

**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 *JLF/ve*

DATE: 11/2/2015

SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE NOVEMBER 2, 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 dated November 2, 2015, entitled *AQMD Rule 1304.1 – AES Mitigation Fees and Proposed Implementation Plan and Funding Criteria*.
- #2. PowerPoint presentation dated November 2, 2015, entitled *Purchasing Presentation*.

LIAISON REPORT

PowerPoint communication entitled *Historic Wintersburg designated NATIONAL TREASURE by National Trust for historic Preservation*.

CITY TREASURER'S REPORT

- #1. Revised PowerPoint communication received from City Treasurer, Alisa Cutchen, entitled *City of Huntington Beach City Treasurer's Report, Period Ending: September 30, 2015*.

CONSENT CALENDAR

- #7. Reimbursement Agreement with Christopher Homes to fund the environmental analysis for Redevelopment of the Michael E. Rodgers Seniors' Center Site.
- #9. 3 protest letters received regarding the Water and Sewer Service Rate Adjustments in addition to the 257 previously received.

PUBLIC HEARING

- #10, #11, #12, #13 Communication received from City Attorney, Michael E. Gates, dated November 2, 2015 revising each Request for Council Action to reflect the correct actions at the Planning Commission public hearing.
- #10, #11, #12, #13 Communications received regarding denial of Zoning approvals, Business Licenses and Certificates of Occupancy for Medical Marijuana Dispensaries:

Mark Rosenberg
Deborah Williams

Dea Franklin
Gil (no last name given)

Dylan Hensley
Sabrina Regehr

Donna Wallack

ADMINISTRATIVE ITEMS

- #14. Exclusive Negotiation Agreement with Christopher Homes for Redevelopment of the Michael E. Rodgers Seniors' Center Site.

AQMD Rule 1304.1 – AES Mitigation Fees and Proposed Implementation Plan and Funding Criteria

Study Session
November 2, 2015

Discussion Topics

Background/AQMD Rule 1304.1

Proposed Implementation Plan and Funding Criteria

City Position on Proposed Criteria

Proposed Projects

Next Steps

Background

- ▶ The AES Power Plant is set to “re-power” and will begin construction on their facility in 2016.
 - ▶ Their rehabilitation efforts to “re-power” will trigger a Rule adopted by the South Coast Air Quality Management District (AQMD) in 2013.
 - ▶ This Rule known as Rule 1304.1 simply put, requires power plants to pay mitigation fees when they “re-power.”
- 

Background Cont.

- ▶ When the rule was adopted in 2013, the AQMD Governing Board emphasized use of fees in communities closest to the power plant with 8% of the proceeds set aside for AQMD administrative use.
 - ▶ In 2014, staff anticipated that the City would be eligible for up to \$73 million out of the \$75 million in fees to fund mitigation projects.
- 

Background Cont.

- ▶ However, based on newly released funding criteria 50% of the funds would be disbursed to projects within the 6 mile radius surrounding the AES plant while the other 50% would be disbursed in areas that are considered Environmental Justice communities.
- ▶ The AQMD is set to review this criteria at the Mobile Source Reduction Committee on November 20th and the Governing Board will review and vote on the proposed criteria at their December 4th Board Meeting.

Use of “Offset” Proceeds

- ▶ Board directed staff to work with Stakeholders to develop guidelines for the use of funds
- ▶ Board added language:
 - *“Priority will be placed on the use of funds to improve air quality consistent with the Air Quality Management Plan in the impacted, surrounding communities...”*



Rule 1304.1 Working Group

- ▶ On September 30th AQMD staff released **proposed Rule 1304.1 funding criteria**
 - ▶ Three Working Group Meetings – October 2013, July 2014, and November 2014
 - ▶ Proposed Funding Criteria is inconsistent with the Board's prior action (Sentinel Power Plant in the Coachella Valley)
- 

CPV Sentinel Energy Project

- ▶ AQMD awarded \$51 million in grants funded by the mitigation funds.
- ▶ Funded Projects Included – Bike/Electric Vehicle Path, Solar Panel Installations, school bus and fleet replacements, and Salton Sea air monitoring.



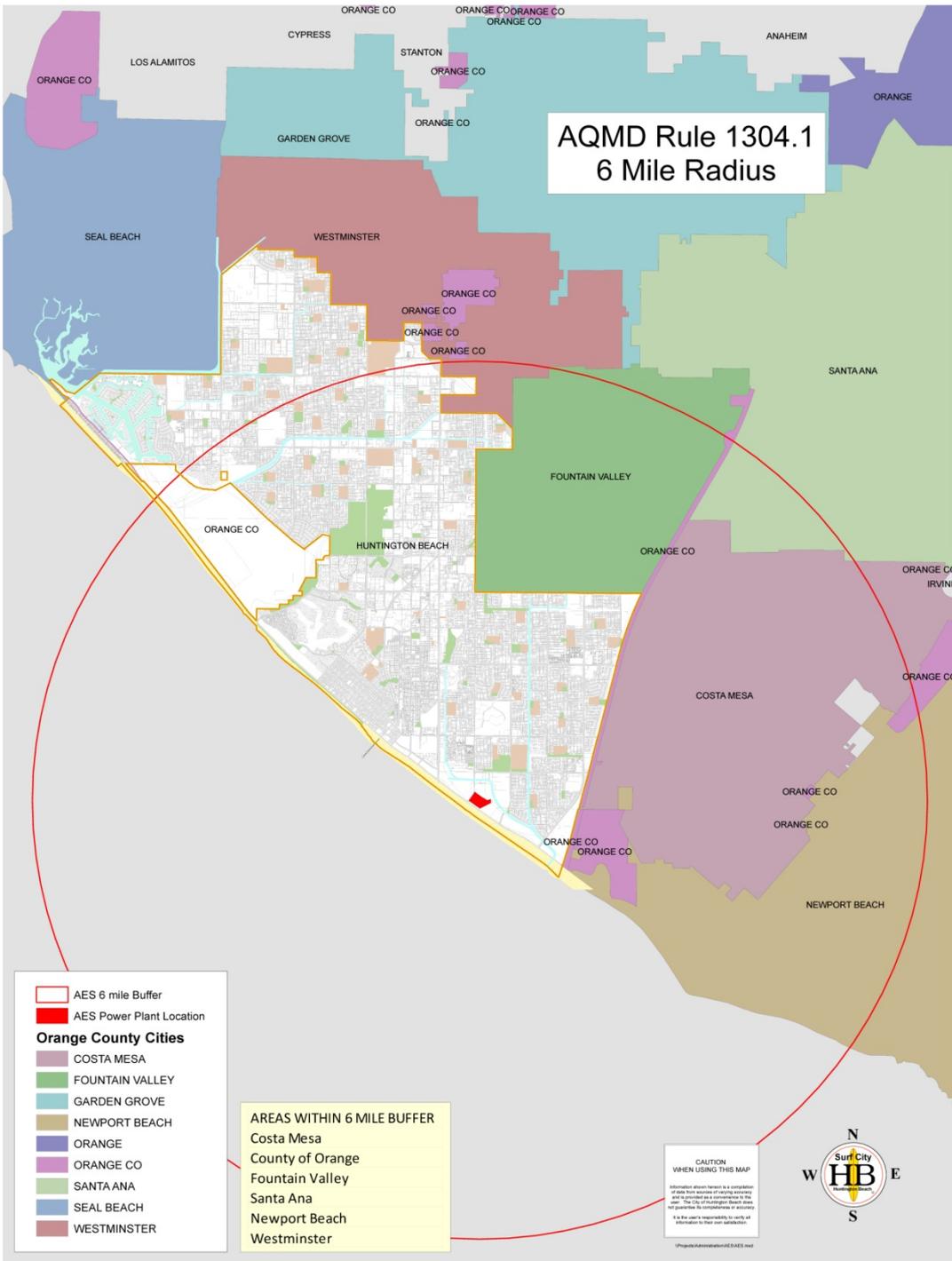
Proposed Implementation Plan and Funding Criteria

Target 50% minimum funding in Environmental Justice areas within the SCAQMD

Target 50% minimum funding within close proximity (6 miles)

**** The Board does have discretion on funding approval for most efficient use of funds ****

AQMD Rule 1304.1 6 Mile Radius



AES 6 mile Buffer
 AES Power Plant Location
Orange County Cities
 COSTA MESA
 FOUNTAIN VALLEY
 GARDEN GROVE
 NEWPORT BEACH
 ORANGE
 ORANGE CO
 SANTA ANA
 SEAL BEACH
 WESTMINSTER

AREAS WITHIN 6 MILE BUFFER

- Costa Mesa
- County of Orange
- Fountain Valley
- Santa Ana
- Newport Beach
- Westminster

**CAUTION
WHEN USING THIS MAP**

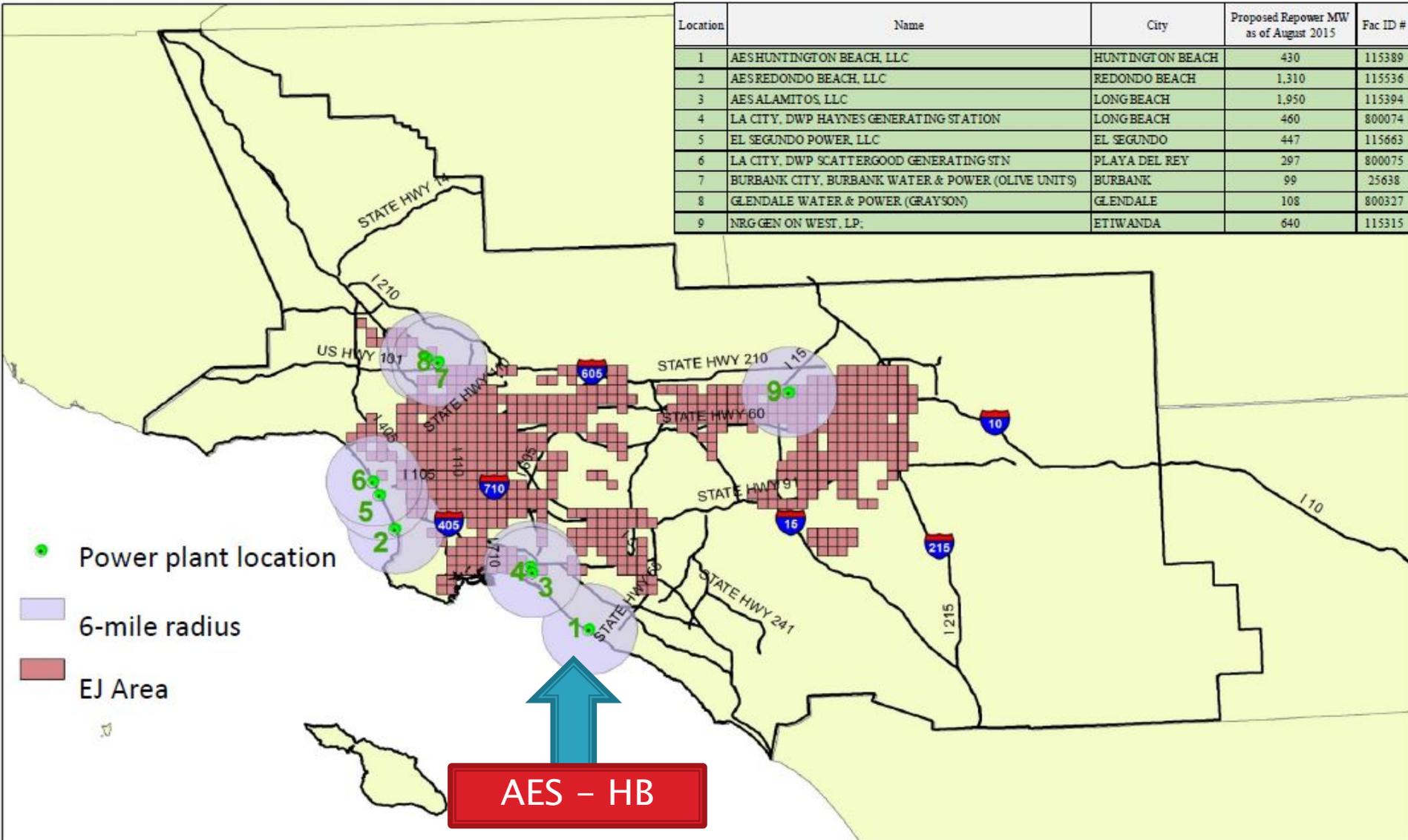
Information shown herein is a compilation of data from various sources. The City of Huntington Beach does not guarantee its completeness or accuracy. It is the user's responsibility to verify all information to their own satisfaction.

©ProjectAdministrativeAES.mxd



AQMD Environmental Justice Map

Location	Name	City	Proposed Repower MW as of August 2015	Fac ID #
1	AES HUNTINGTON BEACH, LLC	HUNTINGTON BEACH	430	115389
2	AES REDONDO BEACH, LLC	REDONDO BEACH	1,310	115536
3	AES ALAMITOS, LLC	LONG BEACH	1,950	115394
4	LA CITY, DWP HAYNES GENERATING STATION	LONG BEACH	460	800074
5	EL SEGUNDO POWER, LLC	EL SEGUNDO	447	115663
6	LA CITY, DWP SCATTERGOOD GENERATING STN	PLAYA DEL REY	297	800075
7	BURBANK CITY, BURBANK WATER & POWER (OLIVE UNITS)	BURBANK	99	25638
8	GLENDALE WATER & POWER (GRAYSON)	GLENDALE	108	800327
9	NRG GEN ON WEST, LP;	ETIWANDA	640	115315



- Power plant location
- 6-mile radius
- EJ Area

AES - HB

CalEnviroScreen 2.0 results

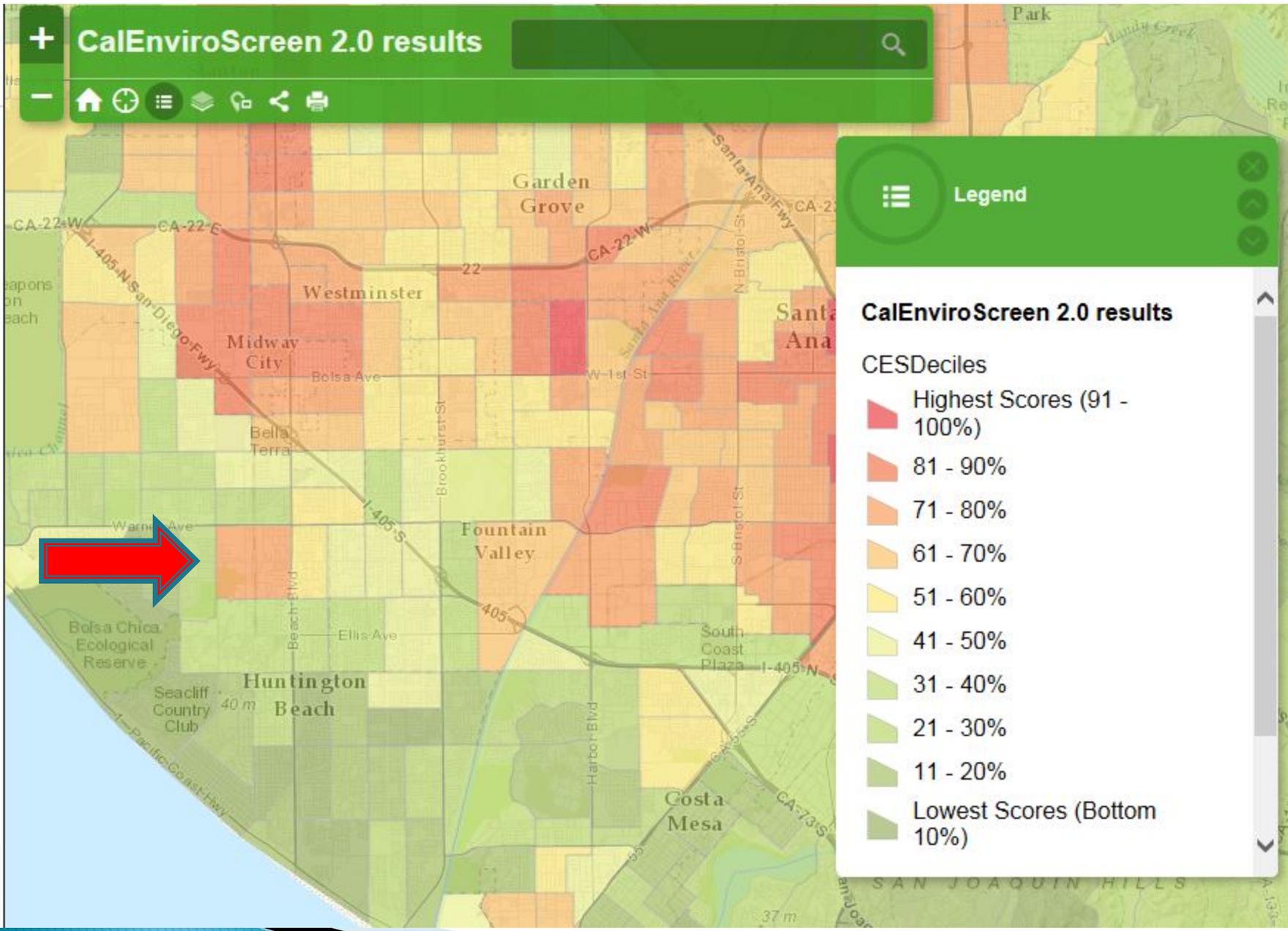


Legend

CalEnviroScreen 2.0 results

CESDeciles

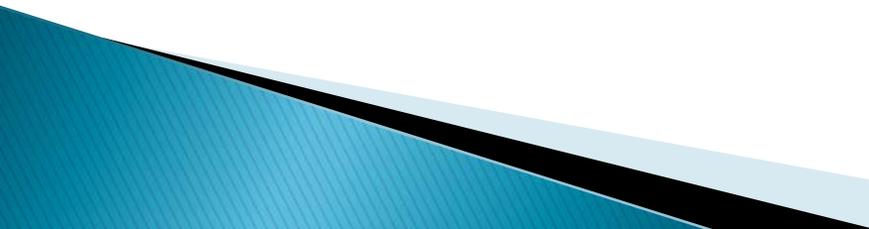
- Highest Scores (91 - 100%)
- 81 - 90%
- 71 - 80%
- 61 - 70%
- 51 - 60%
- 41 - 50%
- 31 - 40%
- 21 - 30%
- 11 - 20%
- Lowest Scores (Bottom 10%)



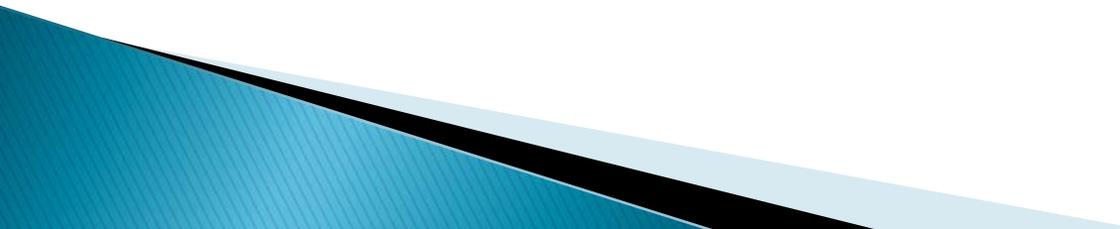
City's Position

- ▶ The Proposed Implementation Plan is Inconsistent with the Governing Board's Direction and Prior Action
 - ▶ The Map showing potential 1304.1 Repowering Projects is Inaccurate
 - ▶ The Disbursement Plan Proposed by SCAQMD staff negatively and disproportionately impacts residents of HB
 - ▶ The Proposed Disbursement Plan is Inequitable and Poorly Conceived to Achieving Demonstrable Emissions
- 

Proposed Eligible Projects

- ▶ Replace the City's diesel fleet (39 vehicles)
 - ▶ Install solar canopies at the City Water Operations Facility, Fire Stations, and Community Facilities
 - ▶ CNG Fueling Stations
 - ▶ Signal Synchronization Projects
 - ▶ Bike Master Plan Capital Improvement
 - ▶ Gasoline Fleet Replacements
 - ▶ Micro Grid – Feasibility
- 

Next Steps

- ▶ Meetings with AQMD Governing Board Members
 - ▶ AQMD – Mobile Source Committee November 20, 2015
 - ▶ AQMD Governing Board Meeting – December 4, 2015
- 



Questions?

PURCHASING PRESENTATION

Study Session

November 2, 2015

City of Huntington Beach Finance Department

Summary

- On 10/4/2015 Council Members Posey, Peterson and O'Connell submitted items regarding transparency in contracting and the City Council directed the City Manager to agendize a Study Session to discuss the City's procurement/purchasing and contracting policies and procedures and determine options for increasing transparency

PURCHASING

- Administers the procurement of goods and services; coordinates the competitive bidding process; maintains list of qualified vendors; manages office supply orders, and manages the citywide procurement card program.
- Fair and Open competition is the fundamental principle of purchasing utilizing best practices:
 - Organized Processes (RFI, RFQ, RFP)
 - Competition
 - Fairness
 - Legal/Ethical
 - Best Business Practice - Procedures

Transparency in Contracting

- State laws and regulations (including the Public Contract Code) related to procurement, purchasing and contracting in public sector agencies;
 - Sections 6100-6615; 20100-20103.7; 20103.8
- Existing Charter provisions that regulate procurement, purchasing and contracting processes;
 - Article VI, Sections 613 and 614.
- Existing Municipal Code sections and provisions related to procurement, contracts and purchasing; and,
 - Chapters 3.02 and 3.03
- Existing Administrative Regulations related to procurement, contracts and purchasing.
 - Administrative Regulations 119, 205, and 228

Planet Bids website

pb PB System

← → C <https://www.planetbids.com/hub/hub.cfm>

Bid Management

My Bids Agency Bids Spec Library

Title/Invite # Department All Posted to

Stage All Buyer All Due Date to

Type All Archived No Category

By Invite Only All Prev. Wage All Keyword

Search returned 187 results that are Not Archived

Select All Select None Archive Un-archive Reports Export Print

	Posted	Created	Entered By	Invitation #	Category	Project Title	Due Date	Remaining	Stage	Type	Format
<input type="checkbox"/>	10/15/2015	10/15/2015	Slobojan, Jim	2015-1015	91867, 91878, 94800, 95856	Jail Contract Health Authority	11/10/2015	12 days	Bidding	RFP	Electronic only
<input type="checkbox"/>	08/25/2015	08/25/2015	Slobojan, Jim	2015-0825	91804, 91849, 94600	Actuarial Services	09/30/2015		Award Pending	RFP	Electronic only
<input type="checkbox"/>	09/03/2015	09/03/2015	Griffin, Sharon	16-0917	12000, 22000, 54500, 69000, 94100	16" Anti-cavitation, hydraulically operated globe valve	09/17/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	09/02/2015	09/01/2015	Griffin, Sharon	15-0916	04500, 74000, 90618, 96138, 96240	Food Service Equipment for Senior Center	09/16/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	08/10/2015	08/10/2015	Griffin, Sharon	15-0909	98852	Landscape for Fire Stations & City Hall: Synthetic Turf,	09/09/2015		Closed	RFQ	Electronic & Paper
<input type="checkbox"/>	08/06/2015	08/06/2015	Slobojan, Jim	2015-0806	96148	As Needed Phlebotomy Services	08/27/2015		Awarded	RFP	Electronic only
<input type="checkbox"/>	08/05/2015	08/05/2015	Griffin, Sharon	15-0819	72000, 89000, 90694, 96296	Peck Upgrade Project Pre-Purchased Equipment	08/19/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	07/27/2015	07/27/2015	Slobojan, Jim	2015-0727	96144, 96145	Building Plan Review Services	08/19/2015		Awarded	RFP	Electronic only
<input type="checkbox"/>	06/24/2015	06/23/2015	Goldstein, Marily	15-0728 Designa or Equal	95873	New Parking Revenue and Access Control System	08/06/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	06/26/2015	06/26/2015	Slobojan, Jim	2015-0626	05200, 91886, 96104	Call for Public Art - Senior Center in the Park	08/03/2015		Closed	RFP	Paper only
<input type="checkbox"/>	07/15/2015	07/15/2015	Griffin, Sharon	15-0730	83000, 96878, 96892	Granular Activated Carbon Filter System	07/30/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	06/12/2015	06/10/2015	Slobojan, Jim	2015-0611	96168	Surf Class Instructors	07/30/2015		Award Pending	RFP	Electronic only
<input type="checkbox"/>	06/25/2015	06/25/2015	Slobojan, Jim	2015-0625	90600, 90610, 90630, 90662, 90772, 91800,	Fire inspection and plan review services	07/21/2015		Closed	RFP	Electronic only
<input type="checkbox"/>	06/29/2015	06/29/2015	Griffin, Sharon	15-0716	72000, 89000, 90694, 96296	Variable Frequency Drive Replacements	07/16/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	06/12/2015	06/12/2015	Slobojan, Jim	2015-0612	90775, 95815	Facilities Condition Assessment Services	07/06/2015		Awarded	RFP	Paper only
<input type="checkbox"/>	05/18/2015	05/18/2015	Slobojan, Jim	2015-0518	90657, 90666, 91827, 91892, 96128	Redevelopment of Rodgers Senior Center Site	07/01/2015		Closed	RFP	Electronic only
<input type="checkbox"/>	06/15/2015	06/15/2015	Griffin, Sharon	15-0630	28700, 69000, 72000, 96892	Vertical Pump Motor	06/30/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	06/10/2015	06/10/2015	Goldstein, Marily	15-0630	85501, 95600	HUNTINGTON BEACH CENTRAL LIBRARY THEATER	06/30/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	06/15/2015	06/15/2015	Griffin, Sharon	15-0629	28700, 69000, 72000, 96892	Right Angle Gear Drive	06/29/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	06/04/2015	06/04/2015	Griffin, Sharon	15-0625	83000, 96878, 96892	Granular Activated Carbon Filter System	06/25/2015		Cancelled	RFQ	Electronic only
<input type="checkbox"/>	06/08/2015	06/02/2015	Goldstein, Marily	15-0625	42500, 91854	CENTRAL LIBRARY FURNITURE	06/25/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	06/11/2015	06/11/2015	Griffin, Sharon	15-0622	15500, 90610	Modular Classroom	06/22/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	05/26/2015	05/26/2015	Slobojan, Jim	2015-0526	94633	Collection Agency Services	06/18/2015		Award Pending	RFP	Electronic only
<input type="checkbox"/>	05/20/2015	05/20/2015	Slobojan, Jim	2015-0520	91863	Notice of Funding Availability - Affordable Housing	06/18/2015		Closed	RFQual	Paper only
<input type="checkbox"/>	05/06/2015	05/06/2015	Slobojan, Jim	2015-0506	96252	Wayfinding Program Consultant Services	06/18/2015		Closed	RFQual	Electronic only
<input type="checkbox"/>	06/03/2015	06/03/2015	Slobojan, Jim	2015-0603	96145, 96847	STAFFING FOR BUILDING COUNTER AND	06/15/2015		Awarded	RFP	Electronic only
<input type="checkbox"/>	05/06/2015	05/06/2015	Slobojan, Jim	2015-0506a	96600	Bill Print Processing and Delivery Services	06/01/2015		Awarded	RFP	Electronic only
<input type="checkbox"/>	05/14/2015	05/14/2015	Goldstein, Marily	15-0528	07000	NEW FORD C-MAX ENERGI 300A	05/28/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	04/27/2015	04/27/2015	Slobojan, Jim	2015-0427	96217	Shuttle Services Operator	05/14/2015		Closed	RFP	Electronic only
<input type="checkbox"/>	04/27/2015	04/27/2015	Griffin, Sharon	15-0504	69000, 69100	Waukesha Engines	05/04/2015		Awarded	Bid	Electronic only
<input type="checkbox"/>	04/20/2015	04/20/2015	Griffin, Sharon	15-0428	28000, 91438	Automatic Transfer Switch	04/28/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	03/19/2015	03/19/2015	Slobojan, Jim	2015-0319	20500	Enterprise Land Management (ELM) Software System &	04/27/2015		Closed	RFP	Electronic & Paper
<input type="checkbox"/>	03/17/2015	03/17/2015	Slobojan, Jim	2015-0317	96115	HUNTINGTON BEACH SPORTS COMPLEX	04/22/2015		Closed	RFP	Electronic only
<input type="checkbox"/>	04/06/2015	04/06/2015	Griffin, Sharon	15-0420	91894, 96876, 96880, 96881, 96882, 9688	Signal Equipment	04/20/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	03/30/2015	03/30/2015	Griffin, Sharon	15-0406	34000, 99000	Breathing Air Equipment	04/06/2015		Closed	RFQ	Electronic only
<input type="checkbox"/>	03/25/2015	03/24/2015	Griffin, Sharon	15-0402	05232, 20000, 20074	2015 4th of July Shirts	04/02/2015		Awarded	RFQ	Electronic only
<input type="checkbox"/>	03/06/2015	03/05/2015	Goldstein, Marily	15-0319	34000, 34500, 44500, 46000, 99000	FIRE EQUIPMENT	03/19/2015		Awarded	RFP	Electronic only
<input type="checkbox"/>	02/12/2015	02/12/2015	Griffin, Sharon	15-0226	02500, 28500, 72000	Indianapolis Yorktown Pump Replacement	02/26/2015		Awarded	RFQ	Electronic only

Contract Types

- Professional Service Agreements
 - In general, a professional service requires that the company use professional discretion and judgment based on advanced skill or specialized knowledge, expertise or training.
- Goods and Services Agreements
 - Goods - articles moveable at the time of sale, including but not limited to equipment, supplies and materials.
 - Services - Work performed or labor, time and effort expended by an independent contractor.
- Maintenance and Repair Services Agreements
 - Services intended to preserve and/or restore a public work to a clean, safe, efficient and/or continually usable condition. Maintenance and repair services may include, but are not limited to: carpentry, electrical, painting, plumbing, glazing and other craftwork to preserve a facility in the condition for which it was intended; repairs, cleaning and other operations on machinery and other equipment permanently attached to a facility as fixtures; the mowing, pruning, and trimming of lawns, grass, trees, shrubs, bushes and hedges; and the regular removal or relocation of by-products or waste products accumulated at City facilities as the result of ongoing environmental processes.
- Public Works Contracts
 - The construction or improvement (excluding maintenance & repair) of public buildings, works, streets, drains, sewers, utilities, parks & playgrounds, and each separate purchase of material for the same where the expenditure shall exceed the amount set by ordinance (\$25,000), shall be let to the lowest responsible bidder.

The Process - Professional Services

Controlling Documents:

- City Charter Section 613
- Municipal Code Chapter 3.03
- Administrative Regulation 228

Key steps to the process

1. Preparation of Scope of Work
2. Publication of Solicitation
3. Vendor Evaluation & Selection
2. Contract Award and Management
 - Services under \$30,000 may be obtained through informal bidding.
 - Over \$30,000 requires formal bid process.

The Process - Professional Services

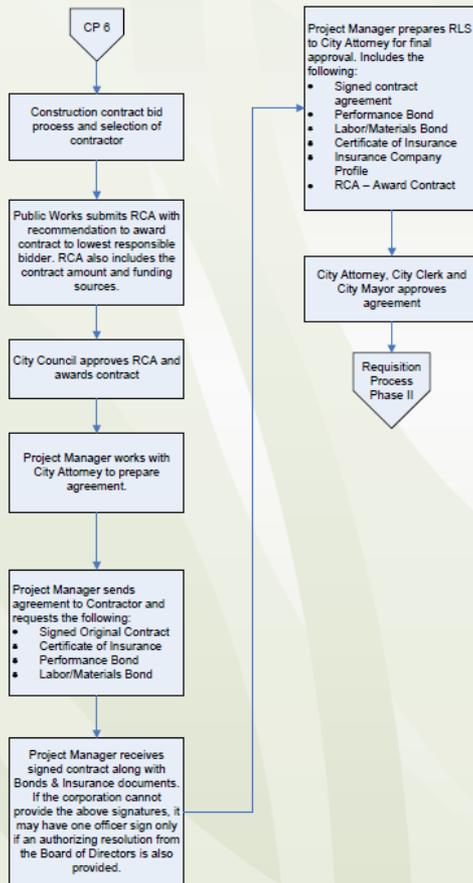
- City Signature Authority
 - Professional Services under \$50,000
 - Department Head may authorize.
 - Professional Services from \$50,000 - \$100,000
 - City Manager may authorize.
 - Professional Services over \$100,000
 - City Council approval required.
- During the budget process, staff identifies future PSA needs and City Council approves with the budget
- All PSA agreements not approved in the budget must be approved by City Council during the year

The Process – Goods & Services

- **Controlling Documents:**
 - City Charter
 - Huntington Beach Municipal Code 3.02
- **Bid Processes**
 - Purchases of equipment, materials, and non-professional services under \$30,000 shall be made using cost effective methods.
 - Purchases more than \$30,000 shall be formally bid
 - Interagency procurement
 - Sole Source Procurement
 - over \$50,000 requires City Council approval

Public Work Contracts

Public Works Construction Contract Process



Controlling Documents:

- City Charter Section 614
- Administrative Regulation 119

All projects over \$25,000 require a public notice.

All contracts over \$25,000 must be approved by City Council.

Current Transparency in Purchasing

- Planet Bids web based procurement service.
- All formal solicitations for goods, services and professional services are posted publicly online with Planet Bids.
- Registered vendors are notified of any city procurement immediately upon posting to the web site.
- Vendors can see prospective bidders and awards.
- City's record management software, SIRE, is a searchable database of contracts.

Local Vendor Preference

- Local Vendor Preference
 - The city currently awards a 5% local preference to Huntington Beach based vendors up to \$100,000 for goods & services per Municipal Code Chapter 3.02.180
 - Recent survey of 20 California public agencies resulted in:
 - 9 with a 1% preference on goods and services
 - 1 with a 3% preference on goods and services
 - 8 with a 5% preference on goods and services
 - 1 with a 7% preference on goods and services
 - 1 with a 10% preference on goods and services
- Benefits
 - Encourages business to locate and remain in Huntington Beach
 - Helps keep tax dollars in Huntington Beach
 - Demonstrates commitment to local business
 - Stimulates the local economy

Local Vendor Preference Options Cont.

- Establish local vendor preference with removal of current cap of \$100,000.

Formal Bid Procedure-Local Preference w/cap			
Business Type	Bid Amount	5% with cap	Cost to the City
Non-Local 1	\$160,000		
Local	\$150,000	\$145,000	
Non-Local 2	\$140,000	Lowest Bidder	\$140,000

Formal Bid Procedure-with Local Preference			
Business Type	Bid Amount	5% Preference	Cost to the City
Non-Local 1	\$160,000		
Non-Local 2	\$140,000		
Local	\$150,000	\$133,000	\$150,000

Proposed Outreach Enhancements

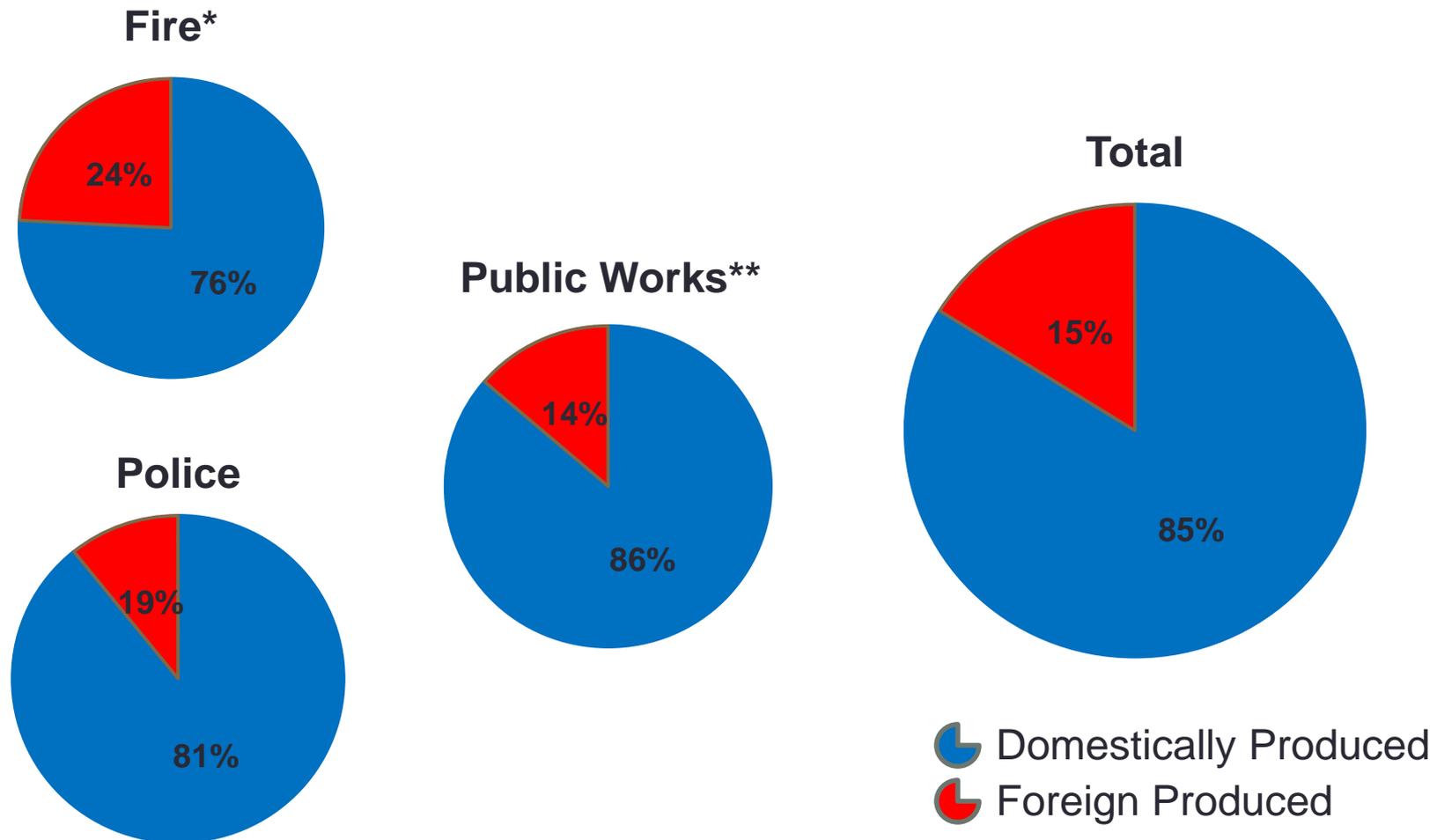
Outreach to business community:

- Provide greater awareness of procurement opportunities
- Chamber of Commerce workshops
- Regular updates with Auto Dealers
- Outreach through business license mailing
- Updated web site

Buy America Program Summary

- *Any purchasing policy mandating "Made in America" would be subject to legal challenges.*

Sample of 10 Largest Suppliers by Department



*Includes one-time purchases of an ambulance.

**Includes one time purchase of sewer truck, water meters, and a dump truck.

Recommendations

- City staff to conduct “How to do Business with the City Workshops” and develop a “How to do Business with the City” brochure
- Utilize business development to increase outreach with local vendors regarding bid opportunities
- Hold annual workshops with the Chamber of Commerce
- Work with Chamber of Commerce to establish a link to City bid opportunities
- Redesign the Purchasing web page to enhance transparency and include upcoming bid opportunities
- Establish a single point of contact in each department for contracts
- Enhance current 5% local vendor preference ordinance by removing the \$100,000 cap on goods and services

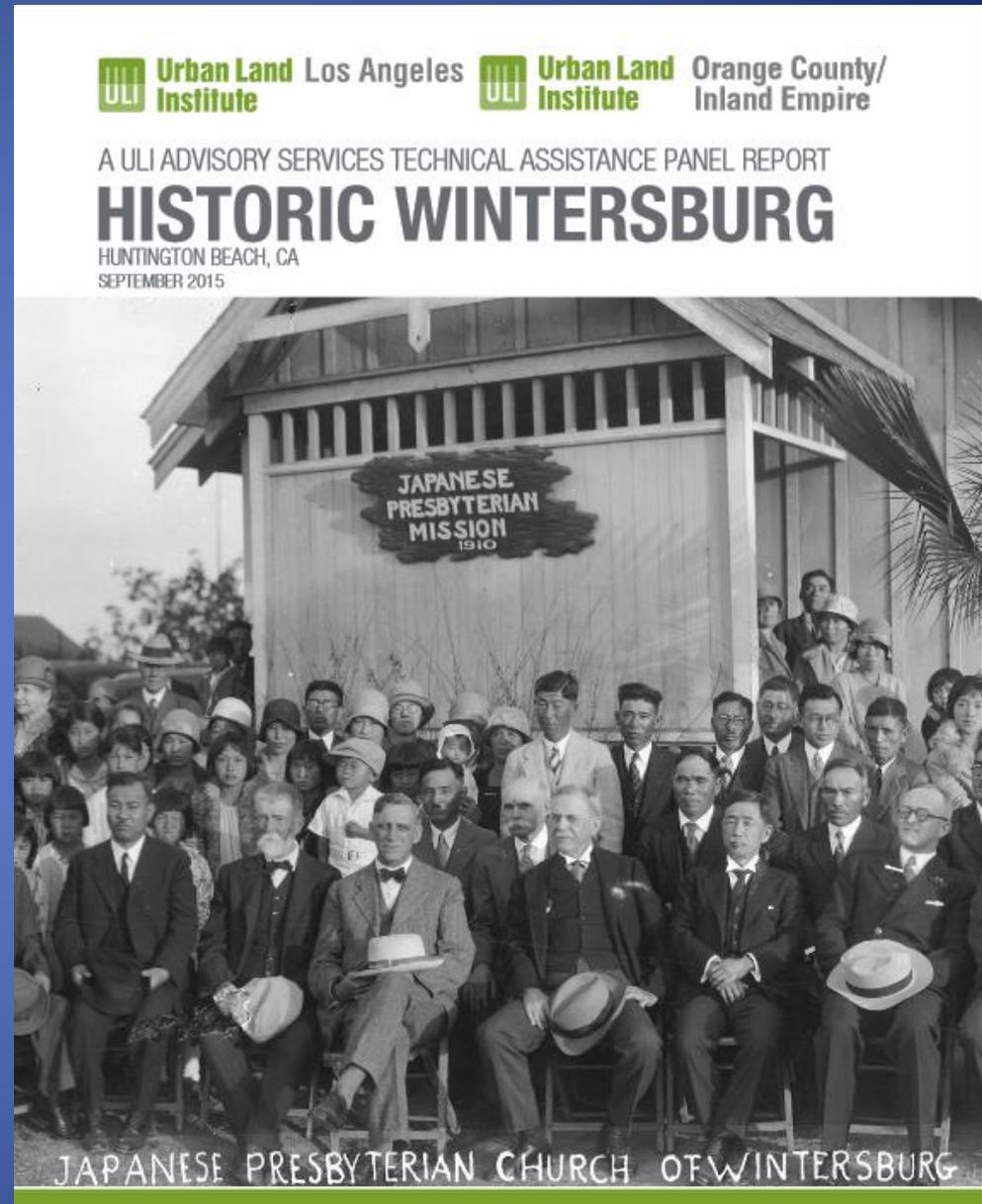
Questions?/Discussion

**Historic Wintersburg designated NATIONAL TREASURE by
National Trust for Historic Preservation**
A first for Orange County! Only a handful across the country.



Urban Land Institute Technical Assistance Panel report released

- ULI technical analysis facilitated by the National Trust for Historic Preservation on behalf of the Historic Wintersburg Preservation Task Force.
- Community raised \$30,000 for objective analysis by panel of professional excerpts in preservation, development, finance, and urban planning.
- Interviews conducted with property owner, preservationists, neighborhood residents, elementary school and school district, non profits, select city council members and planning commissioners.
- Data considered included economic analysis, market analysis, demographics, neighborhood needs assessment, strengths, weakness, opportunities and challenges.



General points from ULI technical analysis

- Technical analysis provides proof-of-concept for historic preservation and adaptive reuse.
- Report confirms historical significance of Historic Wintersburg is a strength and asset to community.
- Report provides seven concepts for discussion with property owner, preservationists and neighborhood/community stakeholders.
- Need for compromise among stakeholders and further discussions needed regarding range of concepts suggested.
- Challenges include industrial uses to adjacent neighborhood, divergent interests, and need for safe pedestrian access to nearby schools.



What's next:

Discussions with property owner re: concepts.

Feasibility study to determine structural preservation logistics & costs.

Fundraising for historic preservation.



Historicwintersburg.blogspot.com

Huntington Beach Historical Society and Historic Wintersburg
Holidays in Huntington Beach, 1915

Friday, December 4 at Newland House Museum

Recreation of Tashima Market, with *mochitsuki* by Tanaka Farms.

Pioneer attire requested, set your timepieces back to 1915.





City of Huntington Beach City Treasurer's Report

Period Ending: September 30, 2015

Alisa Cutchen, CCMT, CPFIM
City Treasurer



City Treasurer's Mission: Preservation and Return of Investments

- Portfolio governed by:
 - California State Regulations
 - City's Investment Policy – Certified by California Municipal Treasurers Association

Investment Policy Certification





City Treasurer's Mission: Preservation and Return of Investments

- Goal: Own Legal AND Suitable Investments to meet the objectives:
 - Safety of Principal
 - Adequate Liquidity
 - Market Rate of Return

In this absolute order of priority



City Treasurer's Mission: Preservation and Return of Investments

- Frequently Utilized Investments:
 - U.S. Federal Agency Issues
 - Corporate Notes/Bonds
 - LAIF (CA State Pool)

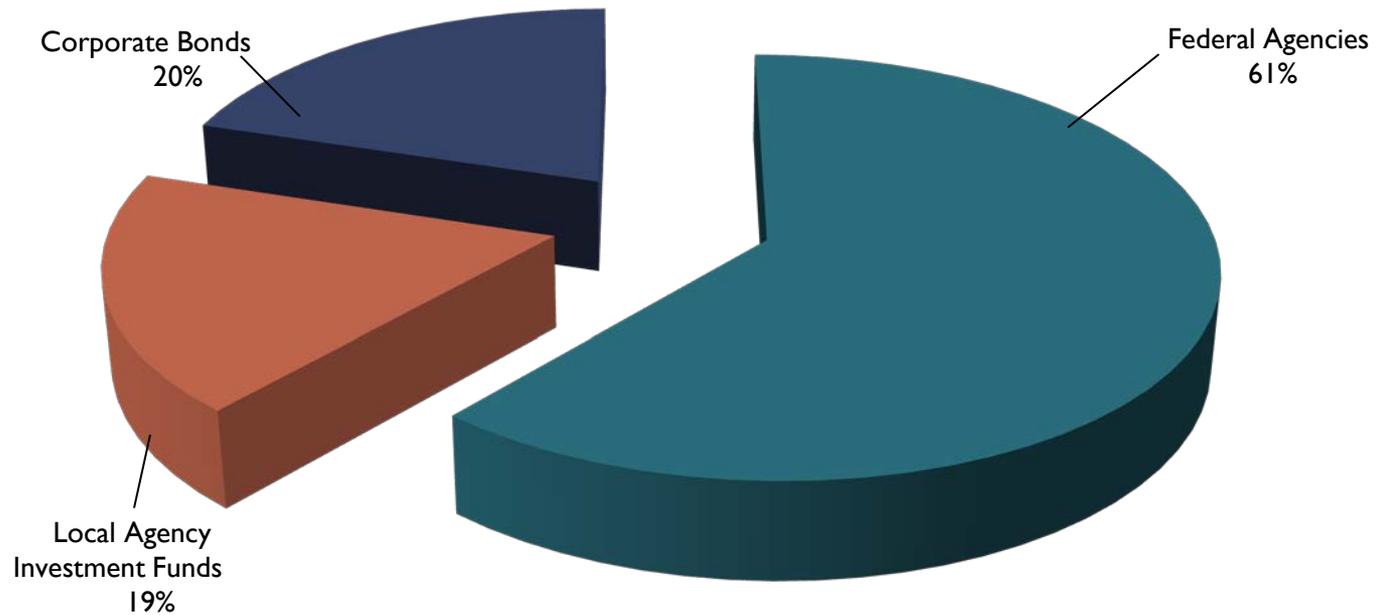
Portfolio Overview: Investment Summary As of September 30, 2015

- \$ in millions

<u>Investment Type</u>	<u>Market Value</u>	<u>Book Value</u>	<u>% of Portfolio</u>	<u>Policy Limit</u>
Federal Agency Issues	\$ 124.22	\$ 124.07	61%	None
Local Agency Investment Fund (LAIF)	\$ 37.34	\$ 37.34	19%	\$50 million
Corporate Bonds	\$ 40.73	\$ 40.72	20%	20%
Total Portfolio	\$ 202.29	\$ 202.13	100%	

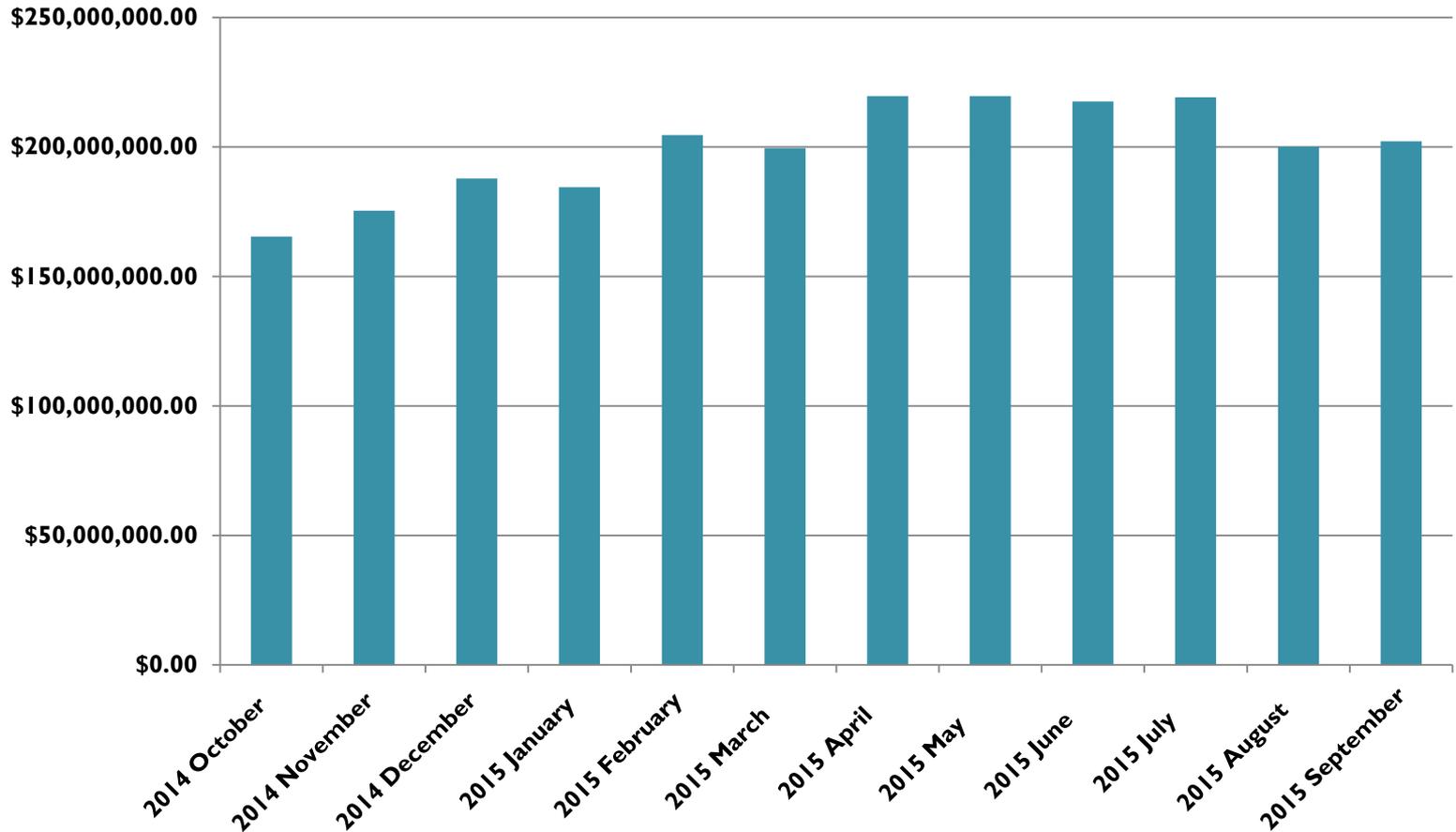
Portfolio Overview: Investments by Type As of September 30, 2015

By Book Value:



Portfolio Overview: Historical Book Value

Book Value as of September 30, 2015



Portfolio Performance

As of September 30, 2015

Monthly Effective Rate of Return 1.09%

Fiscal Year-To-Date

Effective Rate of Return:

Versus FY2013/14:



1.01%

0.90%

Portfolio Performance

Fiscal Year 2014-2015

Earnings:

Current Year: \$1,982,146

Versus FY2013/14 \$1,479,308

Increase:

\$502,838

up 34%





QUESTIONS?

REIMBURSEMENT - PLANNING - AGREEMENT BETWEEN THE
CITY OF HUNTINGTON BEACH AND
CHRISTOPHER DEVELOPMENT GROUP INC.
FOR COSTS INCURRED FOR
ENVIRONMENTAL ANALYSIS FOR THE
REDEVELOPMENT OF THE RODGERS SENIORS' CENTER SITE

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "City," and CHRISTOPHER DEVELOPMENT GROUP INC., a California Corporation hereinafter referred to as "Developer."

WHEREAS, the City owns certain real property, as described in the legal description attached hereto as Exhibit "A" and incorporated by this reference as though fully set forth herein (the "Site"). The Site is currently used as the Rodgers Seniors' Center; and

Developer desires to develop the Site by demolishing the existing building and constructing a residential project ("Project"); and

The City and Developer have entered into that certain Exclusive Negotiation Agreement (the "ENA") to negotiate the sale and purchase price of the Site as well as the cost and liability for all aspects of the Project; and

Under Section 612 of the City's Charter, a majority of the vote of the people must be obtained (Measure C Ballot Measure) before the Site can be sold, and/or developed as well as any land use re-designation, lease, exchange or otherwise transferred or disposed of; and

Developer is required to submit applications to City for approval of various discretionary matters, such as entitlements, zone changes, land use approvals and environmental assessments; and

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11/2/2015

Agenda Item No. 7

Developer desires that all entitlements, zone changes, land use approvals and environmental assessments for the Project be processed as soon as possible; and

Developer desires to have City commit sufficient resources to enable the expeditious processing of applications and other necessary documentation; and

Pursuant to California Government Code Section 87103.6, Developer is allowed to defray the cost of processing development applications and entitlements by reimbursing CITY for such costs,

NOW, THEREFORE, in consideration of the promises and agreements hereinafter made and exchanged, the parties agree as follows:

1. PAYMENT

Developer agrees to reimburse City for its professional services as follows:

A. Within ten (10) days following execution of this Agreement by City, Developer will make an initial payment to City in the amount of Twenty-five Thousand Dollars (\$25,000) (hereinafter the "Initial Deposit"). Thereafter, Developer shall make additional payments (hereinafter the "Subsequent Payments") to City as follows:

On or before December 31, 2015: Fifty Thousand Dollars (\$50,000.00)

On or before March 31, 2016: Fifty Thousand Dollars (\$50,000.00)

On or before June 30, 2016: One Hundred Twenty-nine Thousand Dollars (\$129,000.00).

The parties acknowledge that the Initial Deposit and the Subsequent Payments will be used to pay the professional planning services funded by this Agreement, and if, prior to the payment of any Subsequent Payment, the City is holding less than One Thousand Dollars (\$1,000), Developer shall make the next Subsequent Payment within ten (10) days' notice from City.

Developer acknowledges that the amount referenced in this Agreement is the City's best estimate of the costs for the services described herein, and that the actual cost of said services may be higher. In the event that the actual cost of said services exceeds the estimated costs, Developer agrees to pay the actual cost within ten (10) days after receiving City's invoice for same. In the event the actual costs of the services are less than the estimated costs, City will refund the difference between the actual and estimated costs.

B. The estimated cost to cover twelve (12) months of professional services is Two Hundred Fifty-four Thousand Dollars (\$254,000.00).

C. A late payment fee of ten percent (10%) will be assessed if City receives any payment later than the thirtieth (30th) day after that payment is due but unpaid. In addition, one and one-half percent (1 ½%) interest per month shall be added for each month the payment hereunder is due but unpaid.

2. STATEMENT OF INTENT

The amounts reimbursed to City pursuant to this Agreement will help defray City's cost of the professional planning services required to process Developer's various development applications and entitlements as set forth herein.

3. EXCLUSIVE CONTROL BY CITY

City will maintain exclusive control over the work described herein. Nothing in this Agreement:

A. Shall be deemed to require City to approve any plan, proposal, suggestion, application or request submitted by Developer.

B. Shall be deemed to limit, in any respect whatsoever, City's sole authority to direct and control the planner(s) assigned to Developer's various development applications and entitlements as set forth herein.

C. Shall be deemed to impose any liability on City different from any liability as may otherwise be established by law.

4. CITY EMPLOYEES AND OFFICIALS

Developer shall employ no City official nor any regular City employee in the work performed pursuant to this Agreement. No officer or employee of City shall have any direct financial interest in this Agreement.

5. TIME IS OF THE ESSENCE

The parties agree that time is of the essence for the performance of the work to be funded pursuant to this Agreement.

6. TERMINATION OF AGREEMENT

Either party may terminate this Agreement at any time with or without cause, upon ten (10) days' prior written notice to the other party. Developer shall be responsible for all costs incurred prior to termination, including any and all costs incurred after notice of termination has been given.

7. TERM

This Agreement shall be effective on the date of its approval by the City Council of City. This Agreement shall expire when terminated as provided herein.

8. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to Developer's agent or to City as the situation shall warrant, or by

enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below; provided that City and Developer, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent:

TO CITY:

City of Huntington Beach
Attn: Scott Hess
2000 Main Street
Huntington Beach, CA 92648

TO DEVELOPER:

Christopher Development Group, Inc.
Attn: Bill Holman
Vice-President, Land Development
23 Corporate Plaza Drive, Suite 246
Newport Beach CA 92660

9. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

10. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

11. INTERPRETATION OF THIS AGREEMENT

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining

covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

12. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

13. IMMIGRATION

Developer shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the United States Code regarding employment verification.

14. LEGAL SERVICES SUBCONTRACTING PROHIBITED

Developer and City agree that City is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. Developer understands that pursuant to Huntington Beach

City Charter Section 309, the City Attorney is the exclusive legal counsel for City; and City shall not be liable for payment of any legal services expenses incurred by Developer.

15. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees.

16. GOVERNING LAW

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

17. SIGNATORIES

Each undersigned represents and warrants that its signature hereinbelow has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and Developer shall indemnify City fully for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

18. ENTIRETY

This Agreement, and the attached exhibits, contains the entire agreement between the parties respecting the subject matter of this Agreement and supersedes all prior understanding and agreements whether oral or in writing between the parties respecting the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers on _____, 2015.

DEVELOPER:

CITY:

CHRISTOPHER DEVELOPMENT GROUP, INC., a California corporation

CITY OF HUNTINGTON BEACH a California municipal corporation

By: _____

Mayor

print name

Its: (circle one) Chairman / President / Vice President

City Clerk

AND

Daniel O'Bannon
Chief Financial Officer

APPROVED AS TO FORM:

City Attorney

RS
10/30/2015

COUNTERPART

INITIATED AND APPROVED:

Community Development Director

REVIEWED AND APPROVED:

City Manager

EXHIBIT A

Property Description

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

ALL OF BLOCK 417, HUNTINGTON BEACH, SEVENTEENTH STREET SECTION, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 10 OF MISCELLANEOUS MAPS, ORANGE COUNTY, CALIFORNIA.

APN: 023-152-01

ED
PH 3
LEH
NO
B

Please do NOT
raise the fees
for water + sewage

Laila Wassel
LAILA WASSEF

204 8th Street
HB, Ca 92648

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 9

I object to increase
in water & sewage
rates.

Heidi Wurf
Heidi Wassef
6281 Morningside Dr.
HB, CA

2015 OCT 28 PM 3:40

RECEIVED

HUNTINGTON BEACH
CITY OF
9071108

Please maintain fees for
water + sewage as is with
no increase

Thanks
Mary Ann Sif

20072 Silent Bay Circle
HB Ca 92648

RECEIVED

2015 OCT 28 PM 3:40

CITY CLERK
CITY OF
HUNTINGTON BEACH

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-2015

Agenda Item No. 10, 11, 12, 13



**CITY OF HUNTINGTON BEACH
Interdepartmental Communication**

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: MICHAEL E. GATES, City Attorney

DATE: November 2, 2015

SUBJECT: AGENDA ITEMS 10, 11, 12 AND 13 REGARDING APPEALS
CONCERNING MEDICAL MARIJUANA DISPENSARIES AT:
#10 - 17511 Griffin Lane, #6 (Planning Application No. 2015-137);
#11 - 19142 Beach Blvd., Suite Y (Planning Application No. 2015-146);
#12 - 17416 Beach Boulevard (Planning Application No. 2015-147); and
#13 - 17416 Beach Boulevard (Planning Application No. 2015-145)

There are four appeals related to medical marijuana dispensaries scheduled for public hearings before the City Council on November 2, 2015. The Request for Council Action for Public Hearing Items No. 10, 11, 12, and 13 in the November 2, 2015 City Council Agenda require corrections. Each of the four items had separate public hearings before the Planning Commission and the record should reflect that there were slight variations in each of the hearings.

Item 10 (Planning Application No. 2015-137):

Page 3 Section C. Planning Commission Meeting and Recommendation – the second paragraph should be replaced in its entirety with:

“Two people spoke during the public hearing. Both speakers stated their opposition to the Director’s decision and to the proceedings themselves. One speaker, Sean Bozarth, an attorney representing the applicant, stated he thought they were appealing denial of the business license, not the Planning and Building Director’s decision regarding denial of zoning for the land use. The applicant’s attorney also stated that the medical marijuana use was a retail sales use and should be permitted in the IG, Industrial General zone.” The description of Planning Commission Action on August 25, 2015 should state that the motion was made by Kalmick and seconded by Mandic.

Item 11 (Planning Application No. 2015-146):

Page 3 Section C. Planning Commission Meeting and Recommendation – the second paragraph should be revised to reflect the name of the public speaker as Sean Bozarth.

Item 12 (Planning Application No. 2015-147):

Page 3 Section C. Planning Commission Meeting and Recommendation – the description of the Planning Commission’s action on August 25, 2015 should state that the motion was seconded by Semeta.

Item 12 (Planning Application No. 2015-145):

Page 3 Section C. Planning Commission Meeting and Recommendation – the second paragraph should be revised to reflect the name of the public speaker as Sean Bozarth.



MICHAEL E. GATES
City Attorney

cc: Fred Wilson, City Manager
Joan Flynn, City Clerk
Scott Hess, Director of Planning and Building

Request: 24175 Entered on: 10/27/2015 3:32 PM

Customer Information

Name: Mark Rosenberg
Address: 17111 Goldenwest St
Huntington Beach, CA
92647

Phone: 2036878877
Alt. Phone:
Email: Markrosenbergmusic@gmail.com

Request Classification

Topic: City Council - Agenda & Public
Hearing Comments
Status: Closed
Assigned to: Agenda Alerts

Request type: Question
Priority: Normal
Entered Via: Web

Description

I am writing a formal complaint about the city council's treatment of the Surf City Collective and the community it serves. Medical Cannabis is a safe and legal alternative to harmful and unpleasant drugs, used by many to treat numerous health problems. The people of CA have spoken for years in support of this. Despite this, the city council seems to have harrassed SSC and others like it out of a dislike of their mission. I know from experience that actually going to a place like SSC, vs getting delivery, provides an opportunity to see and learn about specific strains that will help different conditions; similar to how you can ask the pharmacist at cvs about certain drugs. You, the council, have effectively destroyed that capability by shutting them down. Now patients must resort to having delivery, which is alarmingly similar in feeling to having a drug dealer stop by to deliver the goods. There are cancer patients, hiv patients, depression patients, and countless others that you are leaving stranded, as though they're some unwanted population of 'Surf City.' I really like this town, and I'm proud to live here, but you should really readdress the way you see places like SCC, because they are simply providing a service that YOUR community wants.

Reason Closed

Your comments have been received by the City Councilmembers. If you should want to speak to a Councilmember, please contact their assistant, Cathy Fikes, at 714-536-5553 or cfikes@surfcity-hb.org. Thank you for taking the time to send your comments to the City.

Date Expect Closed: 11/03/2015

Date Closed: 10/27/2015 5:22 PM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Request: 24176 Entered on: 10/27/2015 4:29 PM

Customer Information

Name: Dea Franklin
Address: Huntington Beach, CA
92648

Phone:
Alt. Phone:
Email: deanafranklin@gmail.com

Request Classification

Topic: City Council - Agenda & Public
Hearing Comments
Status: Closed
Assigned to: Agenda Alerts

Request type: Comment
Priority: Normal
Entered Via: Web

Description

I have migraines and seizures, cannabis has long been one of the easiest medications for me to live on and suppress the seizures and migraines without harsh side effects. I have been on prescription medication that made it near impossible to work or attend school. I am a college graduate and run a brick and mortar business, I am not who you think you are protecting the community from by banning dispensaries.

Reason Closed

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.
Sincerely,
Johanna Dombo
Executive Assistant

Date Expect Closed: 11/06/2015

Date Closed: 10/27/2015 4:53 PM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Notes Taken By:

Date:

Request: 24188 Entered on: 10/28/2015 11:14 AM

Customer Information

Name: Dylan Hensley **Phone:** 9096331193
Address: Huntington Beach, CA **Alt. Phone:**
Email: Dylan_hensley@hotmail.com

Request Classification

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

Description

Medicinal marijuana has been decriminalized by our state government, and shutting down dispensaries such as this one makes it even more difficult for patients to receive their medicine. The focus in city meetings shouldn't be medicinal marijuana dispensaries. Closing legitimate businesses such as this one leads to increased crime rates from illegal purchasing of marijuana on the streets from criminal drug dealers. This also leads to the misconception of marijuana as a gateway drug. The environment leads to further drug use not the substance itself. This city is taking jobs away from hard working human beings as well. How would you like your job taken away from you because of another person or groups ideologies. Marijuana isn't addictive, it releases stress, cures insomnia, stimulates diet, and so many more positive side affects. Honestly alcohol is more of an issue in this city. Dui statistics and automobile deaths would be a more efficient issue to focus your time on. I hope someone reads this and realizes that these decisions have detrimental affects on the community you are trying to "protect".

Reason Closed

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.
 Sincerely,
 Johanna Dombo
 Executive Assistant

Date Expect Closed: 11/07/2015

Date Closed: 10/28/2015 11:17 AM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
 COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Request: 24203 Entered on: 10/29/2015 1:43 PM

Customer Information

Name: Donna Wallack
Address: 16222 Monterey Ln #59
Huntington Beach, CA
92649

Phone: (949) 500-9634
Alt. Phone:
Email: donnawallack@yahoo.com

Request Classification

Topic: City Council - Agenda & Public
Hearing Comments
Status: Closed
Assigned to: Agenda Alerts

Request type: Complaint
Priority: Normal
Entered Via: Web

Description

I am a 68 year old woman with severe arthritis and ADHD. It is very frustrating to continue to have the Cannabis collectives closed down and I can't get my medicine. I still work full time and pay all of my taxes, but I am unable to get my legal medicine because apparently you disagree with the law.

Reason Closed

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.

Sincerely,
Johanna Dombo
Executive Assistant

Date Expect Closed: 11/05/2015

Date Closed: 10/29/2015 1:46 PM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Notes Taken By: _____

Date: _____

Request: 24204 Entered on: 10/29/2015 2:45 PM

Customer Information

Name: Deborah williams
Address: Huntington Beach, CA

Phone: (442) 222-4756
Alt. Phone:
Email: deborah_71500@msn.com

Request Classification

Topic: City Council - Agenda & Public Hearing Comments
Status: Closed
Assigned to: Agenda Alerts

Request type: Complaint
Priority: Normal
Entered Via: Web

Description

WHY are u taking our medicine away and making us feel like criminals? We are NOT hurting anyone! WHY should we take the POISON big pharma wants us to take? IT IS A PLANT!!!! I am SO tired of this BS!!!! WAKE UP!
What IF your family members depended on marijuana to help their pain?????????

Reason Closed

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.

Sincerely,
Johanna Dombo
Executive Assistant

Date Expect Closed: 11/08/2015

Date Closed: 10/29/2015 2:50 PM By: Johanna Dombo

Enter Field Notes Below

Notes:

SUPPLEMENTAL COMMUNICATION

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Notes Taken By:

Date:

Request: 24215 Entered on: 10/30/2015 2:37 PM

Customer Information

Name: Gil **Phone:** (714) 448-7213
Address: Huntington Beach, CA **Alt. Phone:**
Email:

Request Classification

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

Description

How can you sit in judgement and refuse to acknowledge medical cannabis? I am not a patient but I have friends that are cancer patients and cannabis is the only thing that helps them endure the pain and give them an appetite so they have a chance at living and/or improving the quality of their life while they are alive.

 please explain your individual justifications if you would. I just cannot see it bur perhaps you will unveil a point that will help explain this stance for me and the majority of citizens who feel strongly that this is the wrong stance.

Reason Closed

Closed. No contact information provided.
Date Expect Closed: 11/09/2015
Date Closed: 10/30/2015 3:58 PM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
 COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

Notes Taken By: _____ **Date:** _____

Request: 24223 Entered on: 10/31/2015 08:10 AM

Customer Information

Name: Sabrina Regehr
Address: Huntington Beach, CA
92646

Phone:
Alt. Phone:
Email:

Request Classification

Topic: City Council - Agenda & Public
Hearing Comments
Status: Closed
Assigned to: Agenda Alerts

Request type: Comment
Priority: Normal
Entered Via: Web

Description

I was born at Hoag, graduated from Edison , went on to work and pursue my dreams and education at O.C.C. .I broke my neck working in the Children's Center and had to drop my classes.Long story short, I have had chronic neck and back pain. I just returned home from the Hospital after Major Back Surgery to discover my local , educated, marijuana store was closed down. This is a painful situation ,and now due to ignorance, I will have to take addictive opiates that cause many painful and harmful side effects. I would much rather use God given, all natural meds. I guess I will give my hard-earned dollars to another city. F.Y.I.I am embarrassed for the lack of education in my local government.

Reason Closed

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.

Sincerely,
Johanna Dombo
Executive Assistant

Date Expect Closed: 11/07/2015

Date Closed: 11/02/2015 07:55 AM **By:** Johanna Dombo

Enter Field Notes Below

Notes:

**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 11-2-15

Agenda Item No. 10, 11, 12, 13

**EXCLUSIVE NEGOTIATION AGREEMENT FOR
REDEVELOPMENT OF MICHAEL E. RODGERS
SENIORS' CENTER SITE
By and Between the
CITY OF HUNTINGTON BEACH
And
CHRISTOPHER HOMES**

This EXCLUSIVE NEGOTIATION AGREEMENT ("Agreement"), dated for purposes of identification only as of _____, 2015 ("Date of Agreement"), is hereby entered into by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation ("City"), and CHRISTOPHER DEVELOPMENT GROUP, a California Corporation ("Developer").

RECITALS

- A. The City owns certain real property, as described in the legal description attached hereto as Exhibit "A" and incorporated by this reference as though fully set forth herein (the "Site"). The Site is currently used as the Rodgers Seniors' Center.
- B. Developer desires to develop the Site by demolishing the existing building and constructing a residential project ("Project"). Developer has submitted a proposal ("Development Proposal") in response to the City's RFP/Q. Developer was subsequently identified by the City as the most qualified.
- C. The City and Developer (individually referred to as a "Party" and collectively referred to as the "Parties") desire to enter into this Agreement to negotiate the Sale and Purchase Price as well as the cost and liability for all aspects of the project including environmental review, election challenge and any other legal obligations required to be completed as part of the purchase and sale of the Site. (collectively, the "Terms to be Negotiated")
- D. The primary purpose of this Agreement is to establish a period during which the Parties shall exclusively negotiate the Terms to be Negotiated. As well as establish who will pay for certain upfront cost and liability associated with the project such as environmental review and election challenge. It is *not* the purpose of this Agreement to enter into a binding agreement for the sale of the Site to Developer (the "Definitive Agreement").
- E. Developer acknowledges and understands fully that under Section 612 of the City's Charter, a majority of the vote of the people must be obtained (Measure C Ballot Measure) before the Site can be sold, and/or developed

as well as any land use redesignation, lease, exchange or otherwise transferred or disposed of.

- F. Developer acknowledges and understands fully that under Section 612 of the City's Charter, a CEQA compliant environmental analysis of the Developer's proposed Project for the Site must be conducted, completed, and certified by the City Council prior to the aforesaid vote of the people (Measure C Ballot Measure).
- G. Developer acknowledges and understands fully that the current deed/title on the Site has a reversionary interest to the Huntington Beach Company or its successor-in-interest, Chevron Corporation.. The City has obtained title insurance in the amount of \$11,000,000 from First American Title to support the City's position that pursuant to the California Marketable Title Act, said reversion is inoperable and no longer valid and therefore the entirety of interest in the Site is vested with the City.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

- Section 1. Negotiating Period.** The Parties agree to use commercially reasonable best efforts to negotiate diligently and in good faith with one another commencing upon the Effective Date of this Agreement (as hereinafter defined in Section 17) and terminating December 20, 2016 (the "Negotiating Period"), in order to agree upon mutually acceptable Terms to be Negotiated. The term may be extended or terminated as provided in this Agreement, provided that Developer shall have the right, in addition to the right of the City to extend this Agreement for one sixty (60) day period by providing written notice to the City prior to the expiration of the then current term.
- Section 2. Terms to be Negotiated.** The terms to be negotiated will include, but not be limited to, purchase price including a "Purchase Price Adjustment" where the Developer and the City shall share an amount, if any, with the City, over the determined market rate of the individual homes. Please see Exhibit B for Developer's Proposed Purchase Price and other terms.
- Section 3. Developer's Submission of Documents for City Review and Comment.** Within sixty (60) days of the Effective Date of this Agreement, Developer shall use commercially reasonable best efforts to submit the following information to the City with respect to the Project:

- Project Description
- Concept drawings and elevations

- Site plan generally describing the Project using schematic drawings
- A proposed construction schedule of development
- Economic analysis for the proposed development, including:
 - An estimate of development costs, including construction and non-construction costs
 - An estimate of project income, a financial statement and pro forma statement of project return adequate to enable the City to evaluate the economic feasibility of the Project
- A description of the proposed method of construction and permanent financing and amounts and sources of equity and debt capital

Developer shall resubmit a revised site plan(s), pro forma(s), financing plan(s) and/or development schedule(s) to the City, as necessary to respond to the City's requirements on the versions of each submission. Developer has previously submitted a deposit of Twenty Thousand Dollars (\$20,000.00) with Developer's Response to the City's RFQ/P. The timing and terms upon which portions of the deposit may become non-refundable, if any, will be negotiated during the ENA period.

The Developer acknowledges and agrees that design and architectural review by the City and its consultants will be required following each submittal, and that sketches, plans, and ultimately working drawings, specifications and similar documents will be required to be submitted for review and approval pursuant to any Definitive Agreement (the City's Design Review"). Developer further acknowledges and agrees that the City, acting under its general police powers as a municipal corporation, may conduct a similar review and that building design, including, but not limited to, the selection of building elevations, construction materials, parking layout and landscaping will not be final until approved by the City. Developer further acknowledges and agrees that the City may exercise the City's Design Review distinct and separate from those additional rights which the City may exercise under its general police powers as a municipal corporation. This review does not include future Zoning Approvals as may be required by the Huntington Beach Municipal/Zoning and Subdivision Code.

Section 4. The City's Evaluation of Developer's Proposal. Upon receipt of the last of Developer's submissions as provided in Section 3 hereof, the City shall use commercially reasonable best efforts to conduct or cause to be conducted a complete economic evaluation of Developer's ENA Final submittals and proposed Project. If the Parties are unable to mutually agree upon the Terms to be Negotiated prior to the expiration of the Negotiating Period, the City may, upon written notice to Developer, elect to extend the Negotiating Period by up to thirty (30) days (the "Extended Negotiating Period") or terminate this Agreement. In either event,

this Agreement shall automatically terminate upon the expiration of the Negotiating Period or the Extended Negotiating Period in accordance with Section 8.3 hereof. Following mutual agreement upon the Terms to be Negotiated, the parties agree to negotiate and execute, in good faith, a Definitive Agreement that incorporates the agreed upon Terms to be Negotiated.

Section 5. Environmental Requirements. Certain State and local environmental requirements (including without limitations, the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.*) are applicable to the Project. Pursuant to such requirements, certain environmental documents may be required to be prepared prior to consideration by the City Council prior to execution of a Definitive Agreement. Developer agrees to cooperate with the City in obtaining information to determine the environmental impacts of the proposed Project and the scope of the environmental documentation necessary to evaluate such environmental impacts. Developer agrees to pay at Developer's sole cost and expense all costs to prepare or cause to be prepared such environmental impact documents as the City may cause to be completed. However, if the City decides not to certify the EIR or approve the project entitlements, all reimbursement costs affiliated with the EIR that were paid by Christopher Homes will be returned to Christopher Homes within 30 days of Developer's request for said reimbursement. This shall not apply if the City decides not to certify the EIR or approve the project entitlements because of litigation, a court order or otherwise because any portion of this agreement is held invalid by a court of competent jurisdiction. The Developer shall not be entitled to any cost other than the cost to prepare the EIR. Any remaining costs shall be paid by Developer within fifteen (15) days after invoice by the City. The City will act as lead agency in regard to the Project.

Section 6. City Charter Section 612 Requirements. Per Section 612(a) of City's Charter, park land may not be sold, leased, exchanged, or otherwise transferred or disposed of unless authorized by a majority vote of the City Council and by a majority of the voting public on such proposition at a general or special election. Therefore, any transfer of the Site will require voter approval from a general election, in order to obtain the people's authorization to the potential transfer as proposed in the RFQ/P.

The Developer understands fully and acknowledges that the City cannot advocate for this project in any way and Developer cannot act as the City's agent or in any way represent that the City is advocating one way or another regarding a "Measure C" Ballot

Measure vote. As such Developer is responsible for the non-governmental process of the election.

Section 7. Indemnity.

Section 7.1 CEQA/Environmental. Developer hereby agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, and volunteers, from and against any and all obligations, liabilities, claims, lawsuits, liens, encumbrances, losses, damages, costs and expenses, including without limitation, attorneys' fees, whether direct, contingent, or consequential, incurred by the City relating to this Agreement and/or arising from acts, occurrences, or matters that take place in furtherance of this Agreement, regardless of the nature of any such claim, act, occurrence or matter including but not limited to any required CEQA-compliant environmental studies, the sufficiency and/or adequacy of any CEQA-related environmental studies, environmental certifications, any environmental-related cause of action, any approval granted by the City Council, Planning Commission, or Design Review Board concerning the Project, any challenge to the City's adherence to any federal, State, or local law with regard to CEQA studies and certification.

Section 7.2 Measure C Ballot Measure. Developer hereby agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, and volunteers, from and against any and all obligations, liabilities, claims, lawsuits, liens, encumbrances, losses, damages, costs and expenses, including without limitation, attorneys' fees, whether direct, contingent, or consequential, incurred by the City relating to this Agreement and/or arising from acts, occurrences, or matters that take place in furtherance of this Agreement, regardless of the nature of any such claim, act, occurrence or matter including but not limited to the City Charter required Election (Measure C Ballot Measure) and/or any related cause of action, and/or any cause of action related to a challenge to the City's adherence to any federal, State, or local law

with regard to the Election (Measure C Ballot Measure).

Section 7.3 Deed/Title. Developer agrees, subordinate to First American Title's indemnification and defense, to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, and volunteers, from and against any and all obligations, liabilities, claims, lawsuits, liens, encumbrances, losses, damages, costs and expenses, including without limitation, attorneys' fees, whether direct, contingent, or consequential, incurred by the City relating to this Agreement and/or arising from acts, occurrences, or matters that take place in furtherance of this Agreement, regardless of the nature of any such claim, act, occurrence or matter including but not limited to any present or future claim by Chevron Corporation, its successors, heirs, affiliates, or any third party, set forth or made during the time of this Agreement, and at, and after, the time of Developer's acquisition of the Site, that the ownership, vesting, and/or interest in real property in the subject Site, or portion thereof, reverted, reverts, or will revert back to the Chevron Corporation according to the terms of the deed/title as currently stated in the deed/title as of the date of this Agreement.

Section 7.4 Breach. Developer agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, and volunteers, from and against any and all obligations, liabilities, claims, lawsuits, liens, encumbrances, losses, damages, costs and expenses, including without limitation, attorneys' fees, whether direct, contingent, or consequential, incurred by the City relating to this Agreement and/or arising from acts, occurrences, or matters that take place in furtherance of this Agreement, regardless of the nature of any such claim, act, occurrence or matter including but not limited to any breach by Developer of any of its Agreement warranties or representations set forth in this Agreement.

Section 7.5 Contamination/Site. In the event Developer acquires the Site from the City, and only then, Developer agrees to indemnify, defend and hold harmless the City, its elected and appointed officials, officers, employees, agents, and volunteers, from and against any and all obligations, liabilities, claims, lawsuits, liens, encumbrances, losses, damages, costs and expenses, including without limitation, attorneys' fees, whether direct, contingent, or consequential, incurred by the City relating to this Agreement and/or arising from acts, occurrences, or matters that take place in furtherance of this Agreement, regardless of the nature of any such claim, act, occurrence or matter including but not limited to any CERCLA claim, repair to Site, mitigation measures, cleanup, environmental cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure, or other plan concerning any hazardous substance on, under, or about the Site, regardless of whether undertaken due to governmental action.

To the fullest extent permitted by law, the foregoing indemnification shall apply regardless of the fault, active or passive negligence, breach of warranty or contract, of the City. The foregoing indemnity is intended to operate as an agreement pursuant to CERCLA Section 107(e), of 42 United States Code Section 9607(E), and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify the City from any liability pursuant to such sections. The indemnity against special, consequential and punitive damages shall refer to the damages of third parties brought against the indemnified parties, and not to direct damages experienced by such indemnified parties.

Section 8. Effect of this Agreement; Termination.

Section 8.1 Nature of Agreement. Neither this Agreement nor the Development Proposal is a complete statement of all terms and conditions of the proposed Project nor any possible conveyance or financing of the Site. Neither Party intends, by setting forth herein the provisions of a possible transaction, to create for itself or any other person or entity any legally binding obligation or liability, except as specifically stated herein. No subsequent oral agreement or

conduct of the Parties (including partial performance) will be deemed to impose any such obligation or liability.

This Agreement is not intended to constitute a binding agreement by City to convey all or any portion of the Site, to financially participate with Developer in the assembly or acquisition of land or construction or other costs for the Project or any other endeavor of Developer, or to construct or operate the Project, nor is it intended to constitute a binding agreement to agree on the Terms to be Negotiated or to agree on or enter into a new exclusive negotiation agreement or Definitive Agreement or any other contract. Except as otherwise set forth herein, Developer shall be responsible for all cost and liability, specifically including, but not limited to, all costs associated with any and all Federal, State and local environmental requirements. No Party shall be legally bound to consummate the sale, purchase, construction or operation of the Site or a Project, as outlined herein unless and until a Definitive Agreement or other contract has been executed and delivered by the Parties. Any Definitive Agreement or other document, to be legally binding on the City, must satisfy various conditions of the City, including, without limitation, approval by the City Council, in accordance with all applicable laws.

Section 8.2 Exclusive Nature of Negotiations. The Parties intend that certain aspects of the negotiations conducted pursuant to this Agreement be negotiated exclusively between the Parties. Accordingly, during the Negotiating Period, the City shall negotiate exclusively with Developer with respect to the development of the Site.

Section 8.3 Termination of this Agreement. Prior to the expiration of the Negotiating Period, either Party may terminate this Agreement, with or without cause, upon ten (10) days prior written notice to the other Party.

Developer shall remain liable for any cost associated with the environmental analysis as set

forth in the Agreement between the City and the environmental consultant; provided that such costs shall be limited to those costs incurred up until the date the City receives notice that Developer has elected to terminate this Agreement

The Parties, by their respective execution hereof, knowingly agree, notwithstanding anything herein to the contrary, that neither of them shall have any right to specific performance of this Agreement, nor any other equitable nor damage remedies under the law. Each Party makes such release with full knowledge of Civil Code Section 1542 and hereby waive any and all rights thereunder to the extent of this release, if such Section 1542 is applicable. Section 1542 of the Civil Code provides as follows:

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

If this Agreement is not sooner terminated pursuant to the foregoing paragraphs, this Agreement shall automatically terminate upon the expiration of the Negotiating Period or Extended Negotiating Period and neither Party shall remain bound hereby. Sections , 5, 7, 8.1, 8.3, 8.4, 9, 10, 11, 12, 13, 14, 15 and 16 shall survive the termination or expiration of this Agreement.

Section 8.4 Mutual Confidentiality. To the extent permitted by applicable law, the Parties shall maintain all information concerning this Agreement and any pending or subsequent negotiations between the Parties as confidential, disclosing information only to those individuals and representatives as designated by the other Party provided that such individuals acknowledge and agree to maintain the confidentiality of such information.

Section 9. Notices. Any notices, requests or approvals given under this Agreement from one Party to another may be personally delivered, or deposited with the United States Postal Service for mailing,

postage prepaid, to the address of the other Party as stated in this paragraph, and shall be deemed to have been given at the time of personal delivery or, if mailed, on the third day following the date of deposit in the course of transmission with the United States Postal Service. Notices shall be sent as follows:

If to City: The City of Huntington Beach
2000 Main Street
Huntington Beach, California 92648
Attn: City Manager

With Copies to: City Attorney
2000 Main Street, 4th Floor
Huntington Beach, California 92648

If to Developer: Christopher Homes
23 Corporate Plaza Drive, Suite 246
Newport Beach, CA 92660
Attn: Daniel O'Bannon

Section 10. Governing Law. This Agreement shall be governed by the laws of the State of California. To the extent permitted by law, any legal action brought under this Agreement must be instituted in the Superior Court of Orange County, State of California in an appropriate court in that county, or in the Federal District Court in the Central District of California.

Section 11. Attorneys' Fees. If any legal action is brought to enforce, construe, interpret or invalidate the terms of this Agreement, each Party shall bear its own costs and attorneys' fees, except as provided for in Section 7 of this Agreement. The prevailing party shall not be entitled to recover any costs and expenses incurred in any such action, including court costs and reasonable attorneys' fees, from the non-prevailing party.

Section 12. Interpretation. This Agreement shall be interpreted as a whole and in accordance with its fair meaning and as if each Party participated equally in its drafting. Captions are for reference only and are not to be used in construing meaning. The recitals are deemed incorporated into this Agreement.

Section 13. Real Estate Commissions. Each of the Parties represents and warrants to the other Party that no real estate commission, broker's fees, or finder's fees which may accrue by means of the acquisition of any interest in the Site is due to any person, firm or entity except as set forth herein. Each Party agrees to indemnify and hold the

other Party harmless with respect to any judgment, damages, legal fees, court costs, and any and all liabilities of any nature whatsoever arising from a breach of such representation.

Section 14. Amendment of Agreement. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by each of the Parties.

Section 15. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties concerning this subject. This Agreement integrates all of the terms and conditions mentioned herein or incidental thereto, and supersedes all prior negotiations, discussions and previous agreements between the Parties concerning all or any part of the subject matter of this Agreement.

Section 16. Implementation of Agreement. The City shall maintain authority to implement this Agreement through the City Manager. The City Manager shall have the authority to issue interpretations, waive provisions, and/or enter into certain amendments of this Agreement on behalf of the City so long as such actions do not materially or substantially change the uses or development contemplated hereunder, or add to the costs incurred or to be incurred by the City as specified herein, and such interpretations, waivers and/or amendments may include extensions of time to perform. All other materials and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council.

Section 17. Effective Date. This Agreement shall take effect immediately upon the execution of this Agreement by the City (the "Effective Date").

IN WITNESS WHEREOF, the Parties have executed this Agreement by and through their authorized officers as of the respective dates set forth below.

Dated: _____, 2015

CITY:
THE CITY OF HUNTINGTON BEACH
A California municipal corporation

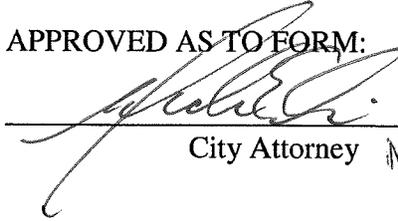
Mayor

City Clerk

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

City Manager



City Attorney

NW 10-29-15

Dated: _____, 2015

"DEVELOPER"
CHRISTOPHER DEVELOPMENT
GROUP, INC.

A California Corporation

By: 

Its: CFO

EXHIBIT A

Property Description

Real property in the City of Huntington Beach, County of Orange, State of California, described as follows:

ALL OF BLOCK 417, HUNTINGTON BEACH, SEVENTEENTH STREET SECTION, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 10 OF MISCELLANEOUS MAPS, ORANGE COUNTY, CALIFORNIA.

APN: 023-152-01

EXHIBIT B

Proposed Purchase Price and Other Terms

- (1) PURCHASE PRICE - The purchase price shall be Eleven Million Dollars (\$11,000,000). This purchase price is based on approval of 22 residential lots.
- (2) CLOSE OF ESCROW - The close of escrow shall occur 60 days following the certification of the election approving the Measure C campaign in favor of the project.
- (3) PAYMENT OF PURCHASE PRICE – The Purchase Price will be paid as follows:
 - (a) Initial Deposit of \$20,000, already received by City
 - (b) Land Sale Balance of \$10,980,000 to be paid at closing
- (4) ADDITIONAL PURCHASE PRICE – There shall be no Additional Purchase Price paid to City.
- (5) APPLICATION OF THE INITIAL DEPOSIT – Developer’s Initial Deposit shall be applied towards it’s first \$20,000 of EIR Reimbursement Costs or City Fees, which occurs first.
- (6) DEVELOPER PAYMENT OF CITY EIR REVIEW FEES – Developer requests that the \$99,922 in projected EIR Review fees be paid in equal monthly installments to match the actual work load by City Staff.