

**CITY OF HUNTINGTON BEACH
SUPPLEMENTAL COMMUNICATION**

**Joan L. Flynn, City Clerk
Office of the City Clerk**

TO: Honorable Mayor and City Councilmembers

FROM: Joan L. Flynn, City Clerk *JL*

DATE: 5/18/2015

SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE MAY 18, 2015, REGULAR CITY COUNCIL/PFA MEETING

Attached are the Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

Study Session

#1. PowerPoint presentation submitted by Lori Ann Farrell, Director of Finance, dated May 18, 2015, entitled *FY 2014/15 Mid-Year Budget Update*.

#2. PowerPoint presentation submitted by Travis Hopkins, Director of Public Works, dated May 18, 2015, entitled *State Water Resources Control Board Emergency Regulations*.

CONSENT CALENDAR

#8. Communication received from Peirano and Associates, Inc., dated May 18, 2015, entitled *Proposed Ordinance 4058, Discriminatory Statue*.

ORDINANCES FOR ADOPTION

#9. PowerPoint presentation submitted by Travis Hopkins, Director of Public Works, dated May 18, 2015, entitled *Amendments to Water Conservation Ordinance Huntington Beach Municipal Code 14.18*.

COUNCILMEMBER ITEMS

#10 Communication received from Shainna Breslow, dated May 13, 2015 regarding trash bins on the beach.

#11. Communication received from Jerry Moffatt, General Manager of Rainbow Disposal, dated May 12, 2015, supporting the rezoning of property to medium density residential.

#11. Communication received from Colleen Mensel, President and CEO of El Viento, dated May 18, 2015.



CITY OF HUNTINGTON BEACH

FY 2014/15 Mid-Year Budget Update

May 18, 2015



Summary

- FY 2013/14 Audit and Year-End Results
- FY 2014/15 Mid-Year Update
- FY 2015/16 Preliminary Baseline Estimates
- Budget Challenges & Opportunities



FY 2013/14

Audit and Year-End Results

May 18, 2015



FY 2013/14 Audit Results

- ✓ Auditing firm of Vavrinek, Trine, Day & Co., LLP audited the City's financial performance and reports
- ✓ FY 2013/14 Comprehensive Annual Financial Report (CAFR) received an Unmodified (Clean) Audit Opinion
- ✓ The City's CAFR is award winning – has received the Government Finance Officers Association's (GFOA) Excellence in Financial Reporting Award for 28 years



FY 2013/14 Performance

(Audited)

Government-Wide Highlights:

All Funds

	In Millions
ASSETS	
Current Assets	\$ 203.8
Restricted Assets	66.5
Capital Assets	800.0
Total Assets	1,070.3
LIABILITIES	
Current Liabilities	19.8
Liabilities Payable from Restricted Assets	4.5
Long-Term Obligations	81.7
Total Liabilities	106.0
TOTAL NET POSITION	\$ 964.3



General Fund Highlights:

- ❑ Year-End Fund Balance of \$61.1million – reflects a \$6.5 million increase due mostly to carry forward encumbrances and increased reserves to pay off/reduce unfunded liabilities



GASB 68 – Unfunded Pension Liabilities

CITY OF HUNTINGTON BEACH
STATEMENT OF NET POSITION
SEPTEMBER 30, 2014
(In Thousands)



ASSETS

Cash and Investments
Receivables, Net
Advances to Successor Agency
Inventories
Prepays
Other Assets
Other Postemployment Benefits Asset

Subtotal

Restricted Assets:

Cash and Investments
Cash and Investments with Fiscal Agent
Receivables, Net

Total Restricted Assets

Capital Assets:

Non-Depreciable
Depreciable, Net

Total Capital Assets

Total Assets

LIABILITIES

Accounts Payable
Accrued Payroll
Deposits

Subtotal

Liabilities Payable from Restricted Assets:

Accounts Payable
Accrued Interest Payable
Deposits

Total Liabilities Payable from Restricted Assets

Long-Term Obligations:

Long-Term Obligations Due Within One Year
Long-Term Obligations Due in More than One Year

Total Long-Term Obligations

Total Liabilities

NET POSITION

Net Investment in Capital Assets

Restricted for:

Debt Service
Capital Projects
Public Works and Community Services Projects

Total Restricted Net Position

Unrestricted

Total Net Position

	Governmental Activities	Business-Type Activities	Total
Cash and Investments	\$ 80,534	\$ 54,382	\$ 134,926
Receivables, Net	38,345	5,748	42,091
Advances to Successor Agency	5,290	-	5,290
Inventories	-	1,294	1,294
Prepays	4,978	-	4,978
Other Assets	2,411	-	2,411
Other Postemployment Benefits Asset	12,781	-	12,781
Subtotal	142,319	61,432	203,751
Restricted Assets:			
Cash and Investments	19,752	27,951	47,703
Cash and Investments with Fiscal Agent	4,125	-	4,125
Receivables, Net	14,690	-	14,690
Total Restricted Assets	38,567	27,951	66,518
Capital Assets:			
Non-Depreciable	358,688	25,803	384,471
Depreciable, Net	300,527	114,967	415,494
Total Capital Assets	659,195	140,770	799,965
Total Assets	840,081	230,153	1,070,234
LIABILITIES			
Accounts Payable	6,202	4,415	10,617
Accrued Payroll	6,090	93	6,183
Deposits	1,289	1,862	2,951
Subtotal	13,581	6,170	19,751
Liabilities Payable from Restricted Assets:			
Accounts Payable	1,940	-	1,940
Accrued Interest Payable	198	-	198
Deposits	2,411	-	2,411
Total Liabilities Payable from Restricted Assets	4,549	-	4,549
Long-Term Obligations:			
Long-Term Obligations Due Within One Year	15,792	354	16,146
Long-Term Obligations Due in More than One Year	63,792	1,742	65,534
Total Long-Term Obligations	79,584	2,096	81,680
Total Liabilities	97,714	8,266	105,980
NET POSITION			
Net Investment in Capital Assets	618,825	140,770	759,595
Restricted for:			
Debt Service	4,137	-	4,137
Capital Projects	5,772	27,951	33,723
Public Works and Community Services Projects	24,109	-	24,109
Total Restricted Net Position	34,018	27,951	61,969
Unrestricted	89,524	53,166	142,690
Total Net Position	\$ 742,367	\$ 221,887	964,254

*The full impact of GASB 68 implementation is still under review.



FY 13/14 General Fund Expenditures

Description	Amount (in millions)
<u>Expenditures</u>	
▪ Actual Citywide Departmental Expenditures	\$192.4
▪ Retiree Medical Unfunded Liability (Misc) Pay Down	\$2.7
▪ Infrastructure Fund Transfer	\$2.0
▪ Workers' Compensation Transfer	\$1.2
Total Expenditures	\$198.3



FY 13/14 General Fund Revenue

Description	Amount (in millions)
General Fund Recurring Revenue	\$201.7
General Fund One-Time Revenue	3.1
Total General Fund Revenue	\$204.8
Total Expenses	(198.3)
Available Year-End Fund Balance:	\$6.5



FY 2013/14 General Fund Fund Balance Designation*

- ❑ \$1.0 million for the Workers' Compensation Fund for a 10-Year Plan to eliminate the \$10.5 million liability
- ❑ \$1.0 million for the Economic Uncertainties Reserve to help maintain City's AAA credit rating
- ❑ \$1.0 million into CalPERS "1 = 5" Plan for Safety
- ❑ \$2.9 million for Citywide encumbrances
- ❑ \$1.3 million for new PERS Rate Increase Fund
- ❑ (\$698K) used to help pay down Retiree Medical

**Recommendations made at the Strategic Planning Retreat on January 23, 2015, and adopted by the City Council on February 17, 2015.*

General Fund Balance

FY 2013/14 Audited

(In Thousands)



Fund Balance Category	FY 11/12 Audited	FY 12/13 Audited	FY 13/14 Audited	FY 14/15 Estimate
Economic Uncertainties	\$ 24,011	\$ 24,011	\$ 25,011	\$ 25,011
Litigation Reserve	900	900	900	900
Budget Stabilization	3,100	-	-	-
PARS Obligation	4,701	-	-	-
Equipment Replacement	6,913	8,295	8,295	8,295
Redevelopment Dissolution	-	1,323	1,323	1,323
Retiree Medical Unfunded Liability	698	698	-	-
General Plan Maintenance	323	720	720	720
Capital Improvement Reserve (CIR)	5,970	7,136	7,136	7,136
Senior Center Debt Service Reserve	-	2,000	2,000	-
CalPERS "One Equals Five Plan"	-	500	1,500	500
CalPERS Rate Increase	-	-	1,287	1,287
Cityview Replacement	-	-	695	-
Other Fund Balance/Encumbrance*	7,819	8,924	12,187	9,643
Total Fund Balance	\$ 54,435	\$ 54,507	\$ 61,054	\$ 54,815

*Other Fund Balance includes Pre-paid insurance, Encumbrances, Non-Spendable and Other Restricted items.



FY 2014/15

Mid-Year Update

May 18, 2015



FY 2014/15 General Fund Budget

Description	In Millions
FY 2014/15 Adopted Budget	\$209.9
Carry-over Appropriations and Encumbrances	7.1
General Plan Contract	0.8
Mid-Year Budget Adjustments (May 18, 2015)	0.2
FY 2014/15 Revised Budget	\$218.0



FY 2014/15 General Fund Projection

Description	In Millions
FY 2014/15 Revised Budget	\$218.0
Estimated General Fund Expenses	212.0
Mid-Year Budget Adjustments	0.2
Total Expenses	212.2
Estimated General Fund Revenue	209.0
Use of Set-Asides (Senior Center, “1=5” & LeBard, Cityview, General Plan)	4.8
Total Revenue & Set-Asides	213.8
*Estimated FY 2014/15 General Fund Contingency	\$ 1.6

**This amount is only an estimate and is subject to change.*



Proposed Mid-Year Budget Adjustments

BUDGET ADJUSTMENT

- Fire Department - \$145,000 for additional Marine Safety and Lifeguard staffing due to the unexpected warm winter months
- Office of Business Development - \$50,000 for sales tax sharing agreement for Pinnacle Petroleum
- City Treasurer - \$6,100 for one-time expenses and \$14,600 for temporary salaries

BUDGET NEUTRAL

- Non-Departmental - \$41,400 to reconfigure City Hall office area
- Police Department - \$48,000 for 5 part-time Police Community Liaison positions to address civil code violations from Labor Day to Memorial Day

**Other Fund Adjustments also requested for BID Downtown, Library Department Impact Fee, and Historic Wintersburg Preservation.*



FY 2015/16

Preliminary Estimates

May 18, 2015



FY 2015/16 General Fund Estimates

(DRAFT Preliminary Baseline)

- ☑ Balanced General Fund Budget for FY 2015/16
- ☑ No anticipated departmental cuts
- ☑ Revenue increases are projected
- ☑ Fixed costs projected to increase



FY 2015/16 General Fund Estimates

(DRAFT Preliminary Baseline)

Fixed Costs:

- Negotiated contract costs factored in
- PERS rate increases of \$2.4 million
- \$500K for additional equipment replacement
- \$396K increase in Citywide utility costs
- \$100K increase for Animal Control Services
- Fund 2 additional Police Officers
- Labor cost adjustment of 2%



FY 2015/16 Preliminary General Fund Baseline Overview

Description	In Millions
FY 2014/15 Adopted Budget	\$ 206.1
<u>PLUS:</u>	
➤ CalPERS Rate Increases	2.4
➤ Merits, Skill Pays, Longevity, etc. Increases	0.5
➤ Animal Control Services Contract	0.1
➤ Citywide Utilities Cost Increase	0.4
➤ 2 Police Officer positions	0.5
➤ Equipment Replacement	0.5
➤ Labor Cost Adjustment	3.0
FY 2015/16 Preliminary Estimate (Expense)	\$ 213.5
Structural Increase to Baseline from FY 2014/15	+\$7.4



FY 2015/16 Revenue

(Preliminary Estimates)

General Fund Revenue Estimate - \$216.0 million, increase of \$7.0 million, or 3.3%

- ❑ Property Tax, which includes secured and other property taxes, is estimated at \$47.4 million, an increase of 5.7%
- ❑ Sales Tax is estimated at \$30.8 million, an increase of 14.1% (mostly due to large one-time accrual of \$2.0 million)
- ❑ Transient Occupancy Tax is estimated at \$10.3 million, with an increase of 8.4% projected
- ❑ Parking revenue remains robust at \$11.3 million, with an increase of 3.9%
- ❑ Gas Tax transfer is eliminated, resulting in \$900K loss



*Year over year increases as compared to FY 2014/15 Revised Projections.



Budget Challenges & Opportunities

May 18, 2015



Governor's May Revise FY 2015/16 State Budget

22

- ❑ Total State Budget All Funds totals \$162.5 billion.
- ❑ The General Fund portion is \$115.03 billion.
- ❑ General Fund revenues \$6.7 billion higher than expected
- ❑ Proposition 2 Rainy Day Fund will receive additional \$633 million deposit, bringing it to \$3.5 billion
- ❑ Extra revenue will also help the State expedite its debt payments by \$633 million
- ❑ \$168 million more in mandate reimbursements to cities (1x)
- ❑ Numerous redevelopment dissolution amendments are included which will negatively impact cities



Highlights - Personnel Costs

(in thousands)

Bargaining Unit	# of Budgeted FTEs*	Contract Term Expiration	FY 14/15 Budgeted Contract Cost^
POA	201.00	9/30/2015	2,582
HBFA	121.00	9/30/2015	1,057
MSMA	12.00	3/31/2016	151
PMA	12.00	3/31/2016	569
FMA	6.00	9/30/2015	124
NA	<u>2.00</u>	N/A	<u>63</u>
Safety	354.00		4,672
MEA	401.75	9/30/2015	1,746
MEO	111.50	11/1/2015	974
POA	38.00	9/30/15	126
NA	<u>12.00</u>	N/A	<u>133</u>
Miscellaneous	563.25		2,979
TOTAL	917.25		\$7,651

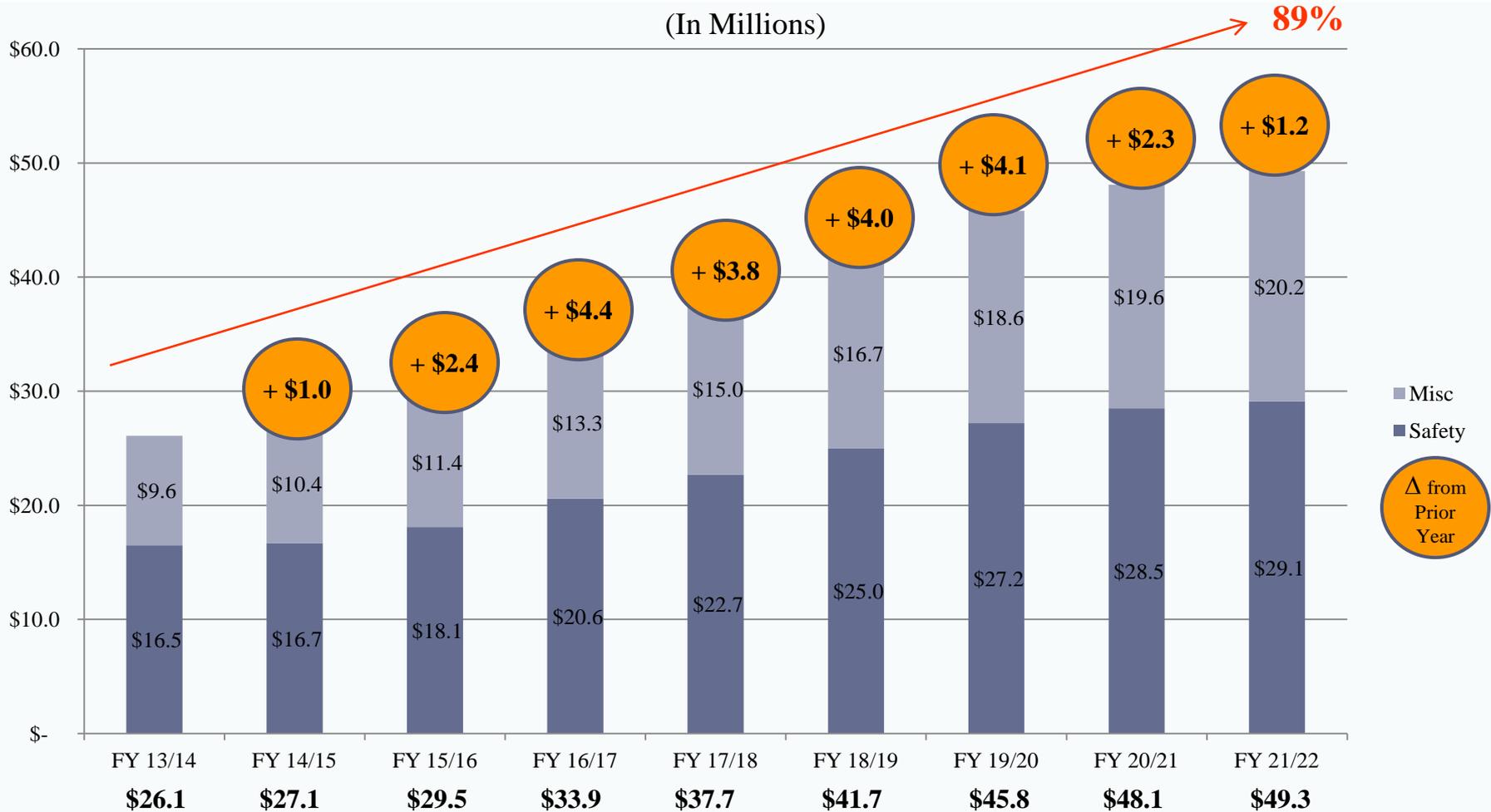
*Excludes 30 defunded positions and 30 Ambulance Operators.

^Contract costs are trending higher than budgeted amounts due to conservative projections.

**All Funds



8 - Year CalPERS Employer Contribution Increases



*Projections do not include new negotiated contract impacts.



Accomplishments

Actions Taken to Reduce Unfunded Liabilities	Total Taxpayers' Estimated Savings*
PARS Pre-Payment	\$59,606
7.75% Discount Rate Change to 7.50% – No Phase In	1,027,000
Retiree Supplemental “16 to 10” Plan	7,400,000
Retiree Medical “25 to 10” Plan	9,200,000
Early Payoff of Miscellaneous Retiree Medical	TBD
Subtotal	\$17,686,606
PERS “1 = 5” Plan (Safety)	<u>53,680,116</u>
Total	\$71,366,722

* Actual performance will be based on market conditions and actuarial gains and losses during the amortization period.



FY 2015/16 Proposed Budget Calendar

Proposed Date	Item
March 18, 2015	Budget Kick-Off
April 15, 2015	FY 2015/16 Budget Forms and Narratives Due
May 18, 2015	FY 2014/15 Mid-Year Budget Study Session
April 28 to May 26, 2015	FY 2015/16 Department Budget Meetings with City Manager
July 6, 2015	FY 2015/16 Proposed Budget Study Session
August 17, 2015	FY 2015/16 Budget Adoption: City Council Public Hearing
September 8, 2015	FY 2015/16 Budget Adoption: (Alternate)
October 1, 2015	Fiscal Year 2015/16 Begins



Awards and Accolades

Government Finance Officers' Association of US & Canada

- ✓ Distinguished Budget Presentation Award
- ✓ Certificate of Achievement for Excellence in Financial Reporting
- ✓ Award for Outstanding Achievement – Popular Annual Financial Reporting

California Society of Municipal Finance Officers

- ✓ Innovation Award – Plans to Reduce Unfunded Liabilities

Association of California Cities – Orange County

- ✓ Golden Hub of Innovation Award

Fitch Rating Agency

- ✓ AAA General Obligation credit rating September 2014

State Water Resources Control Board Emergency Regulations

City Council Study Session

May 18, 2015

January 2013 – Normal Snowpack



January 2015 – 25% of Normal



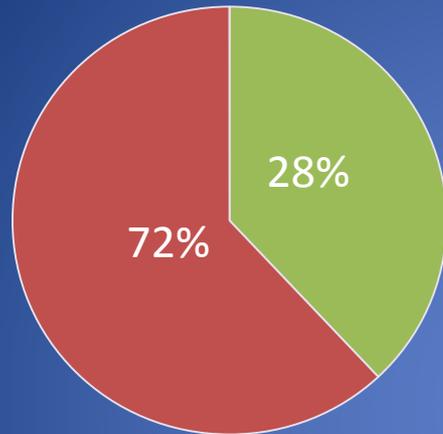


Lake Oroville - July 20, 2011



Lake Oroville - September 5, 2014

Huntington Beach Water Sources



■ Imported Water
(MWD)

■ Local Groundwater

52,400 Service Connections

Population: 199,088

2013/14 Production – 28,200 Acre Feet (AF)

1 AF = 326,000 gallons

Governor's Executive Orders

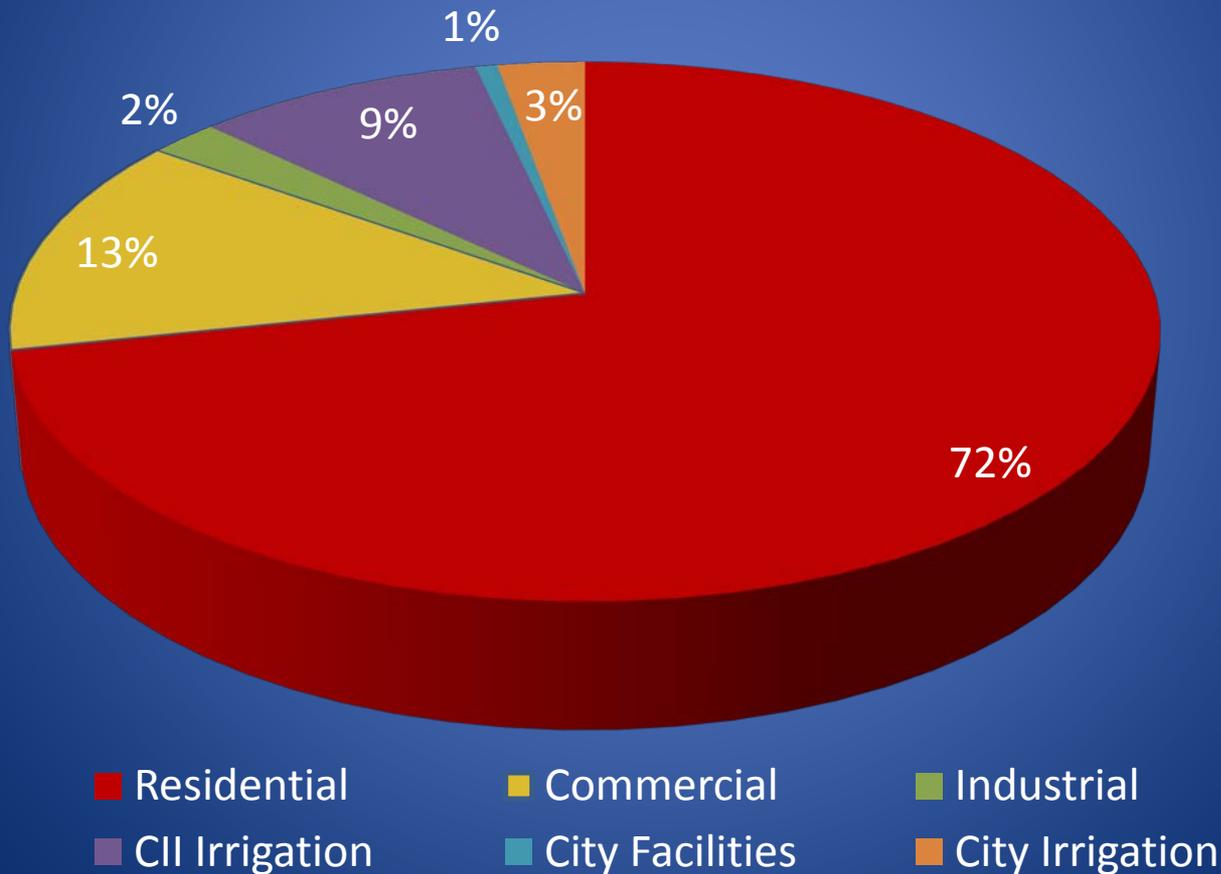
- January 17, 2014 Governor declares a statewide drought emergency.
- April 25, 2014 – Governor's Executive Order called on Californians and businesses to take actions to avoid wasting water.
- April 1, 2015 – Governor directs the State Water Resource Control Board to implement mandatory water reductions in urban areas to reduce potable urban water use by 25% statewide.

State Water Resources Control Board

- The State Water Resources Control Board adopted the Emergency Conservation Resolution and Regulation No. 2015-0032 on May 5, 2015.
- To reduce urban potable water use by 25 percent statewide, the regulation adopted by the Board, places each urban water supplier into one of eight tiers ranging between 4 percent and 36 percent.
- The City of Huntington Beach, whose average July-September 2014 R-GPCD was between 95 or more but less than 110, is required to reduce its total potable water usage production by 20 percent for each month as compared to the amount used in the same month in 2013.
- The State Water Board calls upon water suppliers to:
 - Impose restrictions on outdoor irrigation;
 - Notify customers about leaks that are within the customer's control;
 - Report on water use monthly; and
 - Report on compliance and enforcement
- The State Water board has a variety of tools available to enforce its regulations including warning letters, Cease and Desist Orders, and assessment of Civil Liabilities of up to \$10,000 for each day of non-compliance.

Water Usage By Sector

Fiscal Year 2013-14



Emergency Regulation Impacts to Huntington Beach

- Prohibits the irrigation of turf on public street medians with potable water.
- Prohibits automated irrigation during and within 48 hours following measurable precipitation.
- Recommends all cities adopt two day a week watering schedule.

City of Huntington Beach

Permanent Water Conservation Requirements

- No irrigation between 9:00 a.m. and 5:00 p.m.
- No more than 15 minutes per irrigation station.
- No excessive water flow or runoff.
- Washing of vehicles requires hand-held bucket or an auto shut-off nozzle.
- Washing down hard surfaces is prohibited.
- Water fountains or decorative water features are required to use recirculation systems.
- Restaurants are to serve drinking water only upon request.
- Commercial lodging establishments must provide guests the option to decline daily linen services.
- No installation of non-recirculating water systems in commercial car wash and laundry systems.

Level 1 Water Supply Shortage

Adopted by City Council September 1, 2014

- All plumbing system leaks must be repaired within 72 hours.
- Use of automated irrigation systems is limited to three (3) days per week in April through October, and two (2) days per week in November through March.

Level 2 Water Supply Shortage

- All plumbing system leaks must be repaired within 48 hours.
- Use of automated irrigation systems is limited to two (2) days per week in April through October, and one (1) day per week in November through March.
- Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life.
- Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

Proposed City Actions

- Implement Level 2 Water Supply Shortage.
- Update City's Water Management Program to comply with State Regulations, including staff recommendations:
 - ❖ Prohibit automated irrigation during and 48 hours following measurable precipitation.
 - ❖ Reduce irrigation from no more than 15 minutes to no more than 10 minutes per station.
 - ❖ Staff understands from resident feedback that allowing pools to fall below a certain level can cause mechanical issues that affect water quality. The changes to the ordinance provide an incentive to customers to fix pool leaks that lead to water loss while allowing healthy pools to function.

Proposed City Actions – Cont'd

- Remove selected non-recreational turf at City Facilities: City Hall – installation of demonstration garden with focus on drought tolerant options.
- Fire Stations – installation of artificial turf.
- Considering placing selected City turf on “life support”.
- Main Street Median – irrigate using recycled water until July 4th.
- Continue to improve City’s irrigation systems by installing weather-based controllers in medians. Installation completed at all City parks and the medians located on Goldenwest and Warner Ave.

City Hall Turf Removal



This area is helping to

CONSERVE OUR WATER SUPPLY



City of Huntington Beach
www.huntingtonbeachca.gov/hbwater



Enforcement

- Step 1 – Education with door hangers, bill inserts, neighborhood signage
- Step 2 – Verbal contact via visit or phone call
- Step 3 – Warning letter
- Step 4 - Issue Administrative Citation
 - First violation - \$125 fine
 - Second violation - \$250 fine
 - Third violation - \$600 fine

Signage To Be Placed At Neighborhood Entrances



Residential/Commercial Rebates:

www.ocwatersmart.com

- Turf Removal
- Smart Timer Irrigation Controllers – up to \$380 or \$25 per station
- Irrigation nozzles - \$4 ea.
- Air-Cooled Ice Machines - \$ 1,000
- Toilets - \$100
- Urinals - \$200
- Soil Moisture Sensor System - \$25 per station
- Rain Barrels - \$75



Questions?

PEIRANO & ASSOCIATES, INC.

ATTORNEYS AT LAW

1666 N. MAIN STREET, SUITE 350
SANTA ANA, CA 92701

TELEPHONE: (714) 881-5985

FACSIMILE: (714) 558-4854

May 18, 2015

VIA E-MAIL ONLY

Huntington Beach City Council
2000 Main Street
Huntington Beach, CA 92648

RE: Proposed Ordinance 4058
Discriminatory Statute

Dear Council Members:

We represent Daniel Garfield Richmond and HBCG Cooperative, Inc. in *City of Huntington Beach, et al. v. Garfield, et al.*, Orange County Superior Court case number 30-2014-00745511-CU-MC-CJC. We are participating in the public comment portion of today's City Council meeting to raise an important point regarding proposed Ordinance 4058 and preserve the issues raised for litigation pursuant to Government Code section 65009, subdivision (b).

Specifically, we are drawing the attention of the City Council to the fact that proposed Ordinance 4058 is discriminatory and **null and void** under Government Code section 65008, subdivision (a):

(a) Any action pursuant to this title by any city,¹ county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) (A) The lawful occupation, age, or any characteristic of the individual or group of individuals listed in subdivision (a) or (d) of Section 12955, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2. . . .

The defined characteristics from Government Code section 12955, subdivision (a) are:

. . . race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, **disability**, or genetic information of that person. (Emphasis added.)

¹ "This section shall apply to chartered cities." (Gov. Code § 65008(g).)

Similarly, the defined characteristics from Government Code section 12955, subdivision (d) are:

... sex, gender, gender identity, gender expression, sexual orientation, color, race, religion, ancestry, national origin, familial status, marital status, **disability**, genetic information, source of income, or on any other basis prohibited by that section. (Emphasis added.)

Government Code section 12955, subdivision (m), which is cited as a source of definition for section 12955, subdivision (a), states:

As used in this section, “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, **disability**, or genetic information,” includes a **perception** that the person has any of those characteristics or that the person is **associated** with a person who has, or is perceived to have, any of those characteristics. (Emphasis added.)

Government Code section 12926, which is cited as a source of definition for section 12955, defines “physical disability”:

“Physical disability” includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. . . .

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

...

Government Code section 12926.1, which is also cited as a source of definition for section 12955, contains a more verbose definition of “disability.” Subdivision (c) states:

Physical and mental disabilities include, but are not limited to, chronic or episodic conditions such as **HIV/AIDS**, hepatitis, epilepsy, seizure disorder, diabetes, clinical depression, bipolar disorder, multiple sclerosis, and heart disease. In addition, the Legislature has determined that the definitions of “physical disability” and “mental disability” under the law of this state require a “limitation” upon a major life activity, but do not require, as does the federal Americans with Disabilities Act of 1990, a “substantial limitation.” This

distinction is intended to result in broader coverage under the law of this state than under that federal act. . . . (Emphasis added.)

Medical marijuana was decriminalized in California so that people with disabilities could obtain relief from (the symptoms of) their conditions. The Compassionate Use Act of 1996, a state-wide referendum declared:

The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 (“CUA”) are as follows:

(A) To ensure that seriously ill Californians have the **right to obtain** and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana in the treatment of cancer, anorexia, **AIDS**, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients **and their primary caregivers** who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or **sanction**.

. . .

(Health & Safety Code § 11362.5(b)(1).) (Emphasis added.)

We highlight “AIDS” because it specifically appears in the Government Code section 12926.1 definition of “physical disability” and thus creates a nexus between the two statutes.

Under the Medical Marijuana Program (“MMP”), “The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.” (Health & Safety Code § 11362.71(a)(1).) “A person who seeks an identification card shall . . . provide all of the following to the county health department . . . :

. . .

(2) Written documentation by the attending physician in the person’s medical records stating that the person has been diagnosed with a **serious medical condition** and that the medical use of marijuana is appropriate. (Emphasis added.)

. . .

By definition, along with specifically-named conditions such as the ones announced by the CUA, a “serious medical condition” includes, “Any other chronic or persistent medical symptom that . . . [s]ubstantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101–336).” (Health & Safety Code § 11362.7(h)(12)(A).) Since “disability” includes all disabilities under the American with Disabilities Act of 1990 (“ADA”) and all medical marijuana identification card

holders must have a “serious medical condition” which encompasses everything from the ADA, it seems clear that everyone prescribed medical marijuana in California has a “disability” within the meaning of Government Code section 65008.

Proposed Ordinance 4058 plainly discriminates against these individuals and the people associated with them. The proposed ordinance states, “A Medical Marijuana Business, Collective, Cooperative or Dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City. . . .” (Ord. 4058, § 1C.) It even goes on to criminalize landlords and primary caregivers, stating, “. . . Also, it shall be unlawful for any person to permit to be established, conducted, [or] operated . . . as a landlord . . . or in any other manner or capacity, any medical marijuana business, collective, cooperative or dispensary in the City.” (*Ibid.*)

The crux of the problem is the definition of “Medical Marijuana Business, Collective, Cooperative or Dispensary”:

Medical Marijuana Business, Collective, Cooperative or Dispensary means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the distribution of marijuana.

(Ord. 4058, § 1B1.)

Aside from being an example of poor legislative drafting, this definition is the epitome of unintended consequences. To understand the impact of this ordinance on medical marijuana patients, the lists need to be reduced to the relevant items:

Medical Marijuana Business, Collective, Cooperative or Dispensary means any . . . residence . . . used . . . as a place at or in which marijuana is . . . located, stored, . . . placed or cultivated, . . . if used in connection with the distribution of marijuana.

Notice there is no requirement to be “used in connection with the **commercial** distribution of marijuana” as one might suspect from the inclusion of the word “business” in the phrase defined.

Instead, proposed Ordinance 4058 outlaws the use of medical marijuana patients’ own homes to receive and store their medicine. Unless marijuana spontaneously sprouts on the patients’ lands, the act of bringing the medicine onto the property from somewhere else would be using it “in connection with the distribution of marijuana.” A bed-ridden patient could never have his or her medicine brought to him or her because doing so would be using the “residence” “in connection with the distribution of marijuana.” A primary caregiver could never cultivate medical marijuana for “distribution” to a qualified patient.

More onerously, proposed Ordinance 4058 invites housing discrimination from landlords fearful of violating the ordinance by permitting a qualified patient to move in. The landlord would be caught between violating the equal housing laws and violating the proposed ordinance.

Proposed Ordinance 4058 is poorly drafted and patently illegal under Government Code section 65008. It is our opinion that passing it will invite litigation over its validity and the real risk that it will be overturned outright as discriminatory. The proposed ordinance openly attempts to drive medical marijuana from the City of Huntington Beach, not by criminalizing it, but by denying qualified patients the privileges of land use and residence to receive the distribution of the medicine upon which they rely to treat their disabilities.

According to the Request for City Council Action, “The Planning Commission also recommended that language be added to the Ordinance to clarify that delivery of medical marijuana into the City from an establishment outside the City is not prohibited.” (RCA, p. 2, § C.) Clearly, the Planning Commission can see the overreaching language of the proposed ordinance.

The City Council must do what is right, as opposed to what is expedient, and decline to pass a fatally flawed ordinance.

Very truly yours,

PEIRANO & ASSOCIATES, INC.

Sean Raymond Bozarth, Esq.

Amendments to Water Conservation Ordinance Huntington Beach Municipal Code 14.18

City Council Meeting
May 18, 2015

Governor's Executive Orders

- State is in the fourth year of the drought.
- January 17, 2014 Governor proclaimed a statewide drought emergency.
- April 25, 2014 – Governor proclaimed a Continuing State of Emergency due to the drought.
- April 1, 2015 – Governor directed the State Water Board to implement mandatory water reductions in urban areas to reduce potable urban water use by 25 % statewide.
- May 5, 2015 – State Water Resources Control Board adopts emergency drought regulations, which became effective on May 15, 2015

State Mandated Reduction Targets for Huntington Beach

- Huntington Beach mandated to reduce water production 20%, beginning June 1, 2015 through February 2016, compared to the same period in 2013.
- Reduction tier based upon residential gallons per capita daily use of 109.0 (July-September 2014)
- Required reduction = 1,501,308,314 gallons, equivalent to 22 gallons savings per person per day.
- Failure to meet these reductions could result in fines of up to \$10,000 per day

State Water Board Mandated Impacts to all Water Agencies

- Prohibits the irrigation of turf on public street medians with potable water.
- Prohibits automated irrigation during and within 48 hours following measurable precipitation.
- Recommends all cities adopt two day a week watering schedule.

City of Huntington Beach

Permanent Water Restrictions

- No irrigation between 9:00 a.m. and 5:00 p.m.
- No more than 15 minutes per irrigation station.
- No excessive water flow or runoff.
- Washing of vehicles requires hand-held bucket or an auto shut-off nozzle.
- Washing down hard surfaces is prohibited.
- Water fountains or decorative water features are required to use recirculation systems.
- Restaurants are to serve drinking water only upon request.
- Commercial lodging establishments must provide guests the option to decline daily linen services.
- Commercial car washes may not install non-recirculating water systems.

Level 1 Restrictions (Currently Enforcing)

- All plumbing system leaks must be repaired within 72 hours.
- Use of automated irrigation systems is limited to three (3) days per week in April through October, and two (2) days per week in November through March.

Level 2 Restrictions

- All plumbing system leaks must be repaired within 48 hours.
- Use of automated irrigation systems is limited to two (2) days per week in April through October, and one (1) day per week in November through March.
- Filling or re-filling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life.
- Re-filling of more than one foot and initial filling of residential swimming pools or outdoor spas with potable water is prohibited.

Proposed Changes to Water Management Program

Permanent Restrictions:

- Prohibit irrigation during or within 48 hours of a measurable rain event.
- Limit the amount of irrigation time from current limit of 15 minutes per station to no more than 10 minutes per station.

Level 2 Restrictions:

- Allow initial filling of new pools and spas provided that an appropriate cover is in place to minimize evaporation.
- Allow refilling of existing pools and spas if a leak was repaired and/or to address a health or safety concern.

Staff Recommendation

- Adopt Emergency Ordinance No. 4060 amending Chapter 14.18 of the Huntington Beach Municipal Code relating to the Water Management Program Permanent Conservation Measures and Level 2 Shortage Supply Measures.

Request: 22190 Entered on: 05/12/2015 11:18 PM

Customer Information

Name: Shainna Breslow
Address: 352 Obispo Avenue
Huntington Beach, CA
90814

Phone: (310) 795-9909
Alt. Phone:
Email: sflabreslow@gmail.com

Request Classification

Topic: City Council - Agenda & Public Hearing Comments
Request type: Question
Status: Closed
Priority: Normal
Assigned to: Agenda Alerts
Entered Via: Web

Description

Well done City Council. A year has past and still no covers on the trash bins on the beach. The birds continue to strew trash all over the beach. Your claim was it was too expensive at the time. Also, when I jumped in the water to go surfing the other day I saw three plastic bags floating in the water. Do you people ever visit the beach? Or do you just stay on the concrete? What type of legacy are you leaving for you children? Your actions tell the rest of us that you don't care about the health of our beaches and oceans. And you definitely don't care about your children's future. Pure greed. You are the only city who reversed the bag ban. You didn't even submit an EIR. You are obviously bought out by financial interests. I just wonder if you have any conscience at all.

Reason Closed

Thank you for taking the time to send your comments to the City.

Date Expect Closed: 05/13/2015

Date Closed: 05/13/2015 08:05 AM By: Johanna Dombo

Enter Field Notes Below

Notes:

SUPPLEMENTAL COMMUNICATION

Meeting Date: 5-18-2015

Agenda Item No. 10

Notes Taken By:

Date:



(tel) (714) 847-3581 • Fax (714) 841-4540
PO Box 1026 • 17131 Nichols Lane
Huntington Beach, CA 92647

www.RainbowES.com



May 12, 2015

Councilman Dave Sullivan
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Dear Councilman Sullivan:

The acquisition of Rainbow Disposal by Republic Services, Inc. has caused us to reconsider our plans for the Warner Nichols property. We do not foresee any need for the property based on our revised business plans and projections. Therefore, we would like to request the City rescind the commercial/industrial rezoning of our property so that it will revert back to medium density residential.

We appreciate your cooperation in this matter.

Sincerely,

Jerry Moffatt
General Manager

Cc. Fred Wilson

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 5-18-2015

Agenda Item No. 11

Board of Directors

Jeanne Baird, Chair of the Board
Retired, Huntington Beach Unified High School District

Katherine Bihr, Ed.D., Vice Chair of the Board
Vice President, Programs and Education,
Tiger Woods Learning Center

Arthur Gome, Secretary
Retired, Garment Industry Executive

Bob Cummings, Treasurer
Retired, Owner of Sir Speedy Printing & Marketing

Daniel Bryan
Principal, Ocean View High School

Charles Buntan
Director of Corp Contract Services and Risk Management,
UST Global

Marilyn Cavener
Retired, Banking Executive

Ding-Jo Currie, Ph.D.
Cal State University Fullerton

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Roni Ellis
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Juan Francisco Lara, Ph.D.
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University of California, Irvine

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Management

Colleen Mensel
Chief Executive Officer
Colleen.mensel@elviento.org 714.274.5142

Julie Taber
Operations Manager
julie.taber@elviento.org, 714.869.8517

Lisa Helo Diaz
Program Director, Elementary & Middle School
Lisa.diaz@elviento.org 714.872.2153

ErikaENZ
Program Director, High School & College
Erika.enz@elviento.org 714.872.2078

Arturo Bravo Garcia
Program Assistant
Arturo.garcia@elviento.org 714.232.6694



May 18, 2015

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 5/18/2015

Agenda Item No. 11

Ms. Joan L. Flynn
City Clerk
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648
Via Email - jflynn@surfcity-hb.org

Dear Ms. Flynn,

I am unable to attend the City Council meeting this evening, but I hope you will be able to share the below information during the meeting.

As you know, El Viento Foundation is a non-profit serving the students and families of the Oak View Community here in Huntington Beach. It has been a difficult year for us, due to the temporary closure of Oak View Elementary School this school year. If it were not for Rainbow Environmental Services of Huntington Beach, California, I do not know where we would have hosted our STEM (science, technology, engineering, and math) Program this school year.

The staff at Rainbow Environmental stepped up and offered the use of their meeting rooms for our students to continue their STEM program at no cost to us. This was a perfect solution considering their location directly across the street from Oak View Elementary. I would like to express our sincerest appreciation to the staff and management of Rainbow Environmental. Our students, families, staff, and board are grateful to them for their service to our program.

Thank you very much and have a wonderful meeting this evening.

Cordially,

Colleen Mensel
President and CEO

Cc: Sue Gordon, Rainbow Environmental

El Viento Foundation
P.O. Box 3897
Huntington Beach, CA 92605-3897

Telephone 714.892.7711 ext. 51052

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