts, and one Fire Department collared sweatshirt. The City will provide uniform belts, name tags, and uniform/EMS jackets.~~

~~5. Fire Department employees who are working a forty (40) hour workweek will be issued a minimum of eleven (11) work uniforms.~~

~~3. On an as needed basis as determined by the Fire Chief, the City will provide up to five Fire Department t-shirts, and one Fire Department collared sweatshirt. The City will provide uniform belts, name tags, and uniform/EMS jackets.~~

~~2. 4. The City will report to California Public Employees' Retirement System (CalPERS), the average annual cost of uniforms and launder supplies in accordance with CalPERS requirements.~~

3. Reporting Uniform Costs to CalPERS

For classic members of CalPERS (all members that do not fit within the definition of a "new member" as defined by the Public Employee Pension Reform Act (PEPRA)), t~~T~~he City will report to CalPERS the average annual cost of uniforms~~.~~, uniform allowance, and launder supplies on a semi-monthly basis in accordance with CalPERS requirements and applicable regulations, not to exceed one thousand dollars ($1,000) per fiscal year per employee.

B. Safety Shoes: On an as needed basis as determined by the Fire Chief, the City will provide one (1) pair of safety boots or shoes every other year.

C. Discipline: The City will comply with the Firefighter Procedural Bill of Rights.

D. Department Policies: The City may make mid-term changes to the management policies contained in Appendices A through F, subject to the opportunity to meet and confer over changes within the scope of employment, and mutual agreement.

E. Residency: Employees are required to establish a bona-fide residence and reside within a reasonable distance from the City Fire Department. Reasonable distance shall mean a maximum of forty-five (45) minutes of driving time between the employee's residence and the nearest Fire Station, with the employee driving at posted speed limits.

F. Labor Management Committee: The City and Association agree to meet in a labor management committee to discuss labor issues, as needed, up to four (4) times per year. The Committee will consist of one representative of Fire Management, one representative of Human Resources, and two representatives of the Fire Association.

SECTION XIII - No Strike

The Association, its members and representatives, agree that it and they will not engage in, authorize, sanction or support any strike, slowdown, stoppage of work, curtailment of production, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties; and neither the Association nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management of the City, nor to effect a change of personnel or operations of management or of employees not covered by this Memorandum of Understanding. No lockout of employees shall be instituted by the City during the term of this MOU. This Section does not preclude the Association from engaging in lawful picketing.

SECTION XIV~~I~~ – Grievance Procedure

A. Purpose: The purpose of the Grievance Procedure is to provide for fair and prompt review and resolution of issues affecting labor relations.

B. Grievance Defined: A grievance will be defined as an alleged violation of the MOU.

C. Step 1 Informal Grievance: Within fourteen (14) calendar days of the occurrence of the act(s) that constitute the grievance, an employee will discuss the grievance with his/her immediate supervisor, who will investigate and attempt to resolve the matter. The supervisor will give the employee a verbal reply within fourteen (14) calendar days after the discussion. If the employee is not satisfied with the reply, he or she may proceed to Step 2.

D. Step 2 Formal Grievance: Any grievance not resolved at Step 1 may be submitted in writing to the Department Head no later than fourteen (14) calendar days after the date of the supervisor's verbal reply. Formal Employee Grievances will be submitted on the prescribed form (Employee Grievance Report).

Upon receipt of the Employee Grievance Report, the Department Head will conduct a thorough review of the circumstances giving rise to the Grievance, including a meeting with the employee who initiated the Grievance.

At the time of such meeting, which will be scheduled no later than seven (7) calendar days from the date the Department Head received the Employee Grievance Report, the employee may bring with him/her one (1) advisor of his/her choice to assist in presentation of his/her concerns. Electronic or mechanical recording of the hearing is permitted by any participant.

Within ten (10) calendar days after the date of the Grievance Hearing the employee initiating the Grievance will be provided with a written response (Finding on Employee Grievance) which sets forth the Department Head's findings on the Grievance and specifies what, if any, action will be taken to correct the problem. Exception: In those situations where additional review is required, the employee will be given written notice of this fact within the normal ten (10) day response time and follow-up notices of delay by the conclusion of each subsequent ten (10) day period thereafter until such time as the Findings are completed.

E. Step 3 Grievance Appeal: If an employee is dissatisfied with the initial Finding on Employee Grievance, he/she may appeal the decision to the City Manager.

To exercise their right to appeal a Finding on Employee Grievance, employees must file a written request with the City Manager by no later than five (5) calendar days from the date of receipt of the Step 2 Findings on Employee Grievance. The request for Appeal will include: copies of the original Employee Grievance Report, Findings on Employee Grievance, and a cover letter setting forth the specific reasons the employee disagrees with the decision reached with regard to his/her Grievance. Failure to submit the required material within the specified time period will be considered as a waiver of the employee's right to Appeal.

Upon receipt of a Grievance Appeal, the City Manager will conduct a thorough review of circumstances giving rise to the Grievance, including a meeting with the employee initiating the Grievance within no later than ten (10) calendar days from the date the City Manager received the employee's Grievance Appeal.

The decision of the City Manager will be final and binding. The City Manager's decision will be limited as follows:

- The decision will neither add to, detract from, nor modify the language of the MOU.
- The decision will be confined to the precise issue(s) the grievance has raised at Step 1.
- Any monetary award in favor of the grievant may not exceed wages or benefits that the grievant has actually lost as a result of the matters alleged in the grievance. In no event will any grievance award include any compensatory damages or attorneys' fees.

F. Time Limits: Any grievance will be deemed settled when it is not appealed to the next step within the specified time limit, unless an extension of time to a definite date has been mutually agreed upon in writing. Any grievance that the grievant fails to timely move to the next step will be deemed resolved on the basis of the last disposition.

SECTION XV~~III~~ – Personnel Rules Update Meet and Confer

Upon notice from the City, the Association shall have the opportunity to meet and confer over updates to the City's Personnel Rules.

SECTION X~~I~~VI - Provision of the Law

This MOU is subject to all applicable current and future Federal and State laws, State regulations, the Municipal Code of the City of Los Banos and the Constitution of the State of California.

Should any of the provisions herein contained be rendered or declared invalid by reason of the State or Federal legislation or court action, such invalidations of such part of portions hereof will not invalidate the remaining portions hereof and they will remain in full force and effect, insofar as such remaining portions are severable.

SECTION XVII – Term

The term of this MOU will commence ~~July 1, 2018~~October 1, 2020 and will expire June 30, 2021~~0~~, except as otherwise provided in this MOU.

LOS BANOS FIREFIGHTERS ASSOCIATION	CITY OF LOS BANOS
_____	_____
Signature	Signature

Title	Title
Date	Date

APPENDIX A: SHIFT COVERAGE POLICY

This policy is designed to establish a method to administer shift coverage in a timely and positive manner.

A current employee shift rotation list will be established containing all shift employees. The list will have four segments:

1. Fire Captains;
2. Fire Engineers;
3. Firefighters; and
4. Fire Engineers that have met 80% of the State Certified Fire Officer requirements.

Employees will be listed by date of hire in their existing ranks. If promoted or hired on the same date, employees promotional testing scores will be used to rank employees.

Shift coverage by rotational list is voluntary.

Employees on the list will provide current phone information to which the employee is accessible 24-7. Employees will be responsible to update their phone information.

The list will be a rotating list with adjustments made as employees opt out or new employees are added. All employees will be added to the list, and will only be removed from the list if requested in writing by the employee.

Employees calling in sick for their scheduled shift will do so as soon as possible or by 0700 prior to starting their shift. The employee will talk to the Captain on duty advising that he or she is sick, <u>and</u> will leave a voice message on the Chief's office telephone.

The employee that is scheduled to be relieved by the employee who called in sick will stay on duty until relieved or released by the on-duty Captain or Chief Officer.

Employees that become sick or need to leave work for an emergency while on duty will advise the Shift Captain, and will stay on duty until relieved or released by a Chief Officer or Shift Captain.

Employees who are on duty, have approved time off, seek shift coverage, fail to answer the Department's phone call(s), or decline the shift will be passed over for voluntary shift coverage. This will be recorded as a "U" (unable to cover) on the list, and the next employee on the list will be called.

If, after going through the entire list of employees in the applicable rank, the shift is not covered, in the following order the Department will request voluntary coverage from employees working out of class (move down pay). The rank immediately above the rank to be filled will be given the first option. If, after going through the entire list of employees in ranks available to move down, the shift is not covered, the Department will request voluntary coverage from employees working out of class (move up pay). If, after going through the entire list of employees in the applicable ranks, the shift is not covered, the Department will fill the shift with a qualified volunteer firefighter if available, hold and fill the position from the employees on duty, assign mandatory shift coverage to another employee qualified to fill the vacancy.

Employees covering a shift are required to abide by all rules and requirements of a normal shift (i.e. punctual, proper uniform, work assignment as required, and respond to emergencies as required).

Employees filling a shift who become sick and/or need to leave work mid-shift for an emergency, will be compensated only for hours actually worked. Employees will stay on duty until relieved or released by a Chief Officer or Shift Captain.

No "place holding" of shifts will be permitted.

If, instead of filling a shift when called by the Department from the rotational list, two employees in the same rank agree, solely at their option and with the approval of the Department, to a shift trade, the hours worked will be excluded by the City in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime. For the purpose of calculating overtime, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

For Immediate Need shift coverage (shift coverage needed within forty eight hours), if the employee fails to answer the department's call, the department will leave a message and encourage employees to call in as soon as possible to make sure the position is filled, but will not wait for a return call from the employee before contacting the next person on the list.

For Planned Need shift coverage (shift coverage needed for any time greater than 48 hours in advance):

1. If the employee answers the call, he or she may ask for up to 30 minutes to confirm or deny the shift.

2. If an employee does not answer the phone call, and the Department gets an answering system, a message will be left indicating a need for shift coverage for the specific date. Employees will have four hours to return the call to accept or deny the shift. If the employee accepts the shift coverage, it will be considered a filled shift. If the Department does not receive a call back within the four hours, it will be marked as "U" (unable to contact) with the date of the requested shift to fill, and then be offered to the next employee in the rotation.

   When an employee agrees to voluntarily cover the shift, he or she will notify the Fire Chief and Administrative Assistant by e-mail.

APPENDIX B: WORKING OUT OF CLASSIFICATION

"Working out of Classification" is defined as temporary assignment to a higher classification.

Compensation for move-up assignments in the amount of 5% will apply.

In accordance with Government Code section 20480, an appointment to a higher classification in a vacant position during recruitment for a permanent appointment will not exceed 960 hours in a fiscal year.

At the sole discretion of the Fire Chief, or in accordance with the overtime hiring policy, the Department can move up a Firefighter into an Engineer's position or an Engineer into a Captain's position from within the employees on that crew or shift. Assignments may be on a rotational basis. Working out of class assignments will not be noted on the shift coverage rotational list.

In the event a Firefighter scheduled to work a five-person shift is required by the Fire Chief to move up to an Engineer position, the Firefighter assigned to the station at which the Engineer is off will move up to Engineer position, as needed, to cover the shift (i.e., Fire Station #1 Engineer is off duty, Station #1's Firefighter will move to up cover the Engineer position, as needed. Fire Station #2 Engineer is off duty, Stations #2's Firefighter will move up to cover the Engineer position, as needed.)

In the event move up coverage by a Firefighter is required due to an Engineer declining an overtime shift, a Firefighter may move up to an Engineer position at a different station (i.e., a Firefighter from Station #1 may move up and work as an Engineer at Station #2, or a Firefighter from Station #2 may move up and work as an Engineer at Station #1).

Qualified employees wishing to work voluntary overtime in a class lower than their current class (downgrade) may volunteer to do so and will be compensated at one and one half times the highest hourly rate for the position published in the City's compensation plan. Said employees will be selected according to provisions set forth in the Overtime Hiring policy.

Eligible employees who work up under this policy may elect to be compensated via salary or CTO. If the employee elects to be compensated via CTO, the CTO shall be valued at the employee's applicable rate of pay for his or her regular classification (i.e., the 5% move up compensation shall not apply) for the purpose of CTO usage or cash out upon separation. Employees electing to earn CTO for move up assignments knowingly and willingly waive the right to earn move up compensation. The option to earn and use CTO

shall be in accordance with the City's CTO policy.

Employees who work down shall be compensated via salary.

APPENDIX C: DAILY ROUTINE POLICY

General Information – Operating Procedure

48/96 Work Schedule

Employees will be in uniform from 7:45 am until 6 pm, unless engaged in a physical activity or assignment requiring non-uniform attire.

The new work schedule is a full 48 hour work shift. There is no more sleep time deduction. Employee will be putting 24 hours per day on his or her time sheet.

Employee may retire to bed at 2200 hours if work permits. Work assignments may require employees to be up and working prior to 0800 hours.

If, during daytime hours, the on-duty Captain determines that the crew is sleep deprived to a point that could be detrimental to the crew's ability to perform their job, the Captain will immediately notify the ranking officer. If the ranking officer determines that the schedule can be adjusted without reducing the level of service provided to the community, the Captain on-duty can authorize employees to bed down during normal business hours. Crews will still be responsible for responding to emergency calls for service.

During the time employees are sleeping, they will be required to respond to all calls for service in a timely manner (i.e. within 2 minutes of dispatch). Note: Crew at both stations will be prepared to assist and respond to calls for service at all times. Shift captains will maintain communication with his crew at all times.

Projects and/or general clean-up will continue until 1800 hours or when the job is complete.

Employee is responsible for his time sheet and getting it turned in on time.

The Captain going off shift will provide a detailed accounting of events that took place on their shift, to include but not be limited to inspections, vehicle repair problems, equipment problems and any other pertinent information to the on-coming Captain by 0800 hours to make a smooth transition between shifts.

Employee shall be aware that Saturdays, Sundays, and/or holidays are normal work days and will be addressed as such.

APPENDIX D: MINIMUM STAFFING POLICY

City firefighting apparatus shall be staffed with bargaining unit personnel in the following manner:

Daily Staffing:

The City will provide a minimum staffing of four firefighters (one Captain, two Engineers, and one Firefighter, or the equivalent of these four positions through means identified in the shift coverage and working out of classification policies) daily.

Volunteer firefighters will not be used to satisfy minimum daily staffing requirements except as identified in the Department's Shift Coverage policy.

At no time will volunteer firefighters be assigned to the Captain or Engineer position if there are bargaining unit personnel available.

OES / Strike Team Assignments:

City apparatus deployed on strike teams will respond with no fewer than four (4) personnel for Type 1 assignments and three (3) personnel for Type 2 assignments.

Staffing will be as follows:

Type 1 Assignment: 1 Captain, 1 Engineer, 2 Firefighters (or equivalent with acting/ move-up assignments)

Type 2 Assignment: 1 Captain, 1 Engineer, 1 Firefighter (or equivalent with acting / move-up assignments).

Positions will be staffed with the following personnel:

4/0 Staffing: When Out-of-County Type 1 assignments require 4/0 staffing, the staffing will consist of the following:

1 Career Fire Captain
1 Career Fire Engineer
1 Career Firefighter
1 Volunteer Firefighter

Backfill overtime positions for Career Captains and Engineers will be filled by bargaining unit employees. The backfill Firefighter position may be filled with a Qualified Volunteer Firefighter. In the event that both Firefighter positions on the Strike Team assignment are staffed with Career Firefighters, the Chief may fill both Firefighter positions with Qualified Volunteer Firefighters.

3/0 Staffing: When Out-Of-County Type 2 assignments require 3/0 staffing, the staffing will consist of the following:

1 Fire Captain
1 Fire Engineer
1 Volunteer Firefighter

All backfill overtime positions will be filled with bargaining unit employees. In the event that no bargaining unit employees are available, the Chief may backfill the position with a Qualified Volunteer Firefighter.

The Department will allow voluntary hold overs of up to twenty four (24) hours to allow an employee returning from a strike team to rest before reporting for duty. Bargaining unit employees returning from a strike team will be given the option to take vacation or compensatory time off for the remaining hours of their shift as long as there are willing employees to cover said hours.

Exceptions to Minimum Staffing:

In situations resulting on unplanned short term vacancies in which a firefighter goes off duty, the Assistant Fire Chief may be counted as a firefighter, for the purpose of minimum staffing, for up to eight hours. A firefighter will be considered to be on-duty if working on an assignment during a shift, even if that assignment causes the firefighter to be away from the station.

A company may remain in service or be placed in service without a full complement of staffing as soon as the Department initiates callback for that company.

Committing On Duty Staff to Non-Emergency Events

As determined by management, fire companies may be assigned to provide non-emergency services to the community such as, but not limited to, CPR instruction, standing by at sporting events or other special events. Those assigned companies shall remain in service and available for emergency response.

APPENDIX E: SHIFT TRADE POLICY

PURPOSE:

To establish a policy that allows personnel to exchange shift and/or hours without any negative effect to the Department or City.

DEFINITION:

Shift Trade: Two employees of the Fire Department of the same rank agree to exchange their scheduled shift or hours. Qualified employees of different rank may also agree to exchange their scheduled shift or hours.

PROCEDURE:

1. The employees will fill out and complete the Department Shift Exchange Form.

2. The form will be submitted to the Administrative Assistant no less than one week in advance of the requested shift trade. A shift trade form is subject to final approval by the Fire Chief.

3. Upon approval, the trade can be changed no less than seven (7) days prior to the scheduled trade. After that time, planned shift trades will not be subject to change except in the event of an emergency. A change to a planned shift trade must be submitted to the Administrative Assistant, for final approval by the Fire Chief, during normal business hours (i.e., 8 am – 5 pm, Monday through Friday).

4. The exchange between the two employees will be completed within twelve (12) months.

5. The hours worked by the substituting employee will be excluded by the City in the calculation of hours worked for that employee. For the purpose of calculating overtime, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

6. For payroll purposes, the employees will reflect the regularly scheduled shifts on their time sheets. The employee who trades away his or her regularly scheduled shift will reflect the shift as worked. The substituting employee will not reflect the additional hours worked on his or her time sheet.

7. Once a shift trade is approved, if the substituting employee fails to report for the

exchanged shift/ hours, the employee may be subject to discipline up to and including termination.

8. It is the responsibility of the employees to manage their shift trade. The Department will not intervene in a dispute between two employees, and the Department will not intervene if no employee of the same rank wishes to trade shifts.

9. Once the shift trade is approved, the employees may not request vacation or comp time off for the traded shift or hours. If the substituting employee is sick on the day/hours of the shift trade, the employee will use his or her sick time.

10. Any and all required training that falls on an employee's regularly scheduled, traded shifts will be made up within one week of the scheduled training date.

NON-MOU SIDE LETTER
BETWEEN CITY OF LOS BANOS
AND LOS BANOS FIRE FIGHTERS ASSOCIATION
RE: TRAINING PILOT PROGRAM

This Side Letter of Agreement ("Agreement") between the City of Los Banos ("City") and the Los Banos Fire Fighters Association ("LBFFA") (collectively referred to as the "Parties") is entered into with respect to the following:

WHEREAS, the current Memorandum of Understanding ("MOU") between the City and LBFFA has a term of October 1, 2020 - June 30, 2021; and

WHEREAS, the Parties seek to enhance training of professional and volunteer fire personnel, and wish to pilot a program for monthly training; and

WHEREAS, the City and LBFFA have met and conferred and have agreed to the following training pilot program;

NOW THEREFORE, the parties hereby agree to the following:

1. Effective the first month following City Council adoption of a successor MOU in 2020, and for a period of the remainder of the 20/21 Fiscal Year, the Department will schedule four (4) hours of training for all Firefighters, Fire Engineers, and Fire Captains one time per month. Employees who are unavailable to attend will work with the Fire Chief to make up the four hours of training, while on duty, prior to the next months scheduled training.

2. Upon the end of the pilot program, the parties will evaluate the success of the program, and discuss possible continuation of the training program. This program does not establish a past practice or create a precedent for future training.

SO AGREED:

FOR THE LBFFA	FOR THE CITY
Daniel Fine	
10/1/2020	October 1, 2020
DATE	DATE

City of Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

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

DATE: October 7, 2020

TYPE OF REPORT: Consent Agenda

SUBJECT: Update to Salary Schedule

Recommendation:
Attached please find a resolution for your review and consideration of approval that would amend Division 4, Salary Schedule-Employee Classifications to reflect changes associated with the approval of the Los Banos Police Officers Association (LBPOA), Los Banos Police Sergeants Association (LBPSA) and Los Banos Fire Fighters Association (LBFFA) Tentative Agreements (TA)/Memorandums of Understanding (MOU).

Discussion:
With approval of the TA/MOUs with the LBPOA, LBPSA, and the LBFFA effective October 1, 2020, the City's Salary Schedule needs to be amended to reflect the approved four percent (4%) salary increase for the Police Officers, Police Sergeants, Fire Fighters, Fire Engineer and Fire Captains.

Fiscal Impact:
Staff will continue to further analyze the fiscal impact and prepare a budget adjustment at a later date, if needed.

Reviewed by:

Sonya Williams, Finance Director

Alex Terrazas, City Manager

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 CHANGES TO SECTION F – FIRE AND SECTION G – POLICE

WHEREAS, the City Council of the City of Los Banos has received a request that the Division 4, Salary Schedule of the City Policy Manual be amended to reflect changes associated with the approval of the Los Banos Fire Fighters Association (LBFFA) Tentative Agreement (TA)/Memorandum of Understanding (MOU), Los Banos Police Sergeants Association (LBPSA) TA/MOU, and Los Banos Police Officers Association (LBPOA) TA/MOU, as follows, effective October 1, 2020: Four percent (4%) salary increase for the Fire Captain, Fire Engineer, Fire Fighter, Police Sergeant, and Police Officer.

WHEREAS, said request has been reviewed and approved by the City Council of the City of Los Banos at their regular meeting of October 7, 2020.

NOW, THEREFORE, BE IT RESOLVED that Division 4, Salary Schedule of the City Policy Manual is hereby amended to reflect the changes as listed above and is hereby approved as submitted as "Exhibit A" respectively.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, 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

Exhbit A

DIVISION 4
SALARY SCHEDULE
(Approved October 7, 2020 / Effective October 1, 2020)

SEC. 4003 REGULAR (FULL TIME) EMPLOYEE CLASSIFICATIONS-MONTHLY SALARY

SECTION F - FIRE & BUILDING
TOTAL POSITIONS AUTHORIZED (20)

EMPLOYEE CLASSIFICATION	AUTHORIZED	RANGE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
Fire Captain	(3)		~~5,599~~	~~5,879~~	~~6,173~~	~~6,482~~	~~6,806~~	~~6,976~~
			5,823	***6,114***	***6,420***	***6,741***	***7,078***	***7,255***
Fire Engineer	(6)		~~5,334~~	~~5,494~~	~~5,659~~	~~5,829~~	~~6,004~~	~~6,154~~
			5,547	***5,714***	***5,885***	***6,062***	***6,244***	***6,400***
Fire Fighter	(7)		~~4,387~~	~~4,606~~	~~4,836~~	~~5,078~~	~~5,332~~	~~5,465~~
			4,562	***4,791***	***5,031***	***5,283***	***5,547***	***5,686***

SECTION G - POLICE
TOTAL POSITIONS AUTHORIZED (80)

EMPLOYEE CLASSIFICATION	AUTHORIZED	RANGE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6
Police Sergeant	(8) [1]		~~6,883~~	~~7,228~~	~~7,589~~	~~7,968~~	~~8,366~~	~~8,575~~
			7,158	***7,516***	***7,892***	***8,287***	***8,701***	***8,919***
Police Officer	(37) [1]		~~5,159~~	~~5,417~~	~~5,688~~	~~5,972~~	~~6,271~~	~~6,428~~
			5,365	***5,634***	***5,916***	***6,212***	***6,523***	***6,686***

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 7, 2020

SUBJECT: Parks & Recreation Update Presentation

TYPE OF REPORT: Informational Item

Recommendation:

Informational item only, no action to be taken.

Discussion:

There will be an update on Parks & Recreation, presented by Parks & Recreation Operations Manager, Joe Heim.

Reviewed by:

Alex Terrazas, City Manager

Attachments:
Power Point Presentation

Los Banos Parks & Rec Update

October 7th, 2020

Parks Make Life Better!®

Planning for the future of Parks

- Dog Park
- Parks Master Plan
- Cal Fire CCI Urban and
- Community Forestry Grant
- Statewide Park Development and Community Revitalization Program (SPP)
- Splash Pad Project
- Measure H

Los Banos Dog Park

Construction underway at AG Sports Complex

Small dog and mixed dog areas available

Available to open this winter

Parks Master Plan

PARKS MASTER PLAN

LOS BANOS

What have we done?

- Stakeholders meetings
- January 9th public meeting
- September 10th public meeting
- August 14th - September 17th Survey

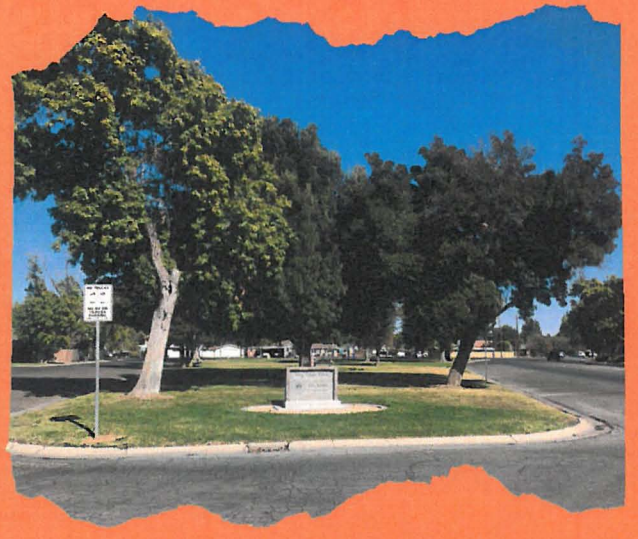
What's next?

- October 21st - Parks and Rec. Commission meeting
- November / December City Council Meeting

Cal Fire CCI Urban and Community Forestry Grant

Awarded grant for:

- Establish the City of Los Banos' first Urban Forest Management Plan
- Plant 100 trees in the community
- Fund tree care training for staff and provide GIS mapping for trees in the community



Projects must be complete by March 30th, 2024

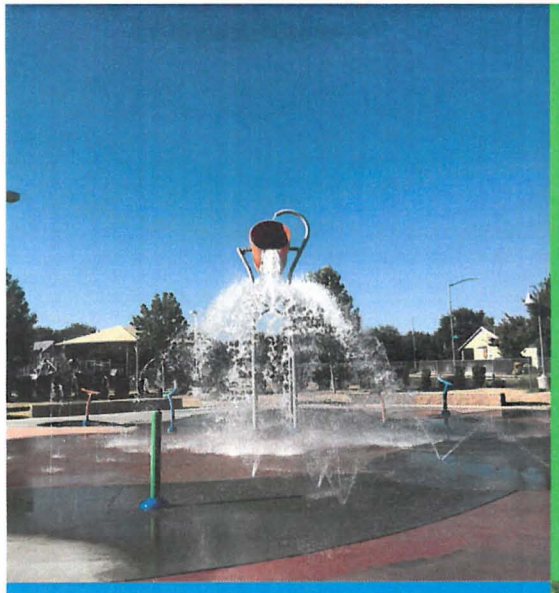
Statewide Park Development and Community Revitalization Program (SPP)

What have we done?

- In August 2019, Parks and Recreation submitted an application for the Statewide Parks Program grant.
- Submitted design including:
  - Installation of a splash pad and large playground
  - Installation of a Veterans Memorial Wall
  - Installation of lighted basketball and pickleball courts
  - Construction of a replacement Rec. Hall facility
  - Turf, tree, shade, lighting & parking upgrades

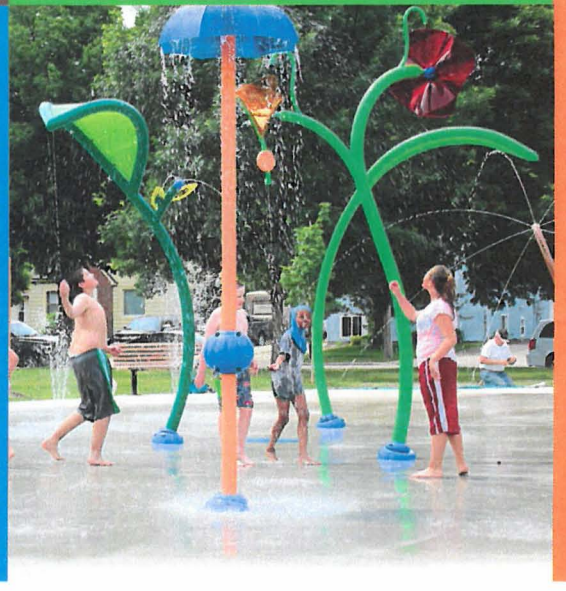
What's next?

- October 15th, 5:00pm, virtual public meeting
- October 17th, 10:00am-2:00pm, Open House - Community Center
- Submission due December 14th, 2020



Held virtual public meeting on September 29th, 2020

We need your input!



Splash Pad Project

- Los Banos Parks and Recreation is completing a feasibility analysis for a future splash pad project!
- The splash pad would be the first of its kind in Los Banos!
- Three locations are being looked at:
  - Pacheco Park
  - AG Sports Complex
  - Ranchwood Park

Measure H

- City Park Playground replacement
- COVID-19 restrictions and recreation programs
- Providing facility and turf improvements
- Cartegraph asset management system
- Grant support

City of Los Banos
Supported by
Measure H
Police - Parks & Rec

Thank You.

Questions?

ParksandRecreation@LosBanos.org

City of Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor Villalta and City Council Members

FROM: Alex Terrazas, City Manager

DATE: October 7, 2020

TYPE OF REPORT: Regular

SUBJECT: Continuation of Existence of Local Emergency COVID - 19

RECOMMENDATION

1. Adopt Resolution No. _____

   RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS CONTINUING THE DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY WITHIN THE CITY OF LOS BANOS (COVID-19)

BACKGROUND

The Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness caused by a novel (new) coronavirus was first detected in Wuhan, Hubei Province, People's Republic of China and the first case was reported on December 31, 2019, in China. Cases of COVID-19 are now being reported internationally outside of China including the United States.

Coronaviruses are a large group of viruses that are common among animals and humans. This novel coronavirus that causes COVID-19 is a newly discovered coronavirus that has not been previously detected in animals or humans. The source of this virus is not yet known.

Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death.

There is currently no vaccine to prevent COVID-19. The best way to prevent illness is to avoid being exposed to this virus. The virus is thought to spread mainly from person-to-person between people who are in close contact with one another (within about 6 feet). This occurs through respiratory droplets produced when an infected person coughs or sneezes. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Older adults and people who have severe underlying chronic medical conditions like heart or lung disease or diabetes seem to be at higher risk for developing more serious complications from COVID-19 illness.

Chronology of events:

- On March 17, 2020 the City Manager as the City's Director of Emergency Services declared a local emergency.

- On March 18, 2020 the City Council adopted Resolution No. 6190 ratifying and confirming the declaration of a local emergency by the City Manager as the Director of Emergency Services.

- On April 15, 2020 the City Council adopted Resolution No. 6203 which extended the proclamation of the existence of a local emergency by the City's Director of Emergency Services and ratified and confirmed all actions taken by and orders of the City Manager or designee as the City's Director of Emergency Services, including Executive Order 2020-01 (face coverings for covered businesses) and Executive Order 2020-02 (public meeting times from 7:00p.m. to 4:00 p.m.).

- On June 3, 2020 the City Council adopted Resolution No. 6222 which extended the proclamation of the existence of a local emergency by the City's Director of Emergency Services and ratified and confirmed all actions taken by and orders of the City Manager or designee as the City's Director of Emergency Services including Executive Order 2020-01 and Executive Order 2020-02.

- On June 12, 2020 Merced County revised its Stay-at-Home Order into the Stay Safe Order.

- On June 17, 2020 the City Council rescinded Executive Order 2020-01 and by motion ordered the wearing of face coverings in the city council chambers and all other city buildings open to the public.

- On June 18, 2020 Governor Gavin Newsom announced a statewide mandate for face coverings for all individuals while in public.

- On July 15, 2020 the City Council adopted Resolution No. 6242 which extended the proclamation of the existence of a local emergency by the City's Director of Emergency Services and ratified and confirmed all actions taken by and orders of the City Manager or designee as the City's Director of Emergency Services.

- On August 5, 2020 the City Council reviewed Executive Order 2020-03 and Amendment No. 1 to Executive Order 2020-02 and received and considered comments and ratified, Executive Order 2020-03 and Amendment No. 1 to Executive Order 2020-02.

- On August 19, 2020 the City Council adopted Resolution No. 6261 which extended the proclamation of the existence of a local emergency by the City's Director of Emergency Services and ratified and confirmed all actions taken by and orders of the City Manager or designee as the City's Director of Emergency Services.

- As of September 28, 2020 there were 8,939 confirmed cases (353 probable active) of COVID-19 (novel coronavirus) and 143 deaths in Merced County; and 1,107 confirmed cases in the City of Los Banos; and 805,263 confirmed cases state wide and 15,608 deaths state-wide. The numbers of confirmed cases continue to increase in Merced County and surrounding counties and the State of California.

- Currently, the County of Merced remains under Stay Safe to Stay Open Order issued by the Health Officer of Merced County on August 4, 2020. The reasons for declaring the local emergency still exist.

DISCUSSION

Staff is recommending that the City Council continue the Proclamation of the City Manager declaring the existence a local emergency pursuant to California Government Code Section 8630, in order to ensure appropriate resources and funding are available to the City in its response to the growing concern of COVID-19. Section 8630 requires that the City Council confirm the continuing existence of the local emergency every sixty (60) days. This recommendation is based on the data that the number of confirmed cases in Merced County and surrounding counties and the state of California continue to increase. The proposed resolution reaffirms the local emergency.

FISCAL IMPACT

There is no fiscal impact associated with this specific item. However, declaring a state of emergency may allow state/federal reimbursements as described above.

Reviewed by:

Alex Terrazas, City Manager

Attachments:
Proposed Resolution

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS CONTINUING THE DECLARATION OF THE EXISTENCE OF A LOCAL EMERGENCY WITHIN THE CITY OF LOS BANOS (COVID-19)

WHEREAS, California Government Code Section 8630 provides that a local emergency may be proclaimed by the governing body of a city; and

WHEREAS, on March 17, 2020, the City Manager as the City's Director of Emergency Services declared a local emergency, finding that that conditions of extreme peril to the safety of persons and property have arisen within the City of Los Banos and that these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Los Banos; and,

WHEREAS, on March 18, 2020, the City Council of the City of Los Banos adopted Resolution No. 6190 ratifying and confirming the aforementioned declaration of a local emergency by the City Manager as the Director of Emergency Services; and

WHEREAS, on April 15, 2020, the City Council of the City of Los Banos adopted Resolution No. 6203 ratifying and confirming the aforementioned declaration of a local emergency by the City Manager as the Director of Emergency Services; and

WHEREAS, on June 3, 2020, the City Council of the City of Los Banos adopted Resolution No. 6222 ratifying and confirming the aforementioned declaration of a local emergency by the City Manager as the Director of Emergency Services; and

WHEREAS, on July 15, 2020, the City Council of the City of Los Banos adopted Resolution No. 6242 ratifying and confirming the aforementioned declaration of a local emergency by the City Manager as the Director of Emergency Services; and

WHEREAS, at the regular City Council meeting of August 5, 2020 the City Council reviewed Executive Order 2020-03 and Amendment No. 1 to Executive Order 2020-02 and received and considered comments on the same from interested stakeholders; and

WHEREAS, as a consequence of such review the City Council ratified, Executive Order 2020-03 and Amendment No. 1 to Executive Order 2020-02.

WHEREAS, on August 19, 2020, the City Council of the City of Los Banos adopted Resolution No. 6261 ratifying and confirming the aforementioned declaration of a local emergency by the City Manager as the Director of Emergency Services; and

WHEREAS, Government Code Section 8630 requires that the City Council to review the need for continuing the local emergency at least every sixty (60) days; and

WHEREAS, the COVID -19 pandemic and associated emergency conditions are of an ongoing nature warranting the need to continue the declaration of the existence of a local emergency within the City of Los Banos.

NOW, THEREFORE, the City Council of the City of Los Banos, does hereby resolve as follows:

1 All of the above recitals are true and correct; and

2. The conditions of extreme peril to the safety of persons and property continue to exist within the City of Los Banos, caused by the effects of COVID-19; and

3. The aforementioned conditions of extreme peril warrant and necessitate the continuance of the proclamation of the existence of a local emergency by the City's Director of Emergency Services as ratified and confirmed by the City Council on March 18, 2020; and.

4. The City Council has reviewed the need for continuing the declaration of local emergency and finds based upon substantial evidence that the public interest and necessity require the continuance of the proclamation and declaration of local emergency; and

5. The City Council does hereby proclaim and declare an extension and continuation of the proclamation of the existence of a local emergency by the City's Director of Emergency Services as ratified and confirmed by the City Council on March 18, 2020 in accordance with California Government Code Section 8630; and

6. It is hereby further resolved, proclaimed and ordered that all actions taken by and orders of the City Manager or designee as the City's Director of Emergency Services and the Fire Chief who is delegated the authority under the Los Banos Municipal Code, in response to the local emergency as authorized by State law, by local ordinances, and resolutions and by the City of Los Banos Emergency Operations Plan are hereby ratified and confirmed; and

7. It is hereby further resolved, proclaimed and ordered that this local emergency shall be deemed to continue to exist until its termination is declared by the City Council of the City of Los Banos.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 7th day of October 2020, by Council Member _____ who moved for its adoption, which motion was duly seconded by Council Member _____, and the Resolution was adopted by the following vote:

AYES:
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 SSE
William A. Vaughn, City Attorney

DATE: October 7, 2020

TYPE OF REPORT: Agenda Item

SUBJECT: Consideration of City of Los Banos Membership with Peninsula Clean Energy by Adoption of JPA Resolution and Introduction/First Reading of Required CCA Ordinance

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Recommendation:

1) Receive a Resolution requesting membership in the Peninsula Clean Energy Authority, authorizing the Mayor to execute the second amended Joint Powers Agreement, and appointing the City's Director on the Board and the Alternate Director and to bring the Resolution back for consideration on the October 21, 2020 City Council Meeting (no action to be taken until October 21, 2020); and

2) Waive the first reading and introduce by title an Ordinance authorizing the implementation of a Community Choice Aggregation Program in the City of Los Banos by and through the Peninsula Clean Energy Authority. Second reading and consideration of adoption to occur on October 21, 2020.

Background:

Community Choice Aggregation (CCA) is a program that allows local municipalities to pool, or aggregate, their energy demand to purchase electricity separate from the local investor owned utility. As a shared-service model, CCAs partner with the existing utility, Pacific Gas & Electric Company, which continues to provide power transmission,

distribution, grid maintenance and billing services. Peninsula Clean Energy (PCE) is a CCA program that provides electricity to all of its member cities and unincorporated areas under a Joint Powers Authority (JPA). PCE offers competitive rates and clean energy from renewable sources.

A JPA is a legally created entity that allows public agencies to jointly exercise common powers. The JPA is not a private business, and has independent legal rights, including the ability to enter into contracts, hold property and sue or be sued. The debts, liabilities and obligations of the JPA belong to that entity, not the contracting parties. Under the CCA program, San Mateo County and all 20 of its cities and towns formed Peninsula Clean Energy, a community-controlled, not-for-profit, joint powers agency. To be a member of Peninsula Clean Energy, a public agency would need to take two formal actions: (1) enter into a Joint Powers Authority by Resolution; and (2) adopt an Ordinance "elect[ing] to implement a community choice aggregation program within its jurisdiction".

On September 18, 2019, the Los Banos City Council invited PCE leadership to provide a project update and CCA presentation. At that meeting, the City Council directed staff to continue studying CCA to evaluate whether a potential membership would be beneficial to the City.

After the September 2019 City Council meeting, staff reached out to other CCAs in the state to learn more about how CCA works and to assess the City's options. Staff interviewed seven (7) alternative energy providers: Silicon Valley Clean Energy, Monterey Bay Community Power, Valley Clean Energy, Eastbay Community Energy, San Jose Clean Energy, King City Community Power, and Pacific Clean Energy. Each of the energy providers were mainly concentrated on providing "local" cities and counties with alternative energy sources and six (6) of the energy providers did not show interest in partnering with Los Banos due to the existing presence of Peninsula Clean Energy in the immediate vicinity. Staff also determined that it would be much more beneficial to join an existing CCA as the startup costs to create a CCA, which would be much greater than joining an existing CCA.

On June 3, 2020, the Los Banos City Council adopted Resolution No. 6225 to study CCA and a potential partnership with PCE and authorized the conducting of a technical study to assess the City's 2018/2019 electric load data.

At its most recent Council meeting on September 16, 2020, the City Council received the results of the technical feasibility study conducted by MRW & Associates that returned favorable results for CCA in Los Banos, notably by joining Peninsula Clean Energy's Joint Powers Authority as members. The City Council directed staff to move ahead with next steps toward membership with PCE and the launch of a CCA program for Los Banos residents and businesses starting in 2022.

Key reasons for the City's interest in pursuing CCA in partnership with PCE include:

1) Lower electric generation rates;
2) Achievement of local and regional greenhouse gas (GHG) reduction targets;

3) Access to clean energy generated by the Wright Solar Project;
4) Access to local energy programs; and
5) The economic development benefits of additional clean power projects located in Los Banos and/or the Merced County region.

The City's goals align well with PCE's goals, which are to reduce GHG emissions, secure sufficient, low-cost, clean sources of electricity to meet regulatory mandates, and match complementary winter (San Mateo Co.) and summer (Los Banos) peaking loads to help manage capacity and costs.

Discussion:

On September 16, 2020, the City Council directed staff to move forward with next steps related to membership with PCE. Since that meeting, the following steps have been completed:

1) City Attorney reviewed the amended JPA Agreement and membership with PCE.
2) Preparation of legal documents for Council approval including the attached JPA Agreement and authorizing resolution and Los Banos' CCA ordinance.
3) Staff followed up on various questions, which are articulated below.

JPA Agreement. The attached JPA Agreement of the Peninsula Clean Energy Authority has been amended in sections 4.3 and 4.3.1/4.3.2 to provide additional process detail and cost protections in lieu of requiring the City of Los Banos to pay for implementation costs associated with CCA roll out to Los Banos customers. Per the requirements articulated in section 7.4, the proposed amendments were sent to all member agencies of PCE on September 17, 2020 for 30-day review. To date, no comments from member agencies have been received.

CCA Ordinance. The attached Ordinance authorizes the City of Los Banos to offer community choice aggregation (CCA) for all eligible residential, business, and municipal electric accounts within the City's geographic boundaries. This ordinance is required as a provision of California's AB 117 to commence CCA service in the City, which currently planned for 2022.

Questions and Answers.

1) Will there be advance notice if rates change?

Peninsula Clean Energy mirrors PG&E's rates and applies a 5% discount to the generation portion of the rates. Generally, PG&E makes changes to its generation rates on an annual basis. Peninsula Clean Energy reviews the proposed rate changes with the Peninsula Clean Energy board when these rate changes are proposed by PG&E and the board votes to approve any rate changes. As a member of the Board of Directors, Los Banos would be part of this discussion and decision-making.

Sometimes PG&E makes minor rate adjustments at other times during the year, and the Board has delegated authority to PCE staff to make minor rate changes of no more than +/-1% to maintain the 5% discount. If the change will result in a more significant rate impact that is more than +/-1%, those rate adjustments are brought to the Board for discussion and approval.

2) What is the cost of customer opt-out after the enrollment period?

If a customer wants to opt-out of Peninsula Clean Energy after the first 60 days of service, the terms and conditions state that the fee is $5 for a residential customer and $25 for a commercial customer. The Customer Service Representatives have the ability to waive that fee if they think it is appropriate. The Terms and Conditions of Service can be found here: https://www.peninsulacleanenergy.com/energy-choices/.

3) Which programs can be tailored for Los Banos? What is the plan to develop programs for Los Banos?

Peninsula Clean Energy is currently offering a number of programs, all of which are available to all current Peninsula Clean Energy jurisdictions, and will be available to Los Banos. These include the following programs:

Transportation:

- Monetary incentives of up to $1,000 for new and used electric vehicles.
- Monetary incentives of up $4,000 for used electric vehicles for income-qualified residents, plus assistance to access additional monetary incentives to further reduce the price of a used electric vehicle.
- Monetary incentives of up to $800 for electric bikes for income qualified residents.
- Monetary incentives to install electric vehicle charging stations at workplaces, multi-unit dwellings, and municipal locations.

Buildings:

- Monetary incentives for low income home upgrades.
- Monetary incentives for electric heat pump water heaters.
- Technical assistance for jurisdictions to adopt multi-fuel or all-electric building codes for new construction.

Resilience:

- Free portable batteries for low income medically vulnerable residents who have experienced power outages due to PG&E PSPS events.
- Monetary incentives for homeowners to install solar + storage.
- Incentive programs for solar+storage for municipal community resource centers and critical infrastructure.

Once Los Banos is a member of Peninsula Clean Energy, we can develop additional programs that meet specific needs in Los Banos, and which would also be available to all

jurisdictions that are part of Peninsula Clean Energy. Our strategic plan further targets 20% of all program funding for low income and underserved communities.

4) What is the potential reduction in greenhouse gas emissions for the City once the CCA has been launched?

Starting in 2021, Peninsula Clean Energy's default electricity product, ECOplus will be 100% greenhouse gas free. Thus starting in 2022, for all electricity consumers in Los Banos who are Peninsula Clean Energy customers the GHG emissions from their electricity will be zero.

Legal Analysis:

The Peninsula Clean Energy Authority (PCEA) was formed on February 29, 2016. The Peninsula Clean Energy Authority is a public agency, governed by a joint powers agreement, located within the geographic boundaries of San Mateo County, formed for the purposes of implementing a community choice aggregation ("CCA") program. Member Agencies of the PCEA include all twenty (20) municipalities located within the County of San Mateo as well as the unincorporated areas of the County of San Mateo, all of which have elected to allow the PCEA to provide electric generation service within their respective jurisdictions. As indicated above a Second Amended JPA has been prepared to include counties, cities, and towns outside San Mateo County and within the State of California.

The Public Utilities Code (Section 366.2(c)(12)(B)) provides for the creation of a JPA so that a county and a city or cities can "participate as a group in a community choice aggregation program." In order to create a CCA program, each participating local agency (city and/or county) must take two formal actions: (1) entering into a Joint Powers Agreement forming a JPA under Section 6500, et seq. of the Government Code; and (2) adopting an Ordinance "elect[ing] to implement a community choice aggregation program within its jurisdiction" as required by Section 366.2(c)(12)(A).

The JPA is a legally and financially separate entity from the jurisdictions that it serves. The JPA is governed by a Board of Directors comprised of two San Mateo County Supervisors and one elected official from each of the member cities. If Los Banos were to join the JPA the City Council would select one of its members (and an alternate) to serve on the Board of Directors. The alternate can be either a City Council Member or a staff person of the City. In addition, the Board of Directors has two board member directors emeritus selected from former directors who participate in board activities as non-voting members.

The Board of Directors is responsible for the general governance and oversight over the business and activities of the JPA, including hiring of a CEO and General Counsel, adoption of an annual budget, and setting electricity rates sold by the JPA.

Each member city has one vote on behalf of their city, and the County of San Mateo is granted two votes, in exchange for fronting the start-up costs for the program. Most actions by the Board of Directors is by majority vote of the directors present. There are some matters that require a super majority (involuntary termination of a party; amendment of the JPA; and eminent domain).

In addition, the JPA does provide for weighted voting, weighted by shares based upon the annual energy used by each member city or county, in relation to all the members' total energy usage. The weighted vote would only be used in specific circumstances. If a member agency is not satisfied with the outcome of an initial vote, the agency may call for a second vote using the weighted shares method. This method can only be used to nullify a previous vote; no action may be approved solely by a vote of shares. This method of voting protects the interests of the larger energy user members, and is also in place presumably to encourage consensus-building among Board members. If Los Banos were to join the JPA its weighted vote would be approximately 5%.

1. *Legal Risks to the City*

The PCE JPA expressly provides for limited liability for its member cities, as well as directors, officers, and employees of PCE. The JPA states that "the debts, liabilities or obligations of the [PCE] shall not be debts, liabilities or obligations of the individual [member cities] unless the governing board of [the City] agrees in writing to assume any of the debts, liabilities or obligations of the [PCE]." This language in the JPA will generally protect the City from any actions or liabilities of PCE. To further mitigate any potential legal risks to the participants, PCE has insurance coverage to protect the interests of the [PCE], the [member cities].

Additionally, the JPA explicitly states that "[n]o current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee" and PCE "shall defend, indemnify and hold harmless the individual current and former Directors." Thus, the City is generally shielded from possible liability resulting from the actions of the representatives of other member cities as well.

It is worth noting, however, that member cities of JPAs are not automatically insulated from tort liability for the actions of the JPA entity and its members, per Government Code section 895.2. If Peninsula Clean Energy were to: (1) Be sued for negligence or wrongful acts or omissions; (2) Have a significant adverse judgment levied against it; and (3) The PCE's insurance was not sufficient to satisfy the judgment, then the member cities' assets may be found reachable by the injured party. **Because all three of these conditions must occur to subject the City to the PCE's liability, the associated risk is very low.**

2. *Financial Risks to the City*

A JPA structure reduces the risks of CCA participation by immunizing the financial assets of the City and the other member agencies participating in the CCA. The CCA's debts are its own, and creditors cannot come to the City for any recourse.

PCE's staff has represented to the City that there will be no membership payment required of the City should it join the JPA. However, if the City were to voluntarily withdraw from the JPA within the first five years of membership the City would be obligated to reimburse the JPA for all costs related to the launch of the program in the City of Los Banos. Those launch costs are estimated in the Feasibility Study to be $187,800.00.

The JPA states that there may be continuing financial obligations to any member city that chooses to withdraw, or is involuntarily terminated by a two-thirds vote of the other member directors.

The JPA specifically provides that a withdrawing or terminated member city "shall remain responsible for any claims, demands, damages, or other financial obligations" arising from participation in the program through the date of its withdrawal or termination. The major financial obligation specifically outlined in the JPA is for "losses from the resale of power contracted for by the [PCE] to serve the [City's] load." However, this section of the JPA also explicitly provides that, upon notice of a member city's desire to withdraw, PCE is obligated to provide a minimum waiting period during which the member would be required to remain a part of Peninsula Clean Energy in order to withdraw without financial consequence. Thus, the City is free to withdraw from PCE at any time and pay for the power already contracted for on its behalf or remain in the program until such time that the City has fully used, or that PCE has re-allocated, the City's share of the contracted power.

Finally, the JPA provides that a withdrawing member city is additionally responsible for costs or obligations associated generally with any specific program the City agreed to be a part of prior to the date of its withdrawal.

Considering the above discussion, staff considers the financial risk to the City associated with joining PCE to be very low.

<u>Next Steps:</u>

If the Council chooses to move forward, next actions will be:

1) October 21 – Los Banos City Council to adopt JPA Agreement Resolution, waive the second reading to adopt the CCA Ordinance, and appoint a Councilmember and Alternate to serve on the PCE Board of Directors;
2) October 22 – PCE Board to adopt resolution approving the amended JPA Agreement inclusive of the City of Los Banos;
3) November 19- Los Banos Board member and alternate sworn in as new PCE Board member; and,
4) December 17 - Updated Implementation Plan is approved by the PCE Board and submitted to the CPUC by end of year.

Fiscal Impact:

There is no direct cost to the City associated with PCE membership other than some staff work associated with next steps and program integration in 2021.

Reviewed by:

Alex Terrazas, City Manager

Attachments:

1) Resolution
2) JPA Agreement
3) Ordinance

RESOLUTION NO _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS REQUESTING MEMBERSHIP IN THE PENINSULA CLEAN ENERGY AUTHORITY, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDED JOINT POWERS AGREEMENT, AND APPOINTING THE CITY'S DIRECTOR ON THE BOARD AND THE ALTERNATE DIRECTOR

WHEREAS, the City of Los Banos ("City") has been actively investigating options to provide electric services to constituents within its service area with the intent of promoting use of renewable energy and competitive retail choice and reducing energy-related greenhouse gas emissions; and

WHEREAS, Assembly Bill (AB) 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2 *et seq.*; hereinafter referred to as the "Act") authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA"); and

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and to this end, the City of Los Banos has been evaluating a CCA program through the Peninsula Clean Energy Authority ("PCE"), established as a joint powers authority pursuant to California Government Code § 6500 et seq; and

WHEREAS, the City finds it important that its residents, businesses, and public facilities have alternative choices to energy procurement beyond PG&E; and

WHEREAS, on September 18, 2019, the Los Banos City Council invited PCE leadership to provide a project update on the Wright Solar Farm project and a CCA presentation; and

WHEREAS, on June 3, 2020, the Los Banos City Council authorized a Community Choice Aggregation Feasibility Analysis for the City of Los Banos to be conducted by MRW & Associates; and

WHEREAS, on September 16, 2020, MRW & Associates presented the findings of the Feasibility Analysis to the Los Banos City Council; and

WHEREAS, the City's goals align well with PCE's goals, which are to reduce GHG emissions, and secure sufficient, low-cost, clean sources of electricity to meet regulatory mandates; and

WHEREAS, the City finds that joining PCE will offer Los Banos customers choice in their power provider and will help the City meet the State of California GHG emissions reduction goals set out in AB 32 and the goals of the City's Climate Action Plan; and

WHEREAS, in order to become a member of PCE, the PCE Joint Powers Agreement requires the City to adopt a resolution requesting to become a member of PCE; adopt an ordinance required by California Public Utilities Code section 366.2(c)(12) electing to implement a Community Aggregation Program within its jurisdiction by and through its participation in PCE; and execution of the PCE Joint Powers Agreement; and

WHEREAS, the City's participation in PCE will include membership on the Board of Directors as provided in the Joint Powers Agreement; and

WHEREAS, PCE has entered into agreements with electric power suppliers and other services providers and, based on these agreements, PCE provides power to residents and businesses at rates that are competitive with those of the incumbent utility; and

WHEREAS, California Public Utilities Code § 366.2 allows customers the right to opt-out of the CCA program and continue to receive service from PG&E. Customers who desire to continue to receive bundled electric service from PG&E will be able to do so; and

WHEREAS, the City Council has been presented with the Second Amended Joint Exercise of Powers agreement Relating to and Creating the Peninsula Clean Energy Authority and the City Council has examined and approved same as to both form and content and desires to enter into same.

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

1. The matters set forth in the Recitals to this Resolution are true and correct statements.

2. This resolution is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it involves an organizational activity of a local government. 14 Cal. Code Regs. § 15378(a). The resolution is expressly exempt from CEQA because it is an organizational or administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. § 15378(b)(5). The resolution is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. § 15320. Further, the resolution is exempt from CEQA because there is no possibility that the resolution or its implementation, which would only result in the formation of a governmental organization, would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3). The City of Los Banos shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

3. The City Council of the City of Los Banos requests membership in Peninsula Clean Energy Authority and further requests that the Board of Directors of Peninsula Clean Energy Authority approve the City of Los Banos as a member of Peninsula Clean Energy Authority.

4. Authorizes and directs the Mayor to execute the Second Amended Joint Exercise of Powers Agreement Relating to and Creating the Peninsula Clean Energy Authority as presented.

5. _____ is hereby appointed to be the City's Director on the Authority's Board and _____ is hereby appointed to be the City's Alternate Director.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the ____ day of _____ 2020, by City Council Member _____, who moved its adoption, which motion was duly seconded by City Council Member _____, and the Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

_____
Michael Villalta, Mayor

ATTEST:

_____
Lucille L. Mallonee, City Clerk

SECOND AMENDED JOINT EXERCISE OF POWERS AGREEMENT RELATING TO AND CREATING THE

PENINSULA CLEAN ENERGY AUTHORITY

This Joint Exercise of Powers Agreement, effective on the date determined by Section 2.1, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Sections 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the Parties set forth in Exhibit B, and establishes the Peninsula Clean Energy Authority ("Authority"), is by and between the County of San Mateo ("County") and those counties, cities and towns within the State of California who become signatories to this Agreement, and relates to the joint exercise of powers among the signatories hereto.

RECITALS

A. The Parties share various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and customers within their jurisdictions.

B. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local governments to develop programs to reduce greenhouse gas emissions.

C. The purposes for entering into this Agreement include:

   a. Reducing greenhouse gas emissions related to the use of power in San Mateo County and the State of California;

   b. Providing electric power and other forms of energy to customers at a competitive cost;

   c. Carrying out programs to reduce energy consumption;

   d. Stimulating and sustaining the local economy by developing local jobs in renewable energy; and

   e. Promoting long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources.

D. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar, wind, and biomass energy production. The purchase of renewable power and greenhouse gas-free energy sources will be the desired approach to decrease regional greenhouse gas emissions and accelerate the State's transition to clean power resources to the extent feasible. The Agency will also add increasing levels of locally generated renewable

resources as these projects are developed and customer energy needs expand.

E. The Parties desire to establish a separate public agency, known as the Peninsula Clean Energy Authority, under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.

F. The Parties anticipate adopting an ordinance electing to implement through the Authority a common Community Choice Aggregation (CCA) program, an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(c) and 366.2. The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1: DEFINITIONS AND EXHIBITS

1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A: Definitions
Exhibit B: List of the Parties
Exhibit C: Annual Energy Use
Exhibit D: Voting Shares
Exhibit E: Signatures

ARTICLE 2: FORMATION OF PENINSULA CLEAN ENERGY AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and Peninsula Clean Energy Authority shall exist as a separate public agency on February 29, 2016 or when the County of San Mateo and at least two municipalities execute this Agreement, whichever occurs later. The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 6.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 Formation. There is formed as of the Effective Date a public agency named the Peninsula Clean Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. Pursuant to Sections 6508.1 of the Act, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties

unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 7.4 of this Agreement, this Section 2.2 may not be amended unless such amendment is approved by the governing board of each Party.

2.3 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy, energy efficiency and conservation, and other energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate in the CCA Program, as further described in Section 4.1. The Parties intend that other agreements shall define the terms and conditions associated with the implementation of the CCA Program and any other energy programs approved by the Authority.

2.4 Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following powers, subject to the voting requirements set forth in Section 3.7 through 3.7.5:

2.4.1 to make and enter into contracts;

2.4.2 to employ agents and employees, including but not limited to a Chief Executive Officer;

2.4.3 to acquire, contract, manage, maintain, and operate any buildings, infrastructure, works, or improvements;

2.4.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property; however, the Authority shall not exercise the power of eminent domain within the jurisdiction of a Party over its objection without first meeting and conferring in good faith.

2.4.5 to lease any property;

2.4.6 to sue and be sued in its own name;

2.4.7 to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Sections 53850 et seq. and authority under the Act;

2.4.8 to form subsidiary or independent corporations or entities if necessary, to carry out energy supply and energy conservation programs at the lowest possible cost or to take advantage of legislative or regulatory changes;

2.4.9 to issue revenue bonds and other forms of indebtedness;

2.4.10 to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;

2.4.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;

2.4.12 to adopt Operating Rules and Regulations; and

2.4.13 to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.

2.4.14 to permit additional Parties to enter into this Agreement after the Effective Date and to permit another entity authorized to be a community choice aggregator to designate the Authority to act as the community choice aggregator on its behalf.

2.5 Limitation on Powers. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by San Mateo County.

2.6 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act ("CEQA").

ARTICLE 3: GOVERNANCE AND INTERNAL ORGANIZATION

3.1 Board of Directors. The governing body of the Authority shall be a Board of Directors ("Board"). The Board shall consist of 2 (two) directors appointed by the San Mateo County Board of Supervisors and 1 (one) director appointed by each County, City or Town that becomes a signatory to the Agreement ("Directors"). Each Director shall serve at the pleasure of the governing board of the Party who appointed such Director, and may be removed as Director by such governing board at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director within 90 days of the date that such position becomes vacant. Directors must be members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement. Each Party may appoint an alternate(s) to serve in the absence of its Director(s). Alternates may be either (1) members of the Board of Supervisors or members of the governing board of the municipality that is the signatory to this Agreement, or (2) staff members of the County or any such municipality.

3.1.1 Directors Emeritus. The Board may select up to two board directors emeritus ("Directors

Emeritus"). Directors Emeritus will be selected from former directors who served on the Board with distinction and excellence. The Board may fill any vacant emeritus position(s) by a simple majority vote of Directors. The Chair may delegate the initial review of applicants and/or nominations to a committee. Directors Emeritus will serve at the pleasure of the Board for two-year terms, subject to the discretion of the Board to shorten or end a term. There shall be no limit on the number of terms held. It is the Board's intention that Directors Emeritus receive all written notices and information provided to the Board, be permitted to attend all Board meetings, be permitted to participate in committee meetings without need for an appointment, and be encouraged to attend other PCE events. Directors Emeritus will not be counted in determining if a quorum is present, will not be entitled to hold office, and will not be entitled to vote at any Board or committee meeting. Director Emeritus status does not entitle participation in closed sessions of the Board.

3.2 Quorum. A majority of the appointed Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

3.3 Powers and Functions of the Board. The Board shall exercise general governance and oversight over the business and activities of the Authority, consistent with this Agreement and applicable law. The Board shall provide general policy guidance to the CCA Program. Board approval shall be required for any of the following actions:

3.3.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.

3.3.2 The hiring or termination of the Chief Executive Officer and General Counsel.

3.3.3 The appointment or removal of officers described in Section 3.9, subject to Section 3.9.3.

3.3.4 The adoption of the Annual Budget.

3.3.5 The adoption of an ordinance.

3.3.6 The approval of agreements, except as provided by Section 3.4.

3.3.7 The initiation or resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, may intervene in, become a party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board as long as such action is consistent with any adopted Board policies.

3.3.8 The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority.

3.3.9 Termination of the CCA Program.

3.4 Chief Executive Officer. The Board of Directors shall appoint a Chief Executive Officer for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Chief Executive Officer may exercise all powers of the Authority, including the power to hire, discipline and terminate employees as well as the power to approve any agreement if the total amount payable under the agreement is less than $100,000 in any fiscal year, except the powers specifically set forth in Section 3.3 or those powers which by law must be exercised by the Board of Directors.

3.5 Commissions, Boards, and Committees. The Board may establish any advisory commissions, boards, and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement which shall comply with the requirements of the Ralph M. Brown Act. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees if the Board deems appropriate to appoint such commissions, boards or committees, and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

3.6 Director Compensation. Directors shall serve without compensation from the Authority. However, Directors may be compensated by their respective appointing authorities. The Board, however, may adopt by resolution a policy relating to the reimbursement by the Authority of expenses incurred by Directors.

3.7 Voting In general, as described below in Section 3.7.3, action by the Authority Board will be taken solely by a majority vote of the Directors present. However, as described below in Section 3.7.4, upon request of a Director, a weighted vote by shares will also be conducted. When such a request is made, an action must be approved by both a majority vote of Directors present and a majority of the weighted vote by shares present. No action may be approved solely by a vote by shares. The voting shares of Directors and approval requirements for actions of the Board shall be as follows:

3.7.1. Voting Shares.

Each Director shall have a voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 100, where

(a) "Annual Energy Use" means, (i) with respect to the first year following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWh"), within the Party's respective jurisdiction and (ii) with respect to the period after the anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party's respective jurisdiction that are served by the Authority; and

(b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy Use will be designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year. These adjustments shall be approved by the Board.

(c) The combined voting share of all Directors representing the County of San Mateo shall be based upon the annual electricity usage within the unincorporated area of San Mateo County.

For the purposes of Weighted Voting, if a Party has more than one director, then the voting shares allocated to the entity shall be equally divided amongst its Directors.

3.7.2. Exhibit Showing Voting Shares. The initial voting shares will be set forth in Exhibit D. Exhibit D shall be revised no less than annually as necessary to account for changes in the number of Parties and changes in the Parties' Annual Energy Use. Exhibit D and adjustments shall be approved by the Board.

3.7.3. Approval Requirements Relating to CCA Program. Except as provided in Sections 3.7.4 and 3.7.5 below, action of the Board shall require the affirmative vote of a majority of Directors present at the meeting.

3.7.4. Option for Approval by Voting Shares. Notwithstanding Section 3.7.3, any Director present at a meeting may demand that approval of any matter related to the CCA Program be determined on the basis of both voting shares and by the affirmative vote of a majority of Directors present at the meeting. If a Director makes such a demand with respect to approval of any such matter, then approval of such matter shall require the affirmative vote of a majority of Directors present at the meeting and the affirmative vote of Directors having a majority of voting shares present, as determined by Section 3.7.1 except as provided in Section 3.7.5.

3.7.5. Special Voting Requirements for Certain Matters.

(a) Two-Thirds and Weighted Voting Approval Requirements Relating to Sections 6.2 and 7.4. Action of the Board on the matters set forth in Section 6.2 (involuntary termination of a Party), or Section 7.4 (amendment of this Agreement) shall require the affirmative vote of at least two-thirds of Directors present; provided, however, that (i) notwithstanding the foregoing, any Director present at the meeting may demand that the vote be determined on the basis of both voting shares and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require the affirmative vote of both at least two-thirds of Directors present and the affirmative vote of Directors having at least two-thirds of the voting shares present, as determined by Section 3.7.1; (ii) but, at least two Parties must vote against a matter for the vote to fail; and (iii) for votes to involuntarily terminate a Party under Section 6.2, the Director(s) for the Party subject to involuntary termination may not vote, and the number of Directors constituting two-thirds of all Directors, and the weighted vote of each Party shall be recalculated as if the Party subject to possible termination were not a Party.

(b) Seventy Five Percent Special Voting Requirements for Eminent Domain and Contributions or Pledge of Assets.

(i) A decision to exercise the power of eminent domain on behalf of the Authority

to acquire any property interest other than an easement, right-of-way, or temporary construction easement shall require a vote of at least 75% of all Directors.

(ii) The imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program shall require a vote of at least 75% of all Directors and the approval of the governing boards of the Parties who are being asked to make such contribution or pledge.

(iii) Notwithstanding the foregoing, any Director present at the meeting may demand that a vote under subsections (i) or (ii) be determined on the basis of voting shares and by the affirmative vote of Directors, and if a Director makes such a demand, then approval shall require both the affirmative vote of at least 75% of Directors present and the affirmative vote of Directors having at least 75% of the voting shares present, as determined by Section 3.7.1, but at least two Parties must vote against a matter for the vote to fail. For purposes of this section, "imposition on any Party of any obligation to make contributions or pledge assets as a condition of continued participation in the CCA Program" does not include any obligations of a withdrawing or terminated party imposed under Section 6.3.

3.8 Meetings and Special Meetings of the Board. The Board shall hold at least six regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency Meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Sections 54950 et seq.).

3.9 Selection of Board Officers.

3.9.1 Chair and Vice Chair. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if:

(a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or
(b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

3.9.2 Secretary. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

3.9.3 Treasurer and Auditor. The Chief Financial Officer shall, among other duties, act as the Treasurer for the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 5.

3.10 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. An Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

ARTICLE 4: IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

4.1 Preliminary Implementation of the CCA Program.

4.1.1 Enabling Ordinance. To be eligible to participate in the CCA Program, each Party must adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

4.1.2 Implementation Plan. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 3.7.3.

4.1.3 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

4.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution.

The Parties agree to abide by and comply with the terms and conditions of all such documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 6.

4.3 Addition of Parties. Other incorporated municipalities and counties may become Parties subject to all applicable terms of this Agreement, including but not limited to those in Article 6, upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 3.7, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county as required by the Board, (d) payment of the membership payment, if any, and (e) satisfaction of any conditions established by the Board.

4.3.1 Continuing Participation. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 4.3. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

4.3.2 Termination by Additional Parties. In addition to any financial obligations under Article 6, and in the events that the Board does not require a membership payment to reflect the additional party's pro rata share of organizational planning and other pre-existing expenditures as allowed by Section 4.3(b) and the additional party withdraws its membership in the Authority within the first five years of becoming a party, the party shall be obligated to reimburse the Authority for all the costs related to the cost of launch, including but not limited to the costs of updating the Implementation Plan and mailings to party's accounts.

ARTICLE 5: FINANCIAL PROVISIONS

5.1 Fiscal Year. The Authority's fiscal year shall be 12 months commencing July 1 or the date selected by the Agency and ending June 30. The fiscal year may be changed by Board resolution.

5.2 Depository.

5.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

5.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular

reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

5.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

5.3 Budget and Recovery of Costs.

5.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be approved by the Board in accordance with the Operating Rules and Regulations.

5.3.2 Funding of Initial Costs. The County of San Mateo has funded certain activities necessary to implement the CCA Program. If the CCA Program becomes operational, these Initial Costs paid by the County of San Mateo shall be included in the customer charges for electric services as provided by Section 5.3.3 to the extent permitted by law, and the County of San Mateo shall be reimbursed from the payment of such charges by customers of the Authority. Prior to such reimbursement, the County of San Mateo shall provide such documentation of costs paid as the Board may request. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County of San Mateo shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

5.3.3 CCA Program Costs. The Parties desire that all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric, conservation, efficiency, incentives, financing, or other services provided under the CCA Program, including but not limited to the establishment and maintenance of various reserves and performance funds and administrative, accounting, legal, consulting, and other similar costs, shall be recovered through charges to CCA customers receiving such electric services, or from revenues from grants or other third-party sources.

ARTICLE 6: WITHDRAWAL AND TERMINATION

6.1 Withdrawal.

6.1.1 Right to Withdraw. A Party may withdraw its participation in the CCA Program, effective as of the beginning of the Authority's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority

and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.

6.1.2 Right to Withdraw After Amendment. Notwithstanding Section 6.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement adopted by the Board which the Party's Director(s) voted against provided such notice is given in writing within thirty (30) days following the date of the vote. Withdrawal of a Party shall require an affirmative vote of the Party's governing board and shall not be subject to the six month advance notice provided in Section 6.1.1. In the event of such withdrawal, the Party shall be subject to the provisions of Section 6.3.

6.1.3 The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers, the Authority must provide to the Parties the report from the electrical utility consultant retained by the Authority that compares the total estimated electrical rates that the Authority will be charging to customers as well as the estimated greenhouse gas emissions rate and the amount of estimated renewable energy used with that of the incumbent utility. If the report provides that the Authority is unable to provide total electrical rates, as part of its baseline offering, to the customers that are equal to or lower than the incumbent utility or to provide power in a manner that has a lower greenhouse gas emissions rate or uses more renewable energy than the incumbent utility, a Party may immediately withdraw its membership in the Authority without any financial obligation, as long as the Party provides written notice of its intent to withdraw to the Authority Board no more than fifteen days after receiving the report.

6.1.4 Continuing Financial Obligation; Further Assurances. Except as provided by Section 6.1.3, a Party that withdraws its participation in the CCA Program may be subject to certain continuing financial obligations, as described in Section 6.3. Each withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from participation in the CCA Program.

6.2 Involuntary Termination of a Party. Participation of a Party in the CCA program may be terminated for material non-compliance with provisions of this Agreement or any other agreement relating to the Party's participation in the CCA Program upon a vote of Board members as provided in Section 3.7.5. Prior to any vote to terminate participation with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or other agreement that the Party has allegedly violated. The Party subject to possible termination shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its participation in the CCA Program terminated may be subject to certain continuing liabilities, as described in Section 6.3.

6.3 Continuing Financial Obligations; Refund. Except as provided by Section 6.1.3, upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or other financial obligations arising from the Party membership or participation

in the CCA Program through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any financial obligations arising after the date of the Party's withdrawal or involuntary termination. Claims, demands, damages, or other financial obligations for which a withdrawing or terminated Party may remain liable include, but are not limited to, losses from the resale of power contracted for by the Authority to serve the Party's load. With respect to such financial obligations, upon notice by a Party that it wishes to withdraw from the CCA Program, the Authority shall notify the Party of the minimum waiting period under which the Party would have no costs for withdrawal if the Party agrees to stay in the CCA Program for such period. The waiting period will be set to the minimum duration such that there are no costs transferred to remaining ratepayers. If the Party elects to withdraw before the end of the minimum waiting period, the charge for exiting shall be set at a dollar amount that would offset actual costs to the remaining ratepayers, and may not include punitive charges that exceed actual costs. In addition, such Party shall also be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority and approved by a vote of the Board of Directors, to cover the Party's financial obligations for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any financial obligations shall be returned to the Party. The liability of any Party under this section 6.3 is subject and subordinate to the provisions of Section 2.2, and nothing in this section 6.3 shall reduce, impair, or eliminate any immunity from liability provided by Section 2.2.

6.4 Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its participation in the CCA Program, as described in Section 6.1.

6.5 Disposition of Property upon Termination of Authority. Upon termination of this Agreement, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 7: MISCELLANEOUS PROVISIONS

7.1 Dispute Resolution. The Parties and the Authority shall make reasonable efforts to informally settle all disputes arising out of or in connection with this Agreement. Should such informal efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be mediated in accordance with policies and procedures established by the Board.

7.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the

manner provided by Government Code Sections 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

7.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties, and the public. The Authority shall defend, indemnify, and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries, and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

7.4 Amendment of this Agreement. This Agreement may not be amended except by a written amendment approved by a vote of Board members as provided in Section 3.7.5. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments, at least 30 days prior to the date upon which the Board votes on such amendments.

7.5 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 7.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 7.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

7.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

7.7 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

7.8 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

7.9 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service.

Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

Exhibit A
Definitions

"Act" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq*.)

"Administrative Services Agreement" means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 3.7.1.

"Authority" means the Peninsula Clean Energy Authority.

"Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions, and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

"Board" means the Board of Directors of the Authority.

"CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

"CCA Program" means the Authority's program relating to CCA that is principally described in Sections 2.3, 2.4, and 4.1.

"Director" means a member of the Board of Directors representing a Party.

"Effective Date" means February 29, 2016 or when the County of San Mateo and at least two municipalities execute this Agreement, whichever occurs later, as further described in Section 2.1.

"Implementation Plan" means the plan generally described in Section 4.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.

"Initial Costs" means all costs incurred by the County and/or Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, and any required accounting, administrative, technical, or legal services in support of the Authority's initial activities or in support of the negotiation, preparation, and approval of one or more Administrative Services Agreements.

Exhibit A (cont.)
Definitions

"Operating Rules and Regulations" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

"Parties" means, collectively, any municipality or county that executes this Agreement.

"Party" means a signatory to this Agreement.

"Total Annual Energy" has the meaning given in Section 3.7.1.

Exhibit B
List of Parties

Parties:

Atherton
Belmont
Brisbane
Burlingame
Colma
County of San Mateo
Daly City
East Palo Alto
Foster City
Half Moon Bay
Hillsborough
Los Banos
Menlo Park
Millbrae
Pacifica
Portola Valley
Redwood City
San Bruno
San Carlos
San Mateo
South San Francisco
Woodside

Exhibits C and D
Annual Energy Use and Voting Shares

ANNUAL ENERGY USE WITHIN PCE JURISDICTIONS AND VOTING SHARES		
Twelve Months Ended November [date]		
Party	Total kWh	Voting Share
SAN MATEO COUNTY		
Total		100

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM IN THE CITY OF LOS BANOS BY AND THROUGH THE PENINSULA CLEAN ENERGY AUTHORITY

WHEREAS, the City of Los Banos ("City") has been actively investigating options to provide electric services to constituents within its service area with the intent of promoting use of renewable energy and competitive retail choice and reducing energy-related greenhouse gas emissions; and

WHEREAS, Assembly Bill (AB) 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2 *et seq.*; hereinafter referred to as the "Act") authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA"); and

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and to this end, the City of Los Banos has been evaluating a CCA program through the Peninsula Clean Energy Authority ("PCE"), established as a joint powers authority pursuant to California Government Code § 6500 et seq; and

WHEREAS, the City finds it important that its residents, businesses, and public facilities have alternative choices to energy procurement beyond PG&E; and

WHEREAS, on September 18, 2019, the Los Banos City Council invited PCE leadership to provide a project update on the Wright Solar Farm project and a CCA presentation; and

WHEREAS, on June 3, 2020, the Los Banos City Council authorized a Community Choice Aggregation Feasibility Analysis for the City of Los Banos to be conducted by MRW & Associates; and

WHEREAS, on September 16, 2020, MRW & Associates presented the findings of the Feasibility Analysis to the Los Banos City Council; and

WHEREAS, the City's goals align well with PCE's goals, which are to reduce GHG emissions, and secure sufficient, low-cost, clean sources of electricity to meet regulatory mandates; and

WHEREAS, the City finds that joining PCE will offer Los Banos customers choice in their power provider and will help the City meet the State of California GHG emissions reduction goals set out in AB 32 and the goals of the City's Climate Action Plan; and

WHEREAS, in order to become a member of PCE, the PCE Joint Powers Agreement requires the City to adopt a resolution requesting to become a member of PCE; adopt an ordinance required by California Public Utilities Code section 366.2(c)(12) electing to implement a Community Aggregation Program within its jurisdiction by and through its participation in PCE; and execution of the PCE Joint Powers Agreement; and

WHEREAS, the City's participation in PCE will include membership on the Board of Directors as provided in the Joint Powers Agreement; and

WHEREAS, PCE has entered into agreements with electric power suppliers and other services providers and, based on these agreements, PCE provides power to residents and businesses at rates that are competitive with those of the incumbent utility; and

WHEREAS, California Public Utilities Code § 366.2 allows customers the right to opt-out of the CCA program and continue to receive bundled electric service from PG&E. Customers who desire to continue to receive electric generation service from PG&E will be able to do so; and

WHEREAS, on October 7, 2020 and October 21, 2020, the City Council held a public meeting at which time interested persons had an opportunity to provide public input and comment either in support or in opposition to implementation of the CCA program within the City of Los Banos.

NOW, THEREFORE, the City Council of the City of Los Banos does ordain as follows:

Section 1. The above recitals and findings are true and correct and incorporated herein by this reference.

Section 2. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it involves an organizational activity of a local government. 14 Cal. Code Regs. § 15378(a). The ordinance is expressly exempt from CEQA because it is an organizational or administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. § 15378(b)(5). The ordinance is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. § 15320. Further, the ordinance is exempt from CEQA because there is no possibility that the ordinance or its implementation, which would only result in the formation of a governmental organization, would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3). The City of Los Banos shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

Section 3. Based upon the foregoing, the City hereby elects to implement a Community Aggregation Program within its jurisdiction by and through its participation and membership in PCE.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held for any reason to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

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 _____, 2020.

Passed on the ____ day of _____, 2020 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

COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

Date: October 2, 2020

Regarding: Notice of Public Hearing

Proposal: Mobile Food Vendor Permit #2020-14 – Rosa Fabian (dba Taco's La Patrona)

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Categorical Exemption from the California Environmental Quality Act (CEQA) and a Mobile Food Vendor Permit #2020-14 to allow the operation of a mobile food vending vehicle on private property for Rosa Fabian dba Taco's La Patrona. The subject property is located within the Public Facilities Zoning District at 1100 H Street, more specifically identified as Assessor's Parcel Number: 026-171-028.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, October 14, 2020 at 5:30 p.m. virtually using GoToMeeting. Questions regarding the above-referenced item may be directed to Rudy Luquin, Associate Planner, at City Hall or at (209) 827-2432. Public comment during the public hearing will be taken in real time via email. Once the public hearing is opened, the Commision will pause the meeting for five minutes in order to receive emails directed at the public hearing and will read comments into the record after resuming the meeting. Emails during the meeting must be sent to the Planning Commission Secretary at planningcommission@losbanos.org.

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