



**CITY OF WEST COVINA**

**CITY COUNCIL/SUCCESSOR AGENCY**

**JULY 18, 2023, 7:00 PM  
REGULAR MEETING**

**CITY HALL COUNCIL CHAMBERS  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790**

**Mayor Rosario Diaz  
Mayor Pro Tem Brian Tabatabai  
Councilman Tony Wu  
Councilwoman Letty Lopez-Viado  
Councilman Ollie Cantos**

*Please turn off all cell phones and other electronic devices prior to entering the Council Chambers*

***AMERICANS WITH DISABILITIES ACT***

The City complies with the Americans with Disabilities Act (ADA). If you will need special assistance at Council meetings, please call (626) 939-8433 (voice) or (626) 960-4422 (TTY) from 8 to 5 Monday through Thursday. Do call at least one day prior to the meeting date to inform us of your particular needs and to determine if accommodation is possible. For sign language interpreter services at Council meetings, please request no less than four working days prior to the meeting.

***AGENDA MATERIAL***

Agenda material is available for review at the City Clerk's Office, Room 317 in City Hall, 1444 W. Garvey Avenue South, West Covina and at [www.westcovina.org](http://www.westcovina.org). Any writings or documents regarding any item on this agenda, not exempt from public disclosure, provided to a majority of the City Council that is distributed less than 72 hours before the meeting, will be made available for public inspection in the City Clerk's Office, Room 317 of City Hall located at 1444 W. Garvey Avenue South, West Covina, during normal business hours.

***NOTICE***

The City Council will regularly convene on the first and third Tuesday of the month. The West Covina Community Development Commission, West Covina Public Financing Authority and the West Covina Community Services Foundation are agencies on which the City Council serves as members. Agendas may contain items for these boards, as necessary.

**PUBLIC COMMENTS  
ADDRESSING THE CITY COUNCIL  
(Per WCMC 2-48, Ordinance No. 2150)**

**Any person wishing to address the City Council on any matter listed on the agenda or on any other matter within their jurisdiction should complete a speaker card that is provided at the entrance to the Council Chambers and submit the card to the City Clerk.**

***Please identify on the speaker card whether you are speaking on an agenda item or non-agenda. Requests to speak on agenda items will be heard prior to requests to speak on non-agenda items. All comments are limited to five (5) minutes per speaker.***

**Oral Communications may be limited to thirty (30) minutes, unless speakers addressing agenda items have not concluded.**

**Any testimony or comments regarding a matter set for a Public Hearing will be heard during the hearing.**

***RULES OF DECORUM***

Excerpts from the West Covina Municipal Code and Penal Code pertaining to the Rules of Decorum will be found at the end of agenda.

# AGENDA

## CITY OF WEST COVINA CITY COUNCIL/SUCCESSOR AGENCY

**TUESDAY JULY 18, 2023, 7:00 PM  
REGULAR MEETING**

### **INVOCATION**

Led by Pastor John Le from Xaris Church

### **PLEDGE OF ALLEGIANCE**

Led by Councilwoman Lopez-Viado

### **ROLL CALL**

### **REPORTING OUT FROM CLOSED SESSION**

### **PRESENTATIONS**

- Proclamation acknowledging Parks and Recreation Month

### **ORAL COMMUNICATIONS - Five (5) minutes per speaker**

*Please step forward to the podium and state your name and city of residence for the record when recognized by the Mayor.*

### **CITY MANAGER'S REPORT**

*City Manager's report on current City projects.*

### **CONSENT CALENDAR**

*All matters listed under CONSENT CALENDAR are considered to be routine and can be acted on by one roll call vote. There will be no separate discussion of these items unless members of the City Council/Community Development Commission request specific items to be removed from the Consent Calendar for separate discussion or action.*

### **APPROVAL OF MEETING MINUTES**

- 1) **CONSIDERATION OF APPROVAL OF THE JUNE 20, 2023, CITY COUNCIL/SUCCESSOR AGENCY REGULAR SESSION MEETING MINUTES. THE REGULAR CLOSED SESSION MEETING WAS CANCELLED.**

It is recommended that the City Council approve the June 20, 2023, Regular Session Meeting Minutes.

### **COMMUNITY DEVELOPMENT**

- 2) **CONSIDERATION OF CONTRACT AGREEMENT FOR SOUTHSIDE SEWER CIPP LINING IMPROVEMENTS PROGRAM - PROJECT NO. 24004**

It is recommended that the City Council take the following actions:

1. Award the construction agreement for the Southside Sewer CIPP Lining Improvements Project (Project No. 24004) to Southwest Pipeline and Trenchless Corp. as the lowest responsible bidder.
2. Authorize the Acting City Manager to execute an agreement with Southwest Pipeline

and Trenchless Corp. for \$822,817.00, in substantially the form as attached and in such final form as approved by the City Attorney.

3. Authorize 15% of the awarded contract amount as contingency allowance to be used, if necessary, with the City Manager's approval, for unforeseen conditions.

4. Authorize the City Manager to negotiate and execute any amendments to the agreement.

**3) CONSIDERATION OF RATIFICATION OF GRANT AGREEMENT WITH CALIFORNIA ENERGY COMMISSION FOR THE CALIFORNIA AUTOMATED PERMIT PROCESSING (CALAPP) PROGRAM**

It is recommended that City Council approve the following:

Ratification of the agreement between the City of West Covina and the California Energy Commission for the grant of \$80,000 for the California Automated Permit Processing (CALAPP) Program.

**RESOLUTION NO. 2023-59 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2023 AND ENDING JUNE 30, 2024 (CALAPP GRANT)**

**4) CONSIDERATION OF AN AMENDMENT TO FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-60 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING PREVIOUSLY APPROVED LIST OF FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

**FINANCE DEPARTMENT**

**5) CONSIDERATION OF MODIFICATION TO ANNUAL APPROPRIATIONS LIMIT FOR FISCAL YEARS 2022-23 AND 2023-24**

It is recommended that the City Council adopt the following resolutions:

**RESOLUTION NO. 2023-61 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ESTABLISHING AN AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR 2022-2023**

**RESOLUTION NO. 2023-62 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ESTABLISHING AN AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR 2023-2024**

**FIRE DEPARTMENT**

**6) CONSIDERATION OF RESOLUTION MAKING FINDINGS REGARDING THE NEED FOR MODIFICATIONS TO PROVISIONS OF THE 2022 CALIFORNIA FIRE CODE**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-58 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, MAKING FINDINGS REGARDING THE NEED FOR MODIFICATIONS TO PROVISIONS OF THE 2022 CALIFORNIA FIRE CODE DUE TO LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS**

**7) CONSIDERATION OF RATIFICATION OF APPROVAL OF PUBLIC DISPLAYS OF FIREWORKS**

It is recommended that the City Council ratify the approval of the following public displays of fireworks:

1. Mt. Sac Early College Academy Graduation Ceremony on June 6, 2023
2. Edgewood High School Graduation Ceremony on June 7, 2023
3. West Covina High School Graduation Ceremony on June 8, 2023
4. City of West Covina Independence Day Celebration on July 4, 2023

**HUMAN RESOURCES/RISK MANAGEMENT**

**8) CONSIDERATION OF ADOPTION AGREEMENT FOR ELIGIBLE GOVERNMENTAL 457 PLAN**

It is recommended that City Council authorize the Acting City Manager to execute the Adoption Agreement to add a Roth 457 option to the City's 457(b) Deferred Compensation Plan.

**9) CONSIDERATION OF APPOINTMENTS TO THE CALIFORNIA JOINT POWERS AUTHORITY**

It is recommended that the City Council consider the Certification of Director and Alternates to the California Joint Powers Insurance Authority (CJPIA) Board of Directors, appointing Mayor Rosario Diaz as Director, and Mayor Pro Tem Brian Tabatabai and Acting Human Resources and Risk Management Director Stephanie Sikkema as alternates to represent the City.

**END OF CONSENT CALENDAR**

**HEARINGS**

**PUBLIC HEARINGS**

**10) WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 4, 6 & 7 PUBLIC HEARINGS**

It is recommended that the City Council adopt the following resolution(s):

**RESOLUTION NO. 2023-40 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4**

**RESOLUTION NO. 2023-41 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6**



**RESOLUTION NO. 2023-42 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7**

**11) WEST COVINA CITYWIDE SEWER SERVICE CHARGE PUBLIC HEARING**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-69- A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING THE SEWER SERVICE CHARGES TO BE COLLECTED ON THE FISCAL YEAR 2023-24 TAX ROLL**

**12) WEST COVINA CITYWIDE LIGHTING AND MAINTENANCE DISTRICT PUBLIC HEARING**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-44 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT FOR FISCAL YEAR 2023-24**

**13) PUBLIC HEARING TO CONSIDER WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FISCAL YEAR 2023-2024 ANNUAL REPORT AND ASSESSMENT**

It is recommended that the City Council conduct the public hearing and then adopt the following resolution:

**RESOLUTION NO. 2023-47 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023-2024**

**MAYOR/COUNCILMEMBERS REPORTS**

AB 1234 Conference and Meeting Report (verbal, if any)

*(In accordance with AB 1234, Councilmembers shall make a brief report or file a written report on any meeting/event/conference attended at City expense.)*

**CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION**

*(Per City of West Covina Standing Rules 4.f - Requests for reports, studies, or investigations that are not readily available must be placed on the City Council/Successor Agency agenda as items of business and must be approved by a majority of the City Council/Successor Agency Board.)*

**CITY COUNCIL COMMENTS**

**ADJOURNMENT**

Next Tentative City Council Meeting

Regular Meeting

August 15, 2023

7:00 PM

## RULES OF DECORUM

*The following are excerpts from the West Covina Municipal Code:*

Sec. 2-48. Manner of addressing council; time limit; persons addressing may be sworn.

- a. Each person addressing the council shall step up to the rostrum, shall give his or her name and city of residence in an audible tone of voice for the record and unless further time is granted by the council, shall limit his or her address to five (5) minutes.
- b. The city council may establish a limit on the duration of oral communications.
- c. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without the permission of the presiding officer. No question shall be asked of a councilmember except through the presiding officer.
- d. The presiding officer may require any person to be sworn as a witness before addressing the council on any subject. Any such person who, having taken an oath that he or she will testify truthfully, willfully and contrary to such oath states as true any material matter which he knows to be false may be held to answer criminally and subject to the penalty prescribed for perjury by the provisions of the Penal Code of the state.

Sec. 2-50. Decorum--Required.

- a. While the council is in session, the members shall preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or disrupt the proceedings or the peace of the council nor interrupt any member while speaking or refuse to obey the orders of the council or its presiding officer, except as otherwise herein provided.
- b. Members of the public shall not willfully disrupt the meeting or act in a manner that actually impairs the orderly conduct of the meeting. For the purposes of this code, "willfully disrupt" includes, but is not limited to, continuing to do any of the following after being warned by the Mayor that continuing to do so will be a violation of the law:
  - a. Addressing the Mayor and City Council without first being recognized.
  - b. Persisting in addressing a subject or subjects, other than that before the Mayor and City Council.
  - c. Repetitiously addressing the same subject.
  - d. Failing to relinquish the podium when directed to do so.
  - e. From the audience, interrupting or attempting to interrupt, a speaker, the Mayor, a council member, or a staff member or shouting or attempting to shout over a speaker, the Mayor, a council member or a staff member.
  - f. As a speaker, interrupting or attempting to interrupt the Mayor, a council member, or a staff member, or shouting over or attempting to shout over the Mayor, a council member, or a staff member. Nothing in this section or any rules of the council shall be construed to prohibit public criticism of the policies, procedures, programs, or services of the City or of the acts or omissions of the City Council. It shall be unlawful to violate the provisions of this Section.

If any subsection, sentence, clause, or phrase or word of this Section 2-50 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have passed this section and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, phrases or words had been declared invalid or unconstitutional.

**Sec. 2-52. Persons authorized to be within council area.**

No person, except city officials, their representatives and members of the news media shall be permitted within the rail in front of the council chamber without the express consent of the council.

*The following are excerpts from the Penal Code*

148(a) (1) Every Person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

403 Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 303 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor.



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF APPROVAL OF THE JUNE 20, 2023, CITY COUNCIL/SUCCESSOR AGENCY REGULAR SESSION MEETING MINUTES. THE REGULAR CLOSED SESSION MEETING WAS CANCELLED.**

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**RECOMMENDATION:**

It is recommended that the City Council approve the June 20, 2023, Regular Session Meeting Minutes.

**DISCUSSION:**

That the City Council adopt the attached minutes.

**Prepared by:** Lisa Sherrick; Assistant City Clerk

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**Attachments**

Attachment No. 1 - 6/20/2023 Regular Session Minutes Draft

**CITY COUNCIL GOALS & OBJECTIVES:** Enhance City Image and Effectiveness



**CITY OF WEST COVINA**

**CITY COUNCIL/SUCCESSOR AGENCY**

**JUNE 20, 2023, 7:00 PM  
REGULAR MEETING**

**CITY HALL COUNCIL CHAMBERS  
1444 W. GARVEY AVENUE SOUTH  
WEST COVINA, CALIFORNIA 91790**

**Mayor Rosario Diaz  
Mayor Pro Tem Brian Tabatabai  
Councilman Tony Wu  
Councilwoman Letty Lopez-Viado  
Councilman Ollie Cantos**

**MINUTES**

**CALL TO ORDER**

A regular session meeting was called to order by Mayor Rosario Diaz on Tuesday, June 20th, 2023, at 7:00 p.m., in the City Council Chambers 1444 West Garvey Avenue South, West, Covina, California

**INVOCATION**

Led by Pastor Samuel Martinez from Amazing Love Ministries

**PLEDGE OF ALLEGIANCE**

Led by Mayor Pro Tem Tabatabai

**ROLL CALL**

Present: Council Members Tony Wu, Ollie Cantos, Mayor Pro Tem Brian Tabatabai, Mayor Rosario Diaz.

Council Members

Absent: Letty Lopez Viado

City Staff: Paulina Morales Acting City Manager, Roxanne Lerma Assistant City Manager, Lisa Sherrick, Assistant City Clerk, Tom Duarte City Attorney; other City staff presented reports and responded to questions as indicated in the minutes.

**REPORTING OUT FROM CLOSED SESSION**

**PRESENTATIONS**

- Proclamation Raising Awareness About Elder Abuse
- Certificate of Appreciation Recognizing Miss Isabel Fulmer the 2023 Junior Teen San Gabriel Valley

**ORAL COMMUNICATIONS - Five (5) minutes per speaker**

John Shewmaker

Armando Herman

Darryl Spivey

Kathy Novarro

Matthew Smith

R. Robinson

Glenn Kennedy

David Schwartz

**CITY MANAGER'S REPORT**

Presentation given by Ms. Morales.

**CONSENT CALENDAR**

***ACTION: Motion by Mayor Pro Tem Tabatabai, Second by Councilman Cantos 4-0 (Absent Lopez-Viado) to: Approve Consent Calendar Items 1 through 12 with the exception of Items 2, 3, 4, 5, 6.***

***ACTION: Motion by Councilman Wu, Second by Mayor Pro Tem Tabatabai 4-0 (Absent Lopez-Viado) to: Approve Consent Calendar Item 2 (This item was pulled for discussion by Councilman Wu).***

***ACTION: Motion by Councilman Wu, Second by Mayor Pro Tem Tabatabai 4-0 (Absent Lopez-Viado) to: Approve Consent Calendar Item 3 (This item was pulled for discussion by Mayor Diaz).***

***ACTION: Motion by Councilman Wu, Second by Mayor Pro Tem Tabatabai 4-0 (Absent Lopez-Viado) to: Approve Consent Calendar Item 4 (This item was pulled for discussion by Councilman Wu).***

## ATTACHMENT NO. 1

**ACTION: Motion by Councilman Wu, Second by Mayor Pro Tem Tabatabai 4-0 (Absent Lopez-Viado) to:** Approve Consent Calendar Item 5 (This item was pulled for discussion by Councilman Wu).

**ACTION: Motion by Councilman Wu, Second by Mayor Pro Tem Tabatabai 4-0 (Absent Lopez-Viado) to:** Approve Consent Calendar Item 6 (This item was pulled for discussion by Councilman Wu).

- 1) **CONSIDERATION OF APPROVAL OF THE JUNE 6, 2023, CITY COUNCIL/SUCCESSOR AGENCY REGULAR SESSION MEETING MINUTES AND THE JUNE 6, 2023, CITY COUNCIL/SUCCESSOR AGENCY REGULAR CLOSED SESSION MEETING MINUTES.**

**Carried 4-0 to:** Approve the April 18, 2023, Regular Session Meeting Minutes.

- 2) **RENEWAL OF THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT AND PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT**

**Carried 4-0 to:** Adopt the following resolutions:

**RESOLUTION NO. 2023-38 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2023-24 ASSESSMENT TO BE LEVIED IN CONNECTION WITH THE CITY'S CITYWIDE LIGHTING AND MAINTENANCE DISTRICT**

**RESOLUTION NO. 2023-39 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY'S CITYWIDE LIGHTING AND MAINTENANCE DISTRICT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICT FOR FISCAL YEAR 2023-24 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS**

- 3) **CONSIDERATION OF APPROVAL OF PURCHASE ORDER THROUGH COOPERATIVE PURCHASING AGREEMENT TO MUSCO SPORTS LIGHTING, LLC TO PROCURE LIGHTING EQUIPMENT FOR CORTEZ PARK - PROJECT NO. 22016**

**Carried 4-0 to:** take the following actions:

1. Authorize the Acting City Manager to issue a purchase order to Musco Sports Lighting, LLC for \$431,430, for direct purchasing of new lighting

## **ATTACHMENT NO. 1**

equipment at Cortez Park through Sourcewell Contract #071619-MSL;  
and

2. Authorize 25% of the purchase order amount as contingency allowance to be used, if necessary, with the Acting City Manager's approval, for unforeseen conditions.
3. With a request to look at funding sources to replace all lights at parks and upgrade to LED.

### **4) CONSIDERATION OF RENEWAL OF LANDSCAPE MAINTENANCE DISTRICTS NOS. 4, 6 & 7 — ORDERING OF AND PRELIMINARY APPROVAL OF THE CONSOLIDATED ENGINEER'S REPORT**

**Carried 4-0 to:** adopt the following resolutions:

**RESOLUTION NO. 2023-31 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2023-24 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 4**

**RESOLUTION NO. 2023-33 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2023-24 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 6**

**RESOLUTION NO. 2023-35 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ORDERING THE PREPARATION AND FILING OF A REPORT REGARDING THE FISCAL YEAR 2023-24 ASSESSMENT TO BE LEVIED IN CONNECTION WITH LANDSCAPE MAINTENANCE DISTRICT NO. 7**

**RESOLUTION NO. 2023-32 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICTS FOR FISCAL YEAR 2023-24 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS**

**RESOLUTION NO. 2023-34 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICTS FOR**

## **ATTACHMENT NO. 1**

### **FISCAL YEAR 2023-24 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS**

**RESOLUTION NO. 2023-36 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN SAID DISTRICTS FOR FISCAL YEAR 2023-24 AND SETTING A PUBLIC HEARING REGARDING SUCH ASSESSMENTS**

#### **5) WEST COVINA CITYWIDE SEWER SERVICE CHARGE SETTING A PUBLIC HEARING DATE ON THE METHOD OF COLLECTION**

**Carried 4-0 to:** adopt the following resolution:

**RESOLUTION NO. 2023-43 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DECLARING ITS INTENTION TO COLLECT THE CITYWIDE SEWER SERVICE CHARGE ON THE COUNTY TAX ROLL FOR FISCAL YEAR 2023-24 AND SETTING JULY 18, 2023 FOR A PUBLIC HEARING REGARDING THE CHARGE TO BE SO COLLECTED**

#### **6) CONSIDERATION OF FISCAL YEAR 2023-24 ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NOS. 1 & 2**

**Carried 4-0 to:** adopt the following resolutions:

**RESOLUTION NO. 2023-29 —A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA SETTING THE ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 1 FOR THE FISCAL YEAR BEGINNING JULY 1, 2023.**

**RESOLUTION NO. 2023-30 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA SETTING THE ASSESSMENT RATE FOR WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 2 FOR THE FISCAL YEAR BEGINNING JULY 1, 2023.**

#### **7) CONSIDERATION OF LIST OF FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

**Carried 4-0 to:** adopt the following resolutions:



## **ATTACHMENT NO. 1**

### **RESOLUTION NO. 2023-53- A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING A LIST OF FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

#### **8) CONSIDERATION OF A RESOLUTION OF INTENTION TO LEVY ASSESSMENTS FOR THE AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT**

**Carried 4-0 to:** take the following actions:

1. Approve the Annual Report for the West Covina Auto Plaza Business Improvement District.
2. Adopt the following resolution:

### **RESOLUTION NO. 2023-46 - A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AN ASSESSMENT WITHIN THE BUSINESS IMPROVEMENT AREA KNOWN AS THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023-24 AND SETTING THE TIME AND PLACE FOR A PUBLIC HEARING THEREON**

#### **9) CONSIDERATION OF PARTICIPATION IN THE PUBLIC PROVIDER GROUND EMERGENCY MEDICAL TRANSPORT PROGRAM AND CONTINUED PARTICIPATION IN THE GROUND EMERGENCY MEDICAL TRANSPORT PROGRAM AND QUALITY ASSURANCE FEE PROGRAM**

**Carried 4-0 to:** take the following actions:

1. Authorize participation in the Public Provider-Ground Emergency Medical Transport Intergovernmental Transfer (PP-GEMT IGT) Program;
2. Authorize continued participation in the Ground Emergency Medical Transport (GEMT) and Quality Assurance Fee (QAF) programs;
3. Authorize the City Manager to execute any documents necessary in connection with participation in the GEMT and QAF programs, in such form as approved by the City Attorney; and
4. Ratify the Department of Healthcare Services Public Provider Intergovernmental Transfer Program for Ground Emergency Medical Transportation Services Certification Form for State Calendar Year 2023 executed by the Acting City Manager on June 5, 2023 in the amount of \$197,220.05; and

## **ATTACHMENT NO. 1**

5. Authorize the City Manager to execute any documents necessary in connection with participation in the PP-GEMT IGT Program, in such form as approved by the City Attorney; and
6. Authorize the City Manager to approve payments and accept reimbursements related to participation in the GEMT, QAF, and PP-GEMT IGT programs.

**10) CONSIDERATION OF RESOLUTION APPOINTING THE CITY OF WEST COVINA'S PRIMARY REPRESENTATIVE AND ALTERNATE REPRESENTATIVE TO THE BIG INDEPENDENT CITIES EXCESS POOL (BICEP) BOARD OF DIRECTORS**

**Carried 4-0 to:** adopt the following resolution:

**RESOLUTION NO. 2023-54 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPOINTING A PRIMARY REPRESENTATIVE AND AN ALTERNATE REPRESENTATIVE TO THE BIG INDEPENDENT CITIES EXCESS POOL (BICEP) BOARD OF DIRECTORS**

**11) ANNUAL MILITARY EQUIPMENT REPORT (AB 481)**

**Carried 4-0 to:** receive and file the annual military equipment report.

**12) CONSIDERATION OF ADDITIONAL FUNDING FOR VEHICLE REPAIRS AND FUEL**

**Carried 4-0 to:** adopt the following resolution:

**RESOLUTION NO. 2023-49 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2022 AND ENDING JUNE 30, 2023 (FLEET MAINTENANCE)**

**MAYOR/COUNCILMEMBERS REPORTS**

None

**CITY COUNCIL REQUESTS FOR REPORTS, STUDIES OR INVESTIGATION**

Councilman Cantos requested the city looking into installing cameras with security cages around them in the city's parks. (Motion by Councilman Cantos, Second by Councilman Wu)

**CITY COUNCIL COMMENTS**

Councilman Wu encouraged City Departments to expand on its intern program and hire paid interns.

**ADJOURNMENT**

A motion to adjourn the Regular Meeting was made by Mayor Diaz, and the meeting was adjourned at 8:48 p.m. The next regularly scheduled Regular City Council Meeting will be held on Tuesday, July 18th, at 7:00 p.m. in the Council Chambers, 1444 West Garvey Avenue South, West Covina, California.

Submitted by:

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Lisa Sherrick  
Assistant City Clerk

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Rosario Diaz  
Mayor



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF CONTRACT AGREEMENT FOR SOUTHSIDE SEWER CIPP LINING IMPROVEMENTS PROGRAM - PROJECT NO. 24004**

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### RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. Award the construction agreement for the Southside Sewer CIPP Lining Improvements Project (Project No. 24004) to Southwest Pipeline and Trenchless Corp. as the lowest responsible bidder.
2. Authorize the Acting City Manager to execute an agreement with Southwest Pipeline and Trenchless Corp. for \$822,817.00, in substantially the form as attached and in such final form as approved by the City Attorney.
3. Authorize 15% of the awarded contract amount as contingency allowance to be used, if necessary, with the City Manager's approval, for unforeseen conditions.
4. Authorize the City Manager to negotiate and execute any amendments to the agreement.

### BACKGROUND:

The City of West Covina owns and operates 227 miles of gravity flow sewer pipelines, largely clay pipes, with two force mains, varying from 4 to 18 inch in pipe sizes, and 5,187 manholes. To ensure the continued operation of the system, a sewer study was conducted in March 2022 to assess the condition of sewer lines in the southern portion of the City. This area was selected for study and evaluation based on sewer maintenance records, City personnel input, and frequency of necessary maintenance and repairs.

After inspection, it was found that many sewer lines suffered from issues that could affect the capacity of the sewer lines and need rehabilitation. Major work includes the rehabilitation of approximately 14,850 linear feet of sanitary sewer gravity piping (pipes in 8 inches) by cured-in-place pipe (CIPP) methods. The proposed work also includes sewer bypassing as necessary to perform rehabilitation work. Relining existing pipes with CIPP is a cost effective and less intrusive method of extending the life of the sewer infrastructure.

Twenty-seven (27) sewer line segments are included in the project limits.

| No. | Street             | From             | To   |
|-----|--------------------|------------------|--|
| 1   | Kam Court          | Jacqueline Drive | Kimberly Drive                             |
| 2   | Kate Court         | Jacqueline Drive | Kimberly Drive                             |
| 3   | Kerry Court        | Kimberly Drive   | Jessica Court                              |
| 4   | Kathleen Court     | Kimberly Drive   | June Court (To MH before Jacqueline Drive) |
| 5   | Giano Avenue       | Gemini Street    | Wednesday Drive                            |
| 6   | Julie Court        | Gemini Street    | end of CDS                                 |
| 7   | April Way          | Gemini Street    | end of CDS                                 |
| 8   | Greenleaf Street   | Gemini Street    | end of CDS                                 |
| 9   | Yvonne Street      | Giano Avenue     | MH 21+66                                   |
| 10  | Ynez Court         | Yvonne Street    | end of CDS                                 |
| 11  | S. Veronica Avenue | Yvonne Street    | Tillie Court                               |
| 12  | Tillie Court       | Veronica Avenue  | end of CDS                                 |
| 13  | Glenhurst Street   | Gemini Street    | Hendee Street                              |
| 14  | Hendee Street      | Glenhurst Street | Greenleaf Street                           |
| 15  | Greenleaf Street   | Hendee Street    | Irene Street                               |
| 16  | Irene Street       | Greenleaf Court  | Helen Lane                                 |
| 17  | Helen Lane         | Gemini Street    | end of street                              |
| 18  | Viola Court        | Veronica Avenue  | end of CDS                                 |
| 19  | Sheba Court        | Stephanie Drive  | end of CDS                                 |
| 20  | Sarah Court        | Stephanie Drive  | end of CDS                                 |
| 21  | Sonya Court        | Stephanie Drive  | end of CDS                                 |
| 22  | Stacey Court       | Stephanie Drive  | end of CDS                                 |
| 23  | Sirel Lane         | Stephanie Drive  | Stella Avenue                              |
| 24  | Stella Avenue      | Sylvia Street    | end of CDS                                 |
| 25  | Sylvia Street      | Stella Avenue    | end of CDS                                 |
| 26  | Samantha Avenue    | Sylvia Street    | Rebecca Street                             |
| 27  | Rebecca Street     | Samantha Avenue  | Rachel Avenue                              |

## DISCUSSION:

On May 16, 2023, staff advertised the construction bid package. The following five (5) bids were received by the City prior to the Bid Opening held on June 13, 2023 at 1:00 PM.

| Contractor Name                         | Total Bid Amount |
|---|------------------|
| Southwest Pipeline and Trenchless Corp. | \$822,817.00     |
| Sancon Technologies, Inc.               | \$937,445.00     |
| Insituform Technologies, LLC            | \$1,104,757.50   |
| Nu Line Technologies, LLC               | \$1,120,810.00   |
| Nor Cal Pipeline Services               | \$1,486,962.00   |

Staff conducted a bid analysis including checking references, California Contractor Licensing, Department of Industrial Relations registration, State and Federal debarment list review for the apparent low bidder, Southwest Pipeline and Trenchless Corp.

## Lowest Responsive Bid:

The lowest responsive bid was submitted by Southwest Pipeline and Trenchless Corp. in the amount of \$822,817.00. Following Council's approval, the City will enter into an agreement with Southwest Pipeline and Trenchless Corp. in substantially the form as attached in Attachment No. 1 and in such final form approved by the City Attorney.

**Project Timeframe:**

The project is anticipated to commence September 2023 and anticipated to be completed by January 2024.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed the agreement and approved it as to form.

**OPTIONS:**

The City Council has the following options:

1. Approve Staff's recommendation; or
2. Provide alternative direction.

**ENVIRONMENTAL REVIEW:**

The proposed Project is a project subject to CEQA. Staff has reviewed the proposed project and has determined that it is categorically exempt from CEQA pursuant to CEQA Guidelines Section(s) 15302: Replacement or reconstruction; (c) Replacement or reconstruction of existing utility and/or facilities involving negligible or no expansion of capacity.

**Prepared by:** Okan Demirci, PE, QSD/P

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**Fiscal Impact****FISCAL IMPACT:**

The following is the breakdown of the project estimate:

|  |                       |
|--|-----------------------|
| <b>Construction Cost</b>   | 822,817.00            |
| Contingency allowance authorization to staff to utilize for unforeseen conditions as necessary (15%) | 123,422.55            |
| <b>Total Construction Estimate</b>   | <b>\$946,239.55</b>   |
| Project Management and Administration (Preparation of Bid Documents)                                 | 95,000.00             |
| Construction Management, Inspection and Materials Testing/Inspection                                 | 94,623.95             |
| Newspaper Advertisement, Misc. Expenses  | \$5,000.00            |
| <b>Total Project Budget</b>  | <b>\$1,140,863.50</b> |

The funds available for this project are as follows:

| <b>Project No.</b> | <b>Fund</b> | <b>Project Budget</b> | <b>Project Estimate</b> | <b>(Over)/Under Budget</b> |
|--------------------|-------------|-----------------------|-------------------------|----------------------------|
| 24004              | 189 Sewer   | 3,500,000             | 1,140,863.50            | 2,359,136.50               |
| <b>Total</b>       |             | <b>\$3,500,000</b>    | <b>\$1,140,863.50</b>   | <b>\$2,359,136.50</b>      |

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**Attachments**

Attachment No. 1 - Construction Services Agreement

**CITY COUNCIL GOALS & OBJECTIVES:** A Well-Planned Community  
Enhance City Image and Effectiveness

**CITY OF WEST COVINA  
CONSTRUCTION SERVICES AGREEMENT FOR  
PROJECT NO. 24004  
SOUTHSIDE SEWER CIPP LINING IMPROVEMENTS PROJECT**

THIS CONSTRUCTION SERVICES AGREEMENT (herein “Agreement”), is made and entered into this 18th day of July, 2023 (“Effective Date”) by and between the CITY OF WEST COVINA, a municipal corporation (herein “City”), and SOUTHWEST PIPELINE AND TRENCHLESS CORP., a California corporation (herein “Contractor”).

**RECITALS**

A. City requires construction services for the Southside Sewer CIPP Lining Improvements Project, City Project No. 24004 (“Project”), that meet the requirements as shown in the project specifications and this Agreement.

B. Contractor has submitted a bid to perform the construction services for the Project and has represented to City that Contractor is qualified to perform said services.

C. City has determined that Contractor is the lowest responsible bidder.

D. City and Contractor desire to enter into this Agreement for the Project on the terms and conditions set forth herein.

NOW, THEREFORE, based on the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, City and Contractor hereby agree as follows:

**1.0 SERVICES OF CONTRACTOR**

**1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, the Contractor shall provide all work described in the Contract Documents, as further described herein, which services may be referred to herein as the “services” or “work”. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that Contractor is a provider of first class work and services and Contractor is experienced in performing the work and services contemplated herein and, in light of such status and experience, Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality and fit for the purpose intended.

**1.2 Documents Included in Contract.** The complete Agreement consists of:

- (a) This Agreement;
- (b) Notice to Contractors and Instructions to Bidders, Bid Documents and Contract Documents for the Project (collectively, “Bid Documents”), incorporated by this reference as if fully set forth herein;
- (c) Addendum No. 1 to the Bid Documents, issued May 28, 2023, incorporated by this reference as if fully set forth herein;

- (d) Addendum No. 2 to the Bid Documents, issued June 8, 2023, incorporated by this reference as if fully set forth herein;
- (e) Contractor's Proposal, attached hereto as Exhibit A and incorporated herein;
- (f) Certificates of Insurance, attached hereto as Exhibit B and incorporated herein;
- (g) Bonds, attached hereto as Exhibit C and incorporated herein;
- (h) The Standard Specifications and Standard Specifications for Public Works Construction, as detailed in Section 19-1 of the West Covina Municipal Code, incorporated by this reference as if fully set forth herein; and
- (i) All exhibits and attachments to the foregoing documents.

The documents comprising the complete Agreement may be referred to in this Agreement as the "Contract Documents." In the event of an inconsistency between any of the terms in this Agreement and any of the documents referenced above, this Agreement shall govern.

**1.3 Compliance with Law.** All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time the work is performed.

**1.4 Licenses, Permits, Fees, and Assessments.** Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement, including a business license from the City. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder. Contractor shall be responsible for all subcontractors' compliance with this Section.

**1.5 Familiarity with Work.** By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Scope of Services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor's risk until written instructions are received from the Contract Officer.

**1.6 Care of Work.** The Contractor shall adopt reasonable methods during the life of this Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own active negligence.

**1.7 Further Responsibilities of Parties.** Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in



good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Contractor shall require all subcontractors to comply with the provisions of this Agreement.

**1.8 Additional Services.** City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written change order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. All change orders are subject to the requirements of West Covina Municipal Code Section 2-358. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor.

**1.9 Prevailing Wage Requirements.**

(a) Prevailing Wage Laws. Contractor is aware of the requirements of Chapter 1 (beginning at Section 1720 et seq.) of Part 7 of Division 2 of the California Labor Code, as well as Title 8, Section 16000 et seq. of the California Code of Regulations (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. This Project is a “public works” project and requires compliance with the Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

(b) Payment of Prevailing Wages. Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification. A copy of the general prevailing wage rate determination is on file in the Office of the City Clerk and is incorporated into this Agreement as if fully set forth herein. Contractor shall post a copy of such wage rates at all times at the project site(s).

(c) Legal Working Day. In accordance with the provisions of Labor Code Section 1810 et seq., eight (8) hours is the legal working day. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of the Labor Code regarding eight (8)-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Work performed by Contractor’s or any subcontractor’s employees in excess of eight (8) hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight (8) hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City Twenty-Five Dollars (\$25.00), or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight (8) hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.

(d) Apprentices. Contractor shall comply with the provisions of Labor Code Section 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code Section 1777.5.

(e) Payroll Records. Pursuant to Labor Code Section 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any subcontractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Sections 1771, 1881, and 1815 of the Labor Code for any work performed by his or her employees on this Project. The payroll records shall be certified and shall be available for inspection at all reasonable hours in accordance with the requirements of Labor Code Section 1776.

(f) Registration with DIR. Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code Section 1771 and Labor Code Section 1725.5 requiring registration with the DIR.

## **2.0 COMPENSATION**

**2.1 Contract Sum.** For the services rendered pursuant to this Agreement, the Contractor shall be compensated as specified herein, but not exceeding the maximum contract amount of Eight Hundred Twenty-Two Thousand Eight Hundred Seventeen Dollars (\$822,817.00) (herein “Contract Sum”), except as provided in Section 1.8 (Additional Services). The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City; Contractor shall not be entitled to any additional compensation for attending said meetings.

**2.2 Progress Payments.** Prior to the first day of the month, during the progress of the work, commencing on the day and month specified in the Agreement, Contractor shall submit to the Contract Officer a complete itemized statement of all labor and materials incorporated into the work during the preceding month and the portion of the Contract Sum applicable thereto. Upon approval in writing by the Contract Officer, payment shall be made within thirty (30) days. City shall pay Contractor a sum based upon ninety five percent (95%) of the Contract Sum apportionment of the labor and materials incorporated into the work under the Agreement during the month covered by said statement. The remaining five percent (5%) of the Contract Sum shall be retained as performance security as detailed in Section 2.3 (Retention of Funds).

**2.3 Retention of Funds.** Progress payments shall be made in accordance with the provisions of Section 2.2 (Progress Payments) of this Agreement. In accordance with said section, City will retain five percent (5%) of the Contract Sum apportionment from each progress payment as performance security to be paid to the Contractor within sixty (60) days after final acceptance of the work by the City Council, after Contractor furnishes City with a release of all undisputed contract amounts if required by City. If there are any claims specifically excluded by Contractor from the operation of the release, the City may retain proceeds as authorized by Public Contract

Code Section 7107 of up to 150% of the amount in dispute. City's failure to deduct or withhold shall not affect Contractor's obligations hereunder. To the extent consistent with Public Contract Code Section 22300, Contractor may request and City shall make payment of retentions earned directly to an escrow agent at the expense of Contractor, and may direct the investment of the payments into securities and Contractor shall receive the interest earned on the investments upon the same terms provided for in Public Contract Code Section 22300 for securities deposited by Contractor. Upon satisfactory completion of this Agreement, Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City.

### **3.0 PERFORMANCE SCHEDULE**

**3.1 Time of Essence.** Time is of the essence in the performance of this Agreement.

**3.2 Schedule of Performance.** Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall complete all services within Seventy Five (75) working days. Contractor shall submit for the Contract Officer's approval its proposed Construction Schedule. Contractor shall perform the services in accordance with the approved Construction Schedule. When requested by the Contractor, extensions to the time period(s) specified in the Construction Schedule may be approved in writing by the Contract Officer.

**3.3 Force Majeure.** The time period(s) specified in the Construction Schedule for performance of the services rendered pursuant to this Agreement shall be extended to the extent caused by delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency other than the City, if the Contractor within ten (10) days of the commencement of such delay notifies the Contract Officer in writing of the causes for the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. Contractor shall not be entitled to any damages or increase in compensation due to force majeure.

**3.4 Term.** Unless earlier terminated as set forth herein, this Agreement shall continue in full force and effect until final approval and acceptance of the project by the City.

### **4.0 COORDINATION OF WORK**

**4.1 Representative of Contractor.** The following principal(s) of Contractor are hereby designated as being the principal(s) and representative(s) of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Justin Duchaineau, President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal(s) were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal(s) shall be responsible during the term of this Agreement for directing all

activities of Contractor and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the foregoing principal(s) may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City.

**4.2 Contract Officer.** The Contract Officer shall be such person as may be designated by the City Manager or City Engineer of City. The Contractor shall keep the Contract Officer informed of Contractor's progress on the services. The Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein or in the City's Municipal Code, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required by this Agreement, to the extent permitted by the City's Municipal Code.

**4.3 Prohibition Against Assignment.** The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the City's express consent.

**4.4 Independent Contractor.** Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its subcontractors, agents or employees, performs the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, subcontractors, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its subcontractors, agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venture or a member of any joint enterprise with Contractor.

**4.5 Identity of Persons Performing Work.** Contractor represents that it employs or will employ at its own expense all personnel required for the satisfactory performance of any and all tasks and services set forth herein. Contractor represents that the tasks and services required herein will be performed by Contractor or under its direct supervision, and that all personnel engaged in such work shall be fully qualified and shall be authorized and permitted under applicable State and local law to perform such tasks and services.

**4.6 Utility Relocation.** City, and not Contractor, is responsible for removal, relocation, or protection of existing main or trunkline utilities but only to the extent such utilities were not identified in the invitation for bids or specifications. Where the specifications call for the Contractor to remove, relocate, reconstruct or protect such lines, all such work shall be deemed included in the Contract Sum. Contractor having been presented with a reasonable basis to suspect that any previously unidentified

main or trunkline may need to be removed, relocated or protected in place, Contractor shall immediately notify City and the affected utility company in writing of such belief, and the basis therefor, and Contractor shall thereafter work with the City and the utility company to coordinate such removal, relocation or protection. City shall reimburse Contractor for its reasonable costs incurred in locating and repairing damage not caused by Contractor, and removing or relocating such unidentified utility facilities, including equipment idled during such work. Contractor shall not be assessed liquidated damages for delays which meet both of the following requirements: (i) the delays occurred after Contractor gave City the written notice required by this Section; and (ii) the delays were caused by the removal, protection, or relocation of such unidentified utility facilities. Nothing herein shall be deemed to prevent the City from seeking reimbursement of any such costs from the affected utility company.

**4.7 Trenches or Excavations.** Pursuant to Public Contract Code Section 7104, if the work included in this Agreement requires excavations more than four (4) feet in depth, the following shall apply:

(a) Contractor shall promptly, and before the following conditions are disturbed, notify City, in writing, of any: (1) material that Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (2) subsurface or latent physical conditions at the site different from those indicated; or (3) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Agreement.

(b) City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order per Section 1.8 (Additional Services) of this Agreement.

(c) If a dispute arises between City and Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from any scheduled completion date provided for by the Agreement, but shall proceed with all work to be performed under the Agreement. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

**4.8 Best Management Practices.** Contractor shall implement and maintain activity specific Best Management Practices (BMPs) to prevent pollutant loading from stormwater and non-stormwater discharges to receiving waters as required in Municipal NPDES Permit No. CAS004004. Contracting staff whose primary job duties are related to implementation of BMPs shall be adequately trained to effectively implement, operate, and maintain such BMPs and must be versed in factors affecting BMP effectiveness. Contractor shall certify it has received all applicable training to implement the requirements in Municipal NPDES Permit No. CAS004004 and shall provide documentation to that effect.

## 5.0 INSURANCE

**5.1 Minimum Scope and Limits of Insurance.** Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, with a current A.M. Best's rating of no less than A:VII, and approved by City:

- (a) Broad-form commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limit per accident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers for losses arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

By execution of this Agreement, the Contractor certifies as follows:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Contractor shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the Contractor to comply with this section.

- (d) Builder's Risk (Course of Construction) insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the Project and no coinsurance penalty provisions. The Builder's Risk coverage shall name the City as a loss payee. If the Project does not involve new or major construction, City may, in its discretion, permit an Installation Floater. If authorized, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion, or adjustment to existing buildings, structures, processes, machinery and

equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery, or equipment damaged, impaired, broken or destroyed during the performance of the work, including during transit, installation, and testing at the project site.

If the Contractor maintains higher limits or has broader coverage than the minimums shown above, the City requires and shall be entitled to all coverage, and to the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

**5.2 Endorsements.** The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (a) **Additional Insureds:** The City of West Covina and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Contractor pursuant to its contract with the City; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor.
- (b) **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
- (c) **Primary Coverage:** The Contractor's insurance coverage shall be primary insurance as respects the City of West Covina, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of West Covina shall be excess and not contributing with the insurance provided by this policy.
- (d) **Waiver of Subrogation:** Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- (e) **Coverage Not Affected:** Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of West Covina, its officers, officials, agents, employees, and volunteers.
- (f) **Coverage Applies Separately:** The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**5.3 Deductible or Self Insured Retention.** If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations,

claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

**5.4 Certificates of Insurance.** Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**5.5 Non-limiting.** Nothing in this Section shall be construed as limiting in any way the indemnification provision contained in this Agreement or the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.

**5.6 Subcontractors.** Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the City is listed as an additional insured on insurance required of subcontractors.

**5.7 Sufficiency of Insurers.** Insurance required by this Agreement shall be satisfactory only if issued by companies authorized to do business in California, rated with a current A.M. Best's rating of no less than A:VII unless such requirements are waived by the City's Risk Manager in writing due to unique circumstances. If the City's Risk Manager determines that the work or services to be performed under this Agreement creates an increased risk of loss to the City, the Risk Manager may increase the minimum limits of the insurance policies required by this Section by providing written notice to Contractor; provided that the Contractor may appeal such determination to the City Council of City within ten (10) days of receipt of notice from the Risk Manager.

## **6.0 BONDS**

**6.1 Labor and Materials, Performance and Warranty Bonds.** Concurrently with execution of this Agreement, Contractor shall deliver to City: (1) a labor and materials bond in an amount equal to one hundred percent (100%) of the Contract Sum as security for the payment of all persons furnishing labor or materials in connection with the work, (2) a performance bond in an amount equal to one hundred percent (100%) of the Contract Sum as security for the faithful performance of this Agreement, and (3) a warranty bond in an amount equal to fifty percent (50%) of the Contract Sum to guarantee the work for a period of one (1) year following completion of the work, on the forms provided by the City. The bonds shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his/her power of attorney. The bonds shall be unconditional and remain in force during the entire term of the Agreement and shall be released or exonerated only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

**6.2 Sufficiency of Sureties.** Sureties must be authorized to issue bonds in California. In addition, sureties must possess a minimum rating from A. M. Best Company of A:VII and must be listed as an acceptable surety on federal bonds by the United States Department of the Treasury, <http://www.fms.treas.gov/c570/c570.html>, subject to the maximum amount shown in the listing. If co-



sureties are used, their bonds must be on a joint and several basis.

**6.3 Substitution of Securities.** Pursuant to California Public Contract Code Section 22300, substitution of eligible equivalent securities for any moneys withheld to ensure performance under the Agreement for the work to be performed will be permitted at the request and expense of Contractor.

## **7.0 INDEMNIFICATION**

Contractor agrees to defend (with legal counsel of City's choosing), indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Contractor's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained in any other document, which shall be of no force and effect.

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith.

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', subcontractors', or invitees') negligent performance of or failure to perform such work, operations or activities hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom.

(c) If the City, its officers, agents or employees is/are made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor shall pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City.

(d) Contractor's duty to defend and indemnify as set forth herein shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury

to persons or property arising or alleged to arise from, in connection with, as a consequence of or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the Porter-Cologne Water Quality Control Act, as any of those statutes may be amended from time to time.

Contractor's indemnification obligations pursuant to this Section shall survive the termination of this Agreement. Contractor shall require the same indemnification in favor of City from all subcontractors.

## **8.0 RECORDS AND REPORTS**

**8.1 Reports.** Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer may require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto.

**8.2 Records.** Contractor shall keep, and require subcontractors to keep, such books and records (including but not limited to payroll records as required herein) as may be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

**8.3 Ownership of Documents.** All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

## 9.0 ENFORCEMENT OF AGREEMENT; TERMINATION

**9.1 Governing Law.** This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

**9.2 Notice of Default and Cure Period.** If either party fails to perform its obligations hereunder, the nondefaulting party may provide the defaulting party written notice of such default. The defaulting party shall have ten (10) days to cure the default; provided that, if the default is not reasonably susceptible to being cured within said ten (10) day period, the defaulting party shall have a reasonable time to cure the default, not to exceed a maximum of thirty (30) days, provided the defaulting party commences to cure such default within ten (10) days of service of such notice and diligently prosecutes the cure to completion; provided further that if the default is an immediate danger to the health, safety and general welfare, the defaulting party shall take such immediate action as may be necessary. Notwithstanding the foregoing, the nondefaulting party may, in its sole and absolute discretion, grant a longer cure period. Should the defaulting party fail to cure the default within the time period provided in this Section, the nondefaulting party shall have the right, in addition to any other rights the nondefaulting party may have at law or in equity, to terminate this Agreement, and/or to call upon any completion or payment bond or other security for performance thereof. Compliance with the provisions of this Section shall be a condition precedent to bringing any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the dispute is not cured.

**9.3 Termination for Default of Contractor.** If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, Contractor shall vacate any City owned property which Contractor is permitted to occupy hereunder and City may, upon termination, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of setoff or partial payment of the amounts owed the City as previously stated.

**9.4 Termination for Convenience.** The City may terminate this Agreement without cause for convenience of the City upon giving Contractor thirty (30) days prior written notice of termination of the Agreement. Upon receipt of the notice of termination, the Contractor shall cease all further work pursuant to the Agreement. Upon such termination by the City, the Contractor shall not be entitled to any other remedies, claims, actions, profits, or damages except as provided in this paragraph. Upon the receipt of such notice of termination, Contractor shall be entitled to the following compensation:

(a) The contract value of the work completed through and including the date of receipt of the notice of termination, less the amount of progress payments received by Contractor.

(b) Actual move-off costs including labor, rental fees, equipment transportation costs, the

costs of maintaining on-site construction office for supervising the move-off.

(c) The cost of materials custom-made for this Agreement which the Contractor cannot use in its normal course of business, and for which the City has not already paid.

(d) Any costs shall not include any markups as might otherwise be allowed by any plans or specifications which were a part of the Agreement.

The provisions of this Section shall supersede any inconsistent provisions of the Agreement or the Bid Documents. City and Contractor agree that the provisions of this Section are a substantive part of this Agreement's consideration.

**9.5 "Claims" by Contractor under Section 9204.** Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall be subject to all requirements of Public Contract Code Section 9204 ("Section 9204") as it may be amended from time to time. The parties acknowledge that Section 9204 applies to certain requests by Contractor, such as certain requests for time extensions, certain requests for payments not covered by contract, and certain requests for payments of amounts disputed by City. The parties further acknowledge that Section 9204 establishes all of the following: (i) Contractor may submit a "claim" to the City, as that term is defined in Section 9204; (ii) City has an initial 45 days to review and respond to the claim to state "what portion of the claim is disputed and what portion is undisputed". If the City does not issue a written statement, the claim is deemed rejected in its entirety; (iii) Contractor must furnish reasonable documentation to support the claim; (iv) City has 60 days from its written determination to pay any undisputed amount; and (v) specified procedures apply to resolve any amounts in dispute.

**9.6 Waiver.** No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be considered a waiver of any other default concerning the same or any other provision of this Agreement.

**9.7 Rights and Remedies are Cumulative.** Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

**9.8 Legal Action.** In addition to any other rights or remedies, either party may take legal action, at law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

**9.9 Liquidated Damages.** Contractor agrees that failure to complete work within the time allowed herein will result in damages being sustained by the City. Contractor further agrees that the determination of actual damages for any delay in performance of this Agreement would be extremely

difficult or impractical to determine in the event of a breach of this Agreement. Therefore, Contractor agrees that it and its sureties shall be liable for and shall pay to the City liquidated damages in the amount of Five Hundred Dollars (\$500.00) for each calendar day of delay in the performance of any service required hereunder. Contractor further agrees that liquidated damages may be assessed for failure to comply with the emergency call out requirements described in the Scope of Services. The City may withhold from any amounts payable on account of services performed by the Contractor any accrued liquidated damages. Contractor, on behalf of itself and its sureties, and City agree that the liquidated damages constitute a reasonable estimate of actual damages, and are not punitive.

## **10.0 CITY OFFICERS AND EMPLOYEES, NONDISCRIMINATION**

**10.1 Non-liability of City Officers and Employees.** No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

**10.2 Conflict of Interest.** The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

**10.3 Covenant Against Discrimination.** Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, gender expression, marital status, national origin, disability, pregnancy, sexual orientation or ancestry in the performance of this Agreement. To the extent required by law, Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, gender expression, marital status, national origin, disability, pregnancy, sexual orientation or ancestry.

## **11.0 MISCELLANEOUS PROVISIONS**

**11.1 Notice.** Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and shall be deemed to be given when served personally or deposited in the U.S. Mail, prepaid, first-class mail, return receipt requested, addressed as follows:

|                |   |
|----------------|---|
| To City:       | City of West Covina<br>1444 West Garvey Avenue South<br>West Covina, CA 91790<br>Attn: City Engineer              |
| To Contractor: | Southwest Pipeline and Trenchless Corp.<br>22118 S. Vermont Ave.<br>Torrance, CA 90502<br>Attn: Justin Duchaineau |

**11.2 Interpretation.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of

the authorship of this Agreement or any other rule of construction which might otherwise apply.

**11.3 Integration; Amendment.** It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

**11.4 Severability.** If one or more of the words, phrases, sentences, clauses, paragraphs, or sections in this Agreement is declared unenforceable by a court of competent jurisdiction, such unenforceability shall not affect any of the remaining words, phrases, sentences, clauses, paragraphs, or sections of this Agreement which are severable. Remaining enforceable provisions shall be interpreted to carry out the intent of the parties unless an invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

**11.5 Hiring of Undocumented Aliens Prohibited.** Contractor shall not hire, employ, or allow any person to work under this Agreement unless such person is properly documented and may legally work within the United States.

**11.6 Unfair Business Practices Claims.** Consistent with Public Contract Code Section 7103.5, Contractor, on behalf of itself and all subcontractors, offers and agrees to assign to the City all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) and under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this Agreement. This assignment becomes effective when the City renders final payment to the Contractor without further acknowledgment by the parties.

**11.7 Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

**11.8 Legal Responsibilities.** The Contractor shall keep itself informed of City, State, and Federal laws, ordinances and regulations, which may in any manner affect the performance of its services pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws, ordinances and regulations. Neither the City, nor its officers, agents, assigns nor employees shall be liable at law or in equity as a result of the Contractor's failure to comply with this Section.

**11.9 Counterparts and Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement. Counterpart written signatures may be transmitted by facsimile, email or other electronic means and have the same legal effect as if they were original signatures.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

CITY OF WEST COVINA,  
A municipal corporation

\_\_\_\_\_  
Paulina Morales  
Acting City Manager

Date: \_\_\_\_\_

CONTRACTOR

\_\_\_\_\_  
Justin Duchaineau  
President

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lisa Sherrick  
Assistant City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas P. Duarte  
City Attorney

Date: \_\_\_\_\_

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Stephanie Sikkema  
Acting Human Resources and Risk  
Management Director

Date: \_\_\_\_\_

**EXHIBIT A**  
**CONTRACTOR'S PROPOSAL**



**EXHIBIT B**  
**CERTIFICATES OF INSURANCE**

## **EXHIBIT C**

### **BONDS**



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF RATIFICATION OF GRANT AGREEMENT WITH CALIFORNIA ENERGY COMMISSION FOR THE CALIFORNIA AUTOMATED PERMIT PROCESSING (CALAPP) PROGRAM**

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### RECOMMENDATION:

It is recommended that City Council approve the following:

Ratification of the agreement between the City of West Covina and the California Energy Commission for the grant of \$80,000 for the California Automated Permit Processing (CALAPP) Program.

**RESOLUTION NO. 2023-59 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2023 AND ENDING JUNE 30, 2024 (CALAPP GRANT)**

### BACKGROUND:

On September 16, 2022, Governor Newsom approved Senate Bill 379. This bill requires every city and county to implement an online, automated permitting platform, that will issue permits for residential solar energy systems (up to 38.4 kilowatts). The app verifies code compliance and issues permits in real time. Commercial applications for solar energy systems will continue to be processed through the Building Division and the Planning Division if required.

The State recommends using SolarApp+, which meets all requirements of the bill and is free for jurisdictions to set up and use. The grant is used to offset the costs to the City for staff time and resources in implementing the SolarApp+ program.

Due to West Covina's population, the City must have the online, automated permitted platform live by September 2023 in accordance with Senate Bill 379.

### DISCUSSION:

As part of this bill, the California Energy Commission set aside \$20,000,000 for grants to jurisdictions to implement SolarApp+ or a similar program. The grants are awarded based on population size using the latest census data. Based on its population, West Covina qualified for an \$80,000 grant. The grant set aside by the California Energy Commission was on a first come, first served basis. The grant funding is intended to help local governments in California recover the cost of establishing an eligible automated, online solar permitting platform.

The Acting City Manager executed the agreement with the California Energy Commission. Staff is requesting that the City Council ratify the agreement.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed this staff report.

**OPTIONS:**

The City Council has the following options:

1. Approve Staff's recommendation; or
2. Provide alternative direction.

**Prepared by:** Jason Robbins, CBO, CSP

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**Fiscal Impact**

**FISCAL IMPACT:**

The City will be reimbursed up to \$80,000 under the grant program for implementing the SolarApp+. The City may only expense for activities that occur during the grant agreement term, meaning after the grant is executed. A proposed budget amendment is included as Attachment No. 3 to reflect both the grant revenue and expenditures under Fund 232, Non-Federal Grants. There is no impact to the City's General Fund.

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**Attachments**

Attachment No.1- CEC Agreement APP-22-285

Attachment No.2- Senate Bill 379

Attachment No. 3 - Resolution No. 2023-59

**CITY COUNCIL GOALS & OBJECTIVES:** Expand Economic Development Opportunities

STATE OF CALIFORNIA  
**GRANT AGREEMENT**  
 CEC-146 (Revised 3/2019)

CALIFORNIA ENERGY COMMISSION



|   |  |
|---|--|
| RECIPIENT<br><br><b>City of West Covina</b>                                   | AGREEMENT NUMBER<br><br><b>APP-22-285</b>  |
| ADDRESS<br><br><b>1444 W Garvey Ave S.<br/>         West Covina CA, 91790</b> | AGREEMENT TERM<br><br><b>04/27/2023 to 05/31/2027</b><br><br>The effective date of this Agreement is either the start date or the approval signature date by the California Energy Commission representative below, whichever is later. The California Energy Commission shall be the last party to sign. No work is authorized, nor shall any work begin, until on or after the effective date. |

## PROJECT DESCRIPTION

The parties agree to comply with the terms and conditions of the following Exhibits which are by this reference made a part of the agreement.

**Exhibit A – Application with Scope of Work**  
**Exhibit B – APP General Terms and Conditions**  
**Exhibit C – Contact List**

Page(s): 4  
 Page(s): 5  
 Page(s): 1

|  |
|--|
| REIMBURSABLE AMOUNT<br><br><b>\$ 80,000</b>                            |
| MINIMUM MATCH SHARE REQUIRED<br><br><b>\$ 0</b>                        |
| TOTAL OF REIMBURSABLE AMOUNT AND MINIMUM MATCH<br><br><b>\$ 80,000</b> |

*The undersigned parties have read the attachments to this agreement and will comply with the standards and requirements contained therein.*

| CALIFORNIA ENERGY COMMISSION  |                  | CONTRACTOR                                     |                  |
|---|------------------|--|------------------|
| AUTHORIZED SIGNATURE<br><br><i>Adrienne Winuk</i>                                 | DATE<br>6/8/2023 | AUTHORIZED SIGNATURE<br><br><i>[Signature]</i> | DATE<br>6/8/2023 |
| NAME<br>Adrienne Winuk  |                  | NAME   |                  |
| TITLE<br>Contracts, Grants, and Loans Office Manager                              |                  | TITLE<br>Acting City Manager                   |                  |
| CALIFORNIA ENERGY COMMISSION ADDRESS<br>715 P Street, MS 18, Sacramento, CA 95814 |                  |  |                  |

**ATTACHMENT 01**  
**Grant Application Form - EXHIBIT A**

**California Automated Permit Processing(CalAPP) Program**

**I. APPLICANT INFORMATION(REQUIRED)**

|  |  |
|--|--|
| Jurisdiction Name (please use full legal name as it would appear on the executed grant):<br>City of West Covina  |  |
| Jurisdiction Type (select one):<br><div style="display: flex; justify-content: space-around; align-items: center;"><span>(g]city</span><span><input type="radio"/> County</span><span><input type="radio"/> City and County</span></div>   |  |
| Current Estimated Population <a href="https://dof.ca.gov/forecasting/Demographics/">State of California Department of Finance Demographics</a><br>( <a href="https://dof.ca.gov/forecasting/Demographics/">https://dof.ca.gov/forecasting/Demographics/</a> ):<br><div style="display: flex; justify-content: space-around; align-items: center;"><div style="text-align: center;"><input type="radio"/> Less than 50,000</div><div style="text-align: center;"><input checked="" type="radio"/> From 100,000 to 200,000</div></div> <div style="display: flex; justify-content: space-around; align-items: center;"><div style="text-align: center;"><input type="radio"/> From 50,000 to 99,999</div><div style="text-align: center;"><input type="radio"/> Greater than 200,000</div></div> |  |

|  |                      |                          |
|--|----------------------|--------------------------|
| Project Manager<br>(se]ves as point<br>of contact for all<br>communications) | Name                 | JASON ROBBINS            |
|  | Street Address       | 1444 W GARVEY AVE S,     |
|  | City and<br>Zip Code | WEST COVINA, 91790       |
|  | Phone Number         | (626) 939-8425           |
|  | E-Mail Address       | JROBBINS2@WESTCOVINA.ORG |

**2. FUNDING(REQUIRED)**

|   |
|---|
| <b>Assigned Maximum Grant Amount</b> (select <u>one</u> )                                     |
| <input type="radio"/> <b>Group 1(\$40,000):</b> Population less than 50,000                   |
| <input type="radio"/> <b>Group 2(\$60,000):</b> Population from 50,000 to 99,999              |
| <input checked="" type="radio"/> <b>Group 3(\$80,000):</b> Population from 100,000 to 200,000 |
| <input type="radio"/> <b>Group 4(\$100,000):</b> Population greater than 200,000              |

**3. PROJECT INFORMATION (REQUIRED)**

**A. Online, automated solar permitting platform to be adopted:**

IZJsolarAPP+

**D** Other. If selected, complete Section 4 ("Additional Information")

**B. Please select allowable budget item(s) anticipated to be used (Select at least one):**

☒ Ongoing in-house staff labor costs associated directly with adoption and maintenance of the platform

☒ Ongoing third-party or consultant time associated directly with adoption and maintenance of the platform

☒ Ongoing staff training and education, specific to the platform

**D** Ongoing training events for local installers, specific to the platform

☒ Essential hardware or equipment necessary to support adoption of the platform

☒ Maintenance, such as adding support for energy storage paired with solar energy system permitting, and subscription cost for permit tracking software in support of adopted permitting platform


**C. Estimated Project Timeline\***

\*Enter actual dates if activities already began

| Activity                      | Date (Month/Year) |
|-------------------------------|-------------------|
| Begin Development/Pilot       | 07/2023           |
| Full Adoption                 | 08/2023           |
| Staff Training                | 08/2023           |
| Training for Local Installers |                   |

## 6. CERTIFICATION (REQUIRED)

- I am authorized to complete and sign this form on behalf of the applicant.
- I authorize the California Energy Commission to make any inquiries necessary to verify the information presented in this application.
- I have read and understand the terms and conditions contained in this solicitation. I accept the terms and conditions contained in this solicitation on behalf of the applicant, and the applicant is willing to enter into an agreement with the Energy Commission to conduct the proposed project according to the terms and conditions without negotiation.
- I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

|   |   |
|---|---|
| Name of Authorized Representative:      | DAVID CARMANY   |
| Title:                                  | CITY MANAGER  |
| Phone Number:                           | (626) 939-8401  |
| E-mail Address:                         | DCARMANY@WESTCOVINA.ORG   |
| Date:                                   | 4 . . . <.3   |
| Signature of Authorized Representative: |  |

**NOTE:** Do not overlap signature with surrounding border lines.



#### 4. ADDITIONAL INFORMATION (if applicable)

**NOTE:** Only complete this section if you implement a platform other than SolarAPP+

Please identify whether the following features are supported by the implemented platform. All features are required for the platform to qualify for funding. CEC staff will verify prior to payment approval.

|  |      |                             |
|--|------|-----------------------------|
| Performs an automated plan review for residential solar energy systems that completes automatic code compliance checks based on user inputs (such as a contractor), thereby enabling or otherwise issuing permits instantly when the project is confirmed as code compliant, without the need for human review | OYes | <input type="checkbox"/> No |
| Supports online, immediate fee payment once an application is complete, which may include auto-invoicing of permit fee costs   | OYes | <input type="checkbox"/> No |
| Supports immediate generation of a permit job card following payment confirmation  | OYes | No                          |
| Blocks noncompliant applications from receiving a permit   | OYes | <input type="checkbox"/> No |
| <b>EITHER:</b> 1) Stand-alone permitting tool; <b>OR</b> 2) Integrates with current software and inspection platform already in use  | OYes | No                          |

#### 5. REPORTING (REQUIRED)

|  |     |                             |
|--|-----|-----------------------------|
| Following adoption and verification of a qualifying platform, the Energy Commission may request, and the Recipient will provide if requested, annual data on the number of permits issued for solar energy systems and a solar energy system paired with an energy storage system including relevant characteristics of those systems, such as system capacity.<br><br>Please indicate your acceptance of these terms. | Yes | <input type="checkbox"/> No |
|--|-----|-----------------------------|

## **California Automated Permit Processing (CalAPP) Program**

### **ATTACHMENT 2 – Terms and Conditions**

Added language appears in **bold underlined** font and deleted language appears in strikethrough and within square brackets.

#### **1. Background and Authority for this Grant**

California Senate Bill 129 (2021) included an appropriation to the California Energy Commission (CEC) to support a grant program for cities, counties, or cities and counties to establish online solar permitting.

#### **2. Documents Incorporated by Reference and Priority**

Incorporated by reference into this agreement are the following documents:

- A. Grant Funding Opportunity (GFO) 21-402.
- B. Recipient's application to CalAPP.

As between and the incorporated documents and the remainder of this Agreement, the rest of this Agreement takes priority in case of a conflict.

#### **3. Budget, Invoices, and Payments**

- a) The CEC is only obligated to reimburse the Recipient for paid costs that are (1) incurred during the Agreement Term; (2) invoiced within the required timeframes of this Agreement; (3) not more than this Agreement's budget; and (4) reasonable, actual, and allowable expenses under this Agreement.
- b) Recipient acknowledges that the funds under this Agreement have a liquidation date of June 30, 2027, a legal timeframe after which the CEC has no authority to pay the funds. In addition, it takes the CEC administrative time to review, approve, work with the Recipient to correct any errors in, and request the State Controller's Office to pay invoices. Accordingly, Recipient acknowledges that if it does not submit accurate invoices by March 30, 2027, for all amounts due under the Agreement, it risks not receiving payment, and relinquishes all rights to such payments should the CEC not pay it by the liquidation date. Recipient acknowledges that time is of the essence in invoicing by March 30, 2027, for all amounts due under this Agreement.

The Recipient may request payment from the Energy Commission at any time during the term of this Agreement after successful adoption of a qualifying solar permitting platform as verified by the CEC, but no more frequently than monthly. Recipient must use the CAM provided template invoice spreadsheet.

- c) If invoicing for in-house staff time, the template invoice spreadsheet must identify the employee's name, hours worked, and billing rate to be included as a reimbursable expense.
- d) Unallowable costs include:
  - Software not related to the adoption of a qualifying online, automated permitting platform.

- Any costs incurred or activities conducted prior to entering into a grant agreement with the Energy Commission or incurred after the grant agreement has ended.
- Typically excluded items such as food and beverages.
- Advertising costs.
- Fines and penalties.
- Permit processing fees charged by operator of an online platform.
- All other costs not identified as allowable.
- Unreasonable amounts or rates.

#### **4. Certification**

By signing this Agreement, Recipient hereby certifies that all funds received pursuant to this Agreement shall be spent exclusively for its CalAPP project in compliance with this Agreement. The Recipient further certifies that it shall comply with all applicable laws in performing this Agreement.

#### **5. Nondiscrimination Statement of Compliance**

During the performance of this Agreement, the Recipient and its subcontractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, or denial of family care leave. The Recipient and its subcontractors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

The Recipient and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full. The Recipient and its subcontractors will give written notice of their obligations under this section to labor organizations with which they have a collective bargaining or other Agreement.

The Recipient shall include the nondiscrimination and compliance provisions of this section in all subcontracts to perform work under this Agreement.

#### **6. Drug-Free Workplace Certification**

**By signing this Agreement, the Recipient certifies under penalty of perjury under the laws of the State of California that it will comply and will ensure its subcontractors will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.). In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future state awards if the CEC determines that any of the following**

**has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements of the Act.**

[By signing this Agreement, the Recipient certifies under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 1) ~~Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations as required by Government Code Section 8355(a).~~
- 2) ~~Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:~~
  - ~~The dangers of drug abuse in the workplace;~~
  - ~~The person's or organization's policy of maintaining a drug-free workplace;~~
  - ~~Any available counseling, rehabilitation, and employee assistance programs; and~~
  - ~~Penalties that may be imposed upon employees for drug abuse violations.~~
- 3) ~~Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed project:~~
  - ~~Will receive a copy of the company's drug-free policy statement; and~~
  - ~~Will agree to abide by the terms of the company's statement as a condition of employment on the project.]~~

~~In addition to any other rights and remedies available to the CEC, failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future state awards if the CEC determines that any of the following has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.~~

## **7. Americans With Disabilities Act**

By signing this Agreement, the Recipient assures the CEC that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. Section 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

## **8. Accounting and Audit**

The Recipient will keep separate, complete, and correct accounting of the costs involved in completing the Agreement. The Recipient agrees that the CEC, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Recipient agrees to maintain such records for possible audit for a minimum of three (3) years after the Agreement ends in any way. The Recipient agrees to allow the auditor(s) access to such records during normal business hours and to allow

interviews of any employees who might reasonably have information related to such records. Further, the Recipient agrees to include a similar right of the CEC, the Bureau of State Audits, or their designated representative, to audit records and interview staff in any subcontract related to performance of this Agreement. These rights and responsibilities are in addition to and not restrictive of those in Section 16. Access to Sites and Records.

## **9. Public Works**

The Recipient is responsible for complying with all applicable laws, which can include public works requirements under the Labor Code. Recipient acknowledges acceptance of Agreement funds may trigger public works laws (Labor Code Section 1720 et seq.), a requirement of which is to pay prevailing wages, applying to its entire project. If the project is public works then it is subject to compliance monitoring and enforcement by the Department of Industrial Relations. By signing this Agreement, Recipient certifies that it shall comply with all applicable Public Works laws and requirements.

## **10. Intellectual Property**

As between the Recipient and the CEC, the Recipient owns all intellectual property it or its subcontractors create under this Agreement. The CEC has a no-cost, non-exclusive, transferable, irrevocable, royalty-free, worldwide, perpetual license to use, publish, translate, modify, and reproduce all intellectual property, such as the products identified in Section 2. above, for governmental purposes the Recipient or its subcontractors create under this agreement. The Recipient shall include a provision securing these rights for the CEC in all of its subcontractor agreements related to performance of this Agreement.

## **11. Amendment**

No amendment or variation of this Agreement shall be valid unless made in writing and signed by both the Recipient and CEC.

## **12. Governing Law**

This Agreement is governed by the laws of the State of California as to interpretation and performance.

## **13. Independent Capacity**

In the performance of this Agreement, Recipient and its agents, subcontractors, and employees will act in an independent capacity and not as officers, employees, or agents of the CEC or the State of California.

## **14. Severability**

If any provision of this Agreement is unenforceable or held to be unenforceable, all other provisions of this Agreement will remain in full force and effect.

## **15. Waiver**

No waiver of any breach of this Agreement constitutes waiver of any other breach. All remedies in this Agreement will be taken and construed as cumulative, meaning in addition to every other remedy provided in the Agreement or by law.

#### **16. Access to Sites and Records**

The Recipient shall provide during the Agreement and for at least 3 years after the Agreement ends in any way to the CEC or its representatives reasonable access to all project sites and to all records related to this Agreement. These rights and responsibilities are in addition to and not restrictive of those in Section 8. Accounting and Audit.

#### **17. Termination Without Cause**

The CEC may terminate this Agreement without cause upon giving written notice to the Recipient. In this event, the Recipient will use all reasonable efforts to mitigate its expenses and obligations.

#### **18. Third-Party Beneficiary**

The Recipient shall in every subcontract under this Agreement include a provision indicating the CEC is a third-party beneficiary to the agreement.

#### **19. Survival of Terms**

The following terms survive this Agreement no matter how the agreement ends, such as by its own terms or via termination:

- 8. Accounting and Audit
- 9. Public Works
- 10. Intellectual Property
- 12. Governing Law
- 14. Severability
- 15. Waiver
- 16. Access to Sites and Records
- 18. Third-Party Beneficiary

## Exhibit C CONTACT LIST

| California Energy Commission   | Recipient  |
|--|--|
| <p><b>Commission Agreement Manager:</b></p> <p>Lucio Hernandez<br/>California Energy Commission<br/>716 P Street, MS-45<br/>Sacramento, CA 95814<br/>Phone: (916) 477-1799<br/>e-mail: <a href="mailto:lucio.hernandez@energy.ca.gov">lucio.hernandez@energy.ca.gov</a></p>  | <p><b>Project Manager:</b></p> <p>Jason Robbins<br/>City of West Covina<br/>1444 W Garvey Ave South<br/>West Covina, CA, 91790<br/>Phone: (626) 939-8753<br/>e-mail: <a href="mailto:buildingofficial@westcovina.org">buildingofficial@westcovina.org</a></p>  |
| <p><b>Confidential Deliverables/Products</b></p> <p>California Energy Commission<br/>Contracts, Grants, and Loans Officer<br/>715 P Street MS-18<br/>Sacramento, CA 95814</p>  | <p><b>Administrator:</b></p> <p>Paulina Morales<br/>City of West Covina<br/>1444 W Garvey Ave South<br/>West Covina, CA, 91790<br/>Phone: (626) 939-8401<br/>e-mail: <a href="mailto:pmorales@westcovina.org">pmorales@westcovina.org</a></p>  |
| <p><b>Invoices, Progress Reports and Non-Confidential Deliverables to:</b></p> <p>California Energy Commission<br/>Accounting Officer<br/>715 P Street MS-2<br/>Sacramento, CA 95814</p> <p>Email PDF of Payment Request invoice packet to: <a href="mailto:invoices@energy.ca.gov">invoices@energy.ca.gov</a></p> | <p><b>Accounting Officer:</b></p> <p>Stephanie Sikkema<br/>City of West Covina<br/>1444 W. Garvey Avenue South<br/>West Covina, CA 91790<br/>Phone: (626) 939-8463<br/>e-mail: <a href="mailto:ssikkema@westcovina.org">ssikkema@westcovina.org</a><br/>e-mail: <a href="mailto:finance@westcovina.org">finance@westcovina.org</a></p> |
| <p><b>Legal Notices:</b></p> <p>Tatyana Yakshina<br/>Grants Manager<br/>715 P Street MS-18<br/>Sacramento, CA 95814<br/>Phone: (916) 827-9294<br/>e-mail: <a href="mailto:tatyana.yakshina@energy.ca.gov">tatyana.yakshina@energy.ca.gov</a></p>   | <p><b>Recipient Legal Notices:</b></p> <p>Thomas P. Duarte<br/>City of West Covina<br/>1444 W Garvey Ave South<br/>West Covina, CA, 91790<br/>Phone: (626) 939-8401<br/>e-mail: <a href="mailto:tpd@jones-mayer.com">tpd@jones-mayer.com</a></p>   |

City of West Covina



**Senate Bill No. 379**

**CHAPTER 356**

An act to add Section 65850.52 to the Government Code, relating to land use.

[Approved by Governor September 16, 2022. Filed with  
Secretary of State September 16, 2022.]

legislative counsel's digest

SB 379, Wiener. Residential solar energy systems: permitting.

Existing law requires a city or county to approve administratively applications to install solar energy systems through the issuance of a building permit or similar nondiscretionary permit. Existing law requires every city, county, or city and county to develop a streamlined permitting process for the installation of small residential rooftop solar energy systems, as that term is defined. Existing law prescribes and limits permit fees that a city or county may charge for a residential and commercial solar energy system. Existing law creates the State Energy Resources Conservation and Development Commission (Energy Commission) in the Natural Resources Agency and prescribes its duties, which include administering programs for the installation of solar energy systems.

This bill would require every city, county, or city and county to implement an online, automated permitting platform that verifies code compliance and issues permits in real time or allows the city, county, or city and county to issue permits in real time for a residential solar energy system, as defined, that is no larger than 38.4 kilowatts alternating current nameplate rating and a residential energy storage system, as defined, paired with a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating.

This bill would prescribe a compliance schedule for satisfying these requirements, which would exempt a city with a population of fewer than 5,000 and a county with a population of fewer than 150,000, including each city within that county. The bill would require a city with a population of 50,000 or fewer that is not otherwise exempt to satisfy these requirements by September 30, 2024, while cities, counties, and cities and counties with populations greater than 50,000 that are not otherwise exempt would be required to satisfy the requirements by September 30, 2023. The bill would require a city, county, or city and county to report to the Energy Commission when it is in compliance with specified requirements, in addition to other information. The bill would require cities, counties, and cities and counties to self-certify their compliance with the bill's provisions when applying for specified funds from the Energy Commission, as specified.

This bill would require the Energy Commission to set guidelines, adopted through a specified public process, for cities, counties, and cities and counties to report to the commission on the number of permits issued for residential solar energy systems and residential energy storage systems paired with residential solar energy systems and the relevant characteristics of those systems. The bill would make related findings and declarations.

The Administrative Procedure Act generally governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law.

This bill would exempt the guidelines from the Administrative Procedures Act.

This bill would expressly apply to charter cities.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Permitting fees or soft costs to solar and storage projects can add substantial time and money to the adoption of additional solar and storage projects.

(b) To meet its clean energy goals, California may need up to six gigawatts of new renewable and storage resources annually, including additional rooftop solar and storage projects.

(c) Per the 2021 Senate Bill 100 Joint Agency Report, Achieving 100% Clean Electricity in California, development of rooftop solar must increase dramatically.

(d) Because the 2021 budget included a \$20 million appropriation to the Energy Commission for grants to all jurisdictions that adopt the SolarAPP+ or a similar program in order to expedite permitting, local permitting jurisdictions can and should be required to adopt SolarAPP+ or a similar program for automated permitting in order to promote the development of solar and storage to help meet the state's clean energy needs.

SEC. 2. Section 65850.52 is added to the Government Code, immediately following Section 65850.5, to read:

65850.52. (a) For purposes of this section, the following definitions apply:

(1) “Energy Commission” means the State Energy Resources Conservation and Development Commission.

(2) “Residential energy storage system” means commercially available technology, located behind a customer’s residential utility meter, that is capable of absorbing electricity generated from a colocated electricity generator or from the electrical grid, storing it for a period of time, and thereafter discharging it to meet the energy or power needs of the host customer or for export.

(3) “Residential solar energy system” means any configuration of solar energy devices that collects and distributes solar energy for the purpose of generating electricity and that has a single residential interconnection with the electric utility transmission or distribution network.

(4) “SolarAPP+” means the most recent version of a web-based portal, developed by the National Renewable Energy Laboratory, that automates plan review, produces code-compliant approvals, and issues permits for residential solar energy systems and residential energy storage systems paired with residential solar energy systems.

(b) (1) Pursuant to the compliance schedule in subdivision (c), a city, county, or city and county, in consultation with the local fire department, district, or authority, shall implement an online, automated permitting platform, such as SolarAPP+, that meets both of the following requirements:

(A) The platform verifies code compliance and issues permits in real time or allows the city, county, or city and county to issue permits in real time to a licensed contractor for a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating and a residential energy storage system paired with a residential solar energy system that is no larger than 38.4 kilowatts alternating current nameplate rating.

(B) The platform issues permits or allows the city, county, or city and county to issue permits for residential solar energy systems and residential energy storage systems paired with residential solar energy systems that SolarAPP+ is capable of processing.

(2) A city, county, or city and county is not required to permit an application for a residential solar energy system or a residential energy storage system paired with a residential solar energy system through the online automated permitting platform pursuant to this section if the system configuration is not eligible for SolarAPP+ at the time the application is submitted to the jurisdiction.

(c) (1) A city with a population of fewer than 5,000 and a county with a population of fewer than 150,000, including each city within that county, is exempt from subdivision (b).

(2) A city with a population of 50,000 or fewer that is not exempt pursuant to paragraph (1) shall satisfy the requirements of subdivision (b) by September 30, 2024.

(3) A city, county, or city and county with a population of greater than 50,000 that is not exempt pursuant to paragraph (1) shall satisfy the requirements of subdivision (b) by September 30, 2023.

(d) A city, county, or city and county shall report to the Energy Commission when it is in compliance with subdivision (b).

(e) (1) The Energy Commission shall set guidelines for cities, counties, and cities and counties to report to the commission on the number of permits issued for residential solar energy systems and residential energy storage systems paired with residential solar energy systems and the relevant characteristics of those systems. A city, county, or city and county shall annually report to the Energy Commission pursuant to those guidelines within one year of implementing the online, automated solar permitting system pursuant to subdivision (b). This annual reporting requirement shall become inoperative on June 30, 2034.

(2) The Energy Commission shall adopt the guidelines required by this subdivision through a public process that shall include, but shall not be limited to, both of the following requirements:

(A) The Energy Commission shall make the proposed guidelines available for public comment for at least 30 days prior to adopting the guidelines.

(B) The Energy Commission shall respond in writing to a public comment received during the period required by paragraph (A).

(3) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) shall not apply to the adoption of guidelines pursuant to this subdivision.

(f) A city, county, or city and county shall self-certify its compliance with this section when applying for funds from the Energy Commission after the applicable date in the compliance schedule in subdivision (c). This subdivision shall not apply to the twenty million dollars (\$20,000,000) in funds available, pursuant to Section 76 of Chapter 69 of the Statutes of 2021, from the Energy Commission for automated solar permitting.

(g) This section does not limit or otherwise affect the generator interconnection requirements and approval process for a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code, or an electrical corporation, as defined in Section 218 of the Public Utilities Code.

(h) All liabilities and immunities, including, but not limited to, the immunities provided in Sections 818.4, 818.6, and 821.2, applicable to cities, counties, and cities and counties shall apply to any permits issued through an online, automated permitting platform and any inspections conducted in connection with those permits.

(i) For the purposes of this section, a city shall include a charter city.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. The Legislature finds and declares that Section 2 of this act adding Section 65850.5 of the Government Code address a matter of statewide concern rather than a municipal affair as that term is used in

Section 5 of Article XI of the California Constitution. Therefore, Section 2 of this act applies to all cities, including charter cities.

O

**RESOLUTION NO. 2023-59**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ADOPTING A BUDGET AMENDMENT FOR THE FISCAL YEAR COMMENCING JULY 1, 2023 AND ENDING JUNE 30, 2024 (CALAPP GRANT)**

**WHEREAS**, on April 18, 2023, the City Manager presented to the City Council a proposed budget for Fiscal Year 2023-24 in compliance with Section 2-151(m) of the West Covina Municipal Code; and

**WHEREAS**, following the initial presentation of the proposed budget for Fiscal Year 2023-24, the City held meetings and community workshops and conducted an online budget survey in order to solicit input from the public regarding the proposed budget; and

**WHEREAS**, on June 6, 2023, the City Council adopted a budget for the 2023-2024 Fiscal Year; and

**WHEREAS**, amendments must periodically be made to the budget to conform to changed circumstances following adoption of the budget.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby approves Budget Amendment No. 2024-01 attached hereto as Exhibit A, for Fiscal Year 2023-24.

**SECTION 2.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

---

Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-59 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk

**Exhibit A**

**City of West Covina**

**Fiscal Year 2023-24**

**Budget Amendment No. 2024-01**

**CALAPP Grant**

| <b>Fund</b>                   | <b>Current Budget</b> | <b>Proposed<br/>Amendment</b> | <b>Amended<br/>Budget</b> |
|-------------------------------|-----------------------|-------------------------------|---------------------------|
| <b>232-Non-Federal Grants</b> |                       |                               |                           |
| Revenue                       | \$500,000             | \$80,000                      | \$580,000                 |
| Expenditures                  | \$500,000             | \$80,000                      | \$580,000                 |
| Revenue Less Expenditures     | \$0                   | \$0                           | \$0                       |





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF AN AMENDMENT TO FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

---

**RECOMMENDATION:**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-60 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, AMENDING PREVIOUSLY APPROVED LIST OF FISCAL YEAR 2023-2024 PROJECTS FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

**BACKGROUND:**

On April 28, 2017, Governor Brown signed Senate Bill 1 (SB1), which is known as the Road Repair and Accountability Act of 2017, to address basic road maintenance, rehabilitation and critical safety needs on both State highways and local streets. SB1 increased per gallon fuel excise taxes; increased diesel fuel sales taxes and vehicle registration fees; and provides for inflationary adjustments to tax rates in future years.

Since November 1, 2017, the State Controller has deposited various portions of this new funding into the newly created Road Maintenance and Rehabilitation Account (RMRA). A percentage of this new RMRA funding was apportioned by a formula to eligible Cities pursuant to Streets and Highways Code (SHC) Section 2032(h) for basic road maintenance, rehabilitation, and critical safety projects on local streets and roads.

Cities receiving RMRA funds must comply with all relevant Federal and State laws, regulations, policies, and procedures. In order to receive RMRA funds, the City shall annually expend for street, road, and highway purposes an amount not less than the annual average of its expenditures from its General Fund during the 2009-10 (\$655,146), 2010-11 (\$446,279), and 2011-12 (\$600,020) fiscal years. The average of this three-year period was \$567,148 and is the minimum Maintenance of Effort (MOE) required to received SB1 funding. This amount was calculated by the State Controller Office (SCO) based on information provided by the Finance Department during base years.

**DISCUSSION:**

The City of West Covina will receive an estimated \$2,709,511 in RMRA funding for Fiscal Year 2023-24. The City is proposing that the FY 2023-24 RMRA funding be allocated to the Annual Residential Streets Rehabilitation Program for FY 2023-24. This project includes asphalt rehabilitation and maintenance including cold-mill and overlay and slurry seal construction at various locations Citywide, as identified on the City's Pavement Management Program.

On June 20, 2023, the City Council adopted Resolution No. 2023-53, adopting the list of Fiscal Year 2023-2024 Projects funded by SB1/RMRA funds. The City received comments from the State regarding the proposed projects submittal. To address the comments from the State, staff prepared a revised project list to provide the project limits on the proposed projects to be funded by SB1/RMRA. There is no change to the project scope, budget or timeline.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

**OPTIONS:**

City Council has the following options:

1. Approve Staff's recommendation; or
2. Provide alternative direction.

**Prepared by:** Okan Demirci, PE, CIP Manager

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**Fiscal Impact****FISCAL IMPACT:**

In order to receive RMRA funds, the City must meet a MOE requirement using discretionary funding from the General Fund. The City's MOE requirement is \$567,148, which has been included in the FY2023-2024 adopted budget as a transfer from the General Fund to SB1 Road Maintenance Rehab (Fund 237). The proposed project for FY 2023-24 is \$2,709,511 from RMRA funds and \$567,148 from the General Fund, for a total of \$3,276,659.

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**Attachments**

Attachment No. 1 - Resolution No. 2023-60

**CITY COUNCIL GOALS & OBJECTIVES:** Protect Public Safety  
A Creative and Active Community  
Enhance City Image and Effectiveness

**RESOLUTION NO. 2023-60**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WEST COVINA, CALIFORNIA, AMENDING PREVIOUSLY  
APPROVED LIST OF FISCAL YEAR 2023-2024 PROJECTS  
FUNDED BY SENATE BILL 1: THE ROAD REPAIR AND  
ACCOUNTABILITY ACT OF 2017**

THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES  
HEREBY FIND AND DECLARE AS FOLLOWS:

**WHEREAS**, the Governor signed Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 into law in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

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

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

**WHEREAS**, the City will receive an estimated \$2,709,511 in RMRA funding in Fiscal Year 2023-24 from SB 1; and

**WHEREAS**, this is the seventh year in which the City is receiving SB 1 funding. The funding will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repair and replace aging bridges, and increase access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

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

**WHEREAS**, the funding from SB 1 will help the City maintain and rehabilitate the local streets identified in this resolution throughout the City; and

**WHEREAS**, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City's streets and roads are in "at-risk" condition and this

revenue will help the City increase the overall quality of its road system and over the next decade will bring the City's streets and roads into a better condition; and

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

**WHEREAS**, on June 20, 2023, the City Council adopted the SB 1 project list for FY 2023-2024 through the adoption of Resolution No. 2023-53; and

**WHEREAS**, the City Council desires to amend the SB 1 project list as set forth herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are true and correct.

**SECTION 2.** The following list of proposed projects will be funded in-part or solely with Fiscal Year 2023-24 Road Maintenance and Rehabilitation Account revenues:

**Project Title:** Annual Residential Streets Rehabilitation Program, FY 23/24

**Project Description:** Asphalt rehabilitation and maintenance including cold-mill & overlay and slurry seal construction at various locations Citywide, as identified on the City's Pavement Management Program

**Project Location:** Residential streets within City of West Covina, east of Glendora Avenue, west of Lark Ellen Avenue, north of Francisquito Avenue (city limits), and south of I-10 freeway.

**Estimated Project Schedule:** Start (04/2024) – Completion (09/2024)

**Estimated Project Useful Life:** 10-15 years

**SECTION 3.** The following previously proposed and adopted projects may utilize Fiscal Year 2023-24 Road Maintenance and Rehabilitation Account revenues in their delivery. With the relisting of these projects in the adopted fiscal year resolution, the City is reaffirming to the public and the State its intent to fund these projects with Road Maintenance and Rehabilitation Account revenues:

**Project Title:** Annual Residential Streets Rehabilitation Program, FY 22/23

**Project Description:** Asphalt rehabilitation and maintenance including cold-mill & overlay and slurry seal construction at various locations Citywide, as identified on the City's Pavement Management Program.

**Project Location:** Residential streets within City of West Covina, east of Puente Avenue (city limits), west of Sunset Avenue, north of Fairgrove Avenue (city limits), and south of I-10 freeway.

**Estimated Project Schedule:** Start (05/2023) – Completion (09/2023)

**Estimated Project Useful Life:** 10-15 years

**SECTION 4.** Resolution No. 2023-53 is hereby repealed.

**SECTION 5.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

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Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-60 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF MODIFICATION TO ANNUAL APPROPRIATIONS LIMIT FOR  
FISCAL YEARS 2022-23 AND 2023-24**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following resolutions:

**RESOLUTION NO. 2023-61 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ESTABLISHING AN AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR 2022-2023**

**RESOLUTION NO. 2023-62 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, ESTABLISHING AN AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR 2023-2024**

### BACKGROUND:

Article XIII B of the California Constitution imposes an appropriations limit on units of state and local governments. In response to a perception that government spending was increasing without any controls, in 1979, the voters passed Proposition 4, "The Gann Initiative," which is now included in the California Constitution as Article XIII B. This article limits the amount of appropriations (related to tax proceeds) that state or local governments can establish each year.

The appropriations of tax proceeds excludes revenues from the following sources:

- Special Benefit Assessments
- Licenses and Permits
- Franchise Fees
- Developer Fees
- Fines, Forfeitures and Penalties
- Other Governmental Restricted Revenues
- Gas Taxes
- User Fees

The following revenue sources are subject to the appropriations limit:

- Property Taxes

- Sales and Use Taxes
- Business License Taxes
- Transient Occupancy Taxes
- Other Taxes

Appropriations for debt-financed capital outlays (e.g., the Civic Center, Cameron Community Center, Golf Course and Big League Dreams bonds) are not subject to the limit.

Pursuant to Article XIII B and its implementing legislation, the annual appropriations limit must be calculated by adjusting the prior year's appropriation limit for changes in the cost of living and population growth. Each year, the City must calculate the limit using the following formula:

#### **Fiscal Year Appropriation Limit**

$$\begin{aligned} & \times \frac{\text{Cumulative Growth Factor (1)}}{\text{Current Year Appropriation Limit}} \\ & = \end{aligned}$$

(1) Inflation change factor (change in California per capita income from the preceding year or change in the local assessment roll from the preceding year due to the addition of non-residential new construction) multiplied by population change factors (change in population for either the City or the County).

Factors are calculated using the following formula

$$\frac{\text{Percentage Change} + 100}{100} = \text{Factor}$$

#### **DISCUSSION:**

The City may choose one of the following factors to use for inflationary adjustment: (a) the growth in California per capita personal income from the preceding year, or (b) the growth in the non-residential assessed property valuation due to new construction within the City. For change in population, the City may choose to use either: (a) the change in population within the City, or (b) the change in population within the County. These two adjustment factors (one for inflation and one for population) are both annual elections for the City in determining its appropriations limit for the following Fiscal Year.

For the Fiscal Years (FY) 2022-23 and 2023-24 calculations, the City is electing to use the change in population within the City as its population change factor, and the growth in California per capita personal income as its inflation factor, as detailed in Attachment No. 1. Such selections must be reflected in the recorded vote of the City Council per the requirements of Article XIII B and California Government Code section 7901. Therefore, the resolutions (Attachments No. 2 and 3) reflect such selections.

The appropriation limits calculated in this report modifies previous appropriations adopted through Resolutions 2022-52 and 2023-50, which used the sample population change rather than the change in population for the City of West Covina. Change in West Covina population was -0.96% and 0.23% for FY2022-23 and FY2023-24 respectively.

Based on the formula outlined above, staff calculated the FY2022-23 and 2023-24 appropriations limits for the City of West Covina to be \$235,660,611 and \$246,889,528, respectively. The City's proceeds from taxes were still less than the appropriations limits for both FY2022-23 and FY2023-24 (\$57,149,500 and \$61,358,100 respectively).

Documentation used in the establishment of the appropriations limit is available for public inspection in the Finance Department.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolutions and approved them as to form.

**Prepared by:** Maria-Luisa Olea, Assistant Finance Director

**Additional Approval:** Stephanie Sikkema, Finance Director

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**Attachments**

Attachment No. 1 - Appropriations Limit Calculations

Attachment No. 2 - Resolution No. 2023-61 (FY 22-23 Appropriations Limit)

Attachment No. 3 - Resolution No. 2023-62 (FY 23-24 Appropriations Limit)

**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability



## APPROPRIATIONS LIMIT CALCULATION

Article XIII B of the State Constitution, commonly referred to as the "Gann Limit", was adopted when California's voters approved Proposition 4 in November 1979. The limit has been modified by two subsequent initiatives-- Proposition 98 in 1988 and Proposition 111 in 1990--but its basic framework remains in place today.

Article XIII B places an annual limit on the appropriation of tax proceeds that can be made by the state, school districts and local governments in California. These limits are based on the amount of appropriations in the 1978-79 "base" year, as adjusted each year for population growth and cost-of-living factors. State and local governments are precluded from retaining any "excess revenues" above the limit. Article XIII B also requires the state to reimburse local governments for the cost of certain state mandates. The limit is different for every agency and changes each year.

For Fiscal Year 2022-23, the estimated tax proceeds appropriated by the West Covina City Council are under the limit. The Appropriations Limit for Fiscal Year 2022-23 is \$235,660,611. This amount is the maximum amount of tax proceeds the City is able to appropriate and spend in Fiscal Year 2022-23. The appropriations subject to the limit are \$57,149,500 leaving the City with an appropriations capacity under the limit of \$178,511,111.

### APPROPRIATIONS LIMIT CALCULATION - FISCAL YEAR 2022-23

#### **Part I - Calculation of Appropriations Limit**

|  |                                     |
|--|-------------------------------------|
| Appropriations Limit - Fiscal Year 2021-22:        | \$ 221,236,022                      |
| Change in Per Capita Personal Income (7.55%)       | 1.0755 <sup>(a)</sup>               |
| Change in City Population (-0.96%):                | <u>0.9904 <sup>(a)</sup></u>        |
| Calculation of Growth Factor (1.0755 x 0.9904)     | <u>1.0652</u>                       |
| <b>Appropriations Limit - Fiscal Year 2022-23:</b> | <b><u><u>\$ 235,660,611</u></u></b> |

#### **Part II - Appropriations Subject to the Limit**

|  |                                    |
|--|------------------------------------|
| Proceeds from Taxes                              | \$ 57,149,500                      |
| Less: Debt Service Payments                      | <u>-</u>                           |
| <b>Total Appropriations Subject to the Limit</b> | <b><u><u>\$ 57,149,500</u></u></b> |

#### **Part III - Calculation of Appropriations Over/Under the Limit**

|   |                                     |
|---|-------------------------------------|
| Appropriations Limit - Fiscal Year 2022-23: | \$ 235,660,611                      |
| Less: Appropriations Subject to Limitation  | <u>(57,149,500)</u>                 |
| <b>Total Appropriations Under the Limit</b> | <b><u><u>\$ 178,511,111</u></u></b> |

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<sup>(a)</sup> Source: State of California, Department of Finance, Price and Population Information, May 2022

# APPROPRIATIONS LIMIT CALCULATION

Article XIII B of the State Constitution, commonly referred to as the "Gann Limit", was adopted when California's voters approved Proposition 4 in November 1979. The limit has been modified by two subsequent initiatives-- Proposition 98 in 1988 and Proposition 111 in 1990--but its basic framework remains in place today.

Article XIII B places an annual limit on the appropriation of tax proceeds that can be made by the state, school districts and local governments in California. These limits are based on the amount of appropriations in the 1978-79 "base" year, as adjusted each year for population growth and cost-of-living factors. State and local governments are precluded from retaining any "excess revenues" above the limit. Article XIII B also requires the state to reimburse local governments for the cost of certain state mandates. The limit is different for every agency and changes each year.

For Fiscal Year 2023-24, the estimated tax proceeds appropriated by the West Covina City Council are under the limit. The Appropriations Limit for Fiscal Year 2023-24 is \$246,689,528. This amount is the maximum amount of tax proceeds the City is able to appropriate and spend in Fiscal Year 2023-24. The appropriations subject to the limit are \$61,358,100 leaving the City with an appropriations capacity under the limit of \$185,331,428.

## APPROPRIATIONS LIMIT CALCULATION - FISCAL YEAR 2023-24

### **Part I - Calculation of Appropriations Limit**

|  |                              |                              |
|--|------------------------------|------------------------------|
| Appropriations Limit - Fiscal Year 2022-23:        |                              | \$ 235,660,611               |
| Change in Per Capita Personal Income (4.44%)       | 1.0444 <sup>(a)</sup>        |                              |
| Change in City Population (0.23%):                 | <u>1.0023 <sup>(a)</sup></u> |                              |
| Calculation of Growth Factor (1.0444 x 1.0023)     |                              | <u>1.0468</u>                |
| <b>Appropriations Limit - Fiscal Year 2023-24:</b> |                              | <b><u>\$ 246,689,528</u></b> |

### **Part II - Appropriations Subject to the Limit**

|  |                             |
|--|-----------------------------|
| Proceeds from Taxes                              | \$ 61,358,100               |
| Less: Debt Service Payments                      | <u>-</u>                    |
| <b>Total Appropriations Subject to the Limit</b> | <b><u>\$ 61,358,100</u></b> |

### **Part III - Calculation of Appropriations Over/Under the Limit**

|   |                              |
|---|------------------------------|
| Appropriations Limit - Fiscal Year 2023-24: | \$ 246,689,528               |
| Less: Appropriations Subject to Limitation  | <u>(61,358,100)</u>          |
| <b>Total Appropriations Under the Limit</b> | <b><u>\$ 185,331,428</u></b> |

<sup>(a)</sup> Source: State of California, Department of Finance, Price and Population Information, May 2023

**RESOLUTION NO. 2023-61**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WEST COVINA, CALIFORNIA, ESTABLISHING AN  
AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR  
2022-2023**

**WHEREAS**, pursuant to Article XIII B of the California Constitution and California Government Code section 7910, the City Council must, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year at a regularly scheduled meeting or a noticed special meeting; and

**WHEREAS**, pursuant to Article XIII B, as amended, and California Government Code provisions implementing Article XIII B, the total annual appropriations limit must be calculated by adjusting the prior year's appropriations limit for changes in the cost of living and population growth; and

**WHEREAS**, pursuant to Section 8(e) of Article XIII B, to determine the change in the cost of living, the City may select, by a recorded vote of the City Council, either (a) the percentage change in California per capita personal income from the preceding year, or (b) the percentage change in the local assessment roll from the preceding year due to the addition of non-residential new construction in the City; and

**WHEREAS**, pursuant to Section 8(f) of Article XIII B and Section 7901(b) of the California Government Code, the City may, by a recorded vote of the City Council, choose to use the percentage change in population within the City or within the County of Los Angeles to determine the change in population; and

**WHEREAS**, Section 7910 of the California Government Code requires that the City make the documentation used in the determination of the appropriations limit publicly available at least fifteen (15) days prior to the meeting; and

**WHEREAS**, at a regularly scheduled meeting of the City Council on June 7, 2022, the City Council established the appropriations limit for Fiscal Year 2022-2023 in the amount of \$237,231,386 through the adoption of Resolution No. 2022-52; and

**WHEREAS**, the Finance Department has identified an error in the calculation of the appropriations limit for Fiscal Year 2022-2023; and

**WHEREAS**, the City Council desires to amend the appropriations limit for Fiscal Year 2022-2023 to correct the calculation; and

**WHEREAS**, the documentation used to calculate the amended limit was made available for public inspection at least fifteen (15) days prior to July 18, 2023.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The amended appropriations limit for the City of West Covina for Fiscal Year 2022-2023 is established in the amount of \$235,660,611.

**SECTION 2.** The City Council, by recorded vote of the City Council in adopting this Resolution, selects and determines that, for purposes of establishing the amended appropriations limit for Fiscal Year 2022-2023, "change in the cost of living" shall be the percentage change in California per capita income from the preceding year in accordance with Article XIII B, Section 8(e)(1)(A) of the California Constitution.

**SECTION 3.** The City Council, by recorded vote of the City Council in adopting this Resolution, selects and determines that, for purposes of establishing the amended appropriations limit for Fiscal Year 2022-2023, "change in population" shall be the population increase for the City of West Covina in accordance with Section 8(f) of Article XIII B of the California Constitution and Section 7901(b) of the California Government Code.

**SECTION 4.** Resolution No. 2022-52 is hereby repealed.

**SECTION 5.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-61 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk

**RESOLUTION NO. 2023-62**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
WEST COVINA, CALIFORNIA, ESTABLISHING AN  
AMENDED APPROPRIATIONS LIMIT FOR FISCAL YEAR  
2023-2024**

**WHEREAS**, pursuant to Article XIII B of the California Constitution and California Government Code section 7910, the City Council must, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year at a regularly scheduled meeting or a noticed special meeting; and

**WHEREAS**, pursuant to Article XIII B, as amended, and California Government Code provisions implementing Article XIII B, the total annual appropriations limit must be calculated by adjusting the prior year's appropriations limit for changes in the cost of living and population growth; and

**WHEREAS**, pursuant to Section 8(e) of Article XIII B, to determine the change in the cost of living, the City may select, by a recorded vote of the City Council, either (a) the percentage change in California per capita personal income from the preceding year, or (b) the percentage change in the local assessment roll from the preceding year due to the addition of non-residential new construction in the City; and

**WHEREAS**, pursuant to Section 8(f) of Article XIII B and Section 7901(b) of the California Government Code, the City may, by a recorded vote of the City Council, choose to use the percentage change in population within the City or within the County of Los Angeles to determine the change in population; and

**WHEREAS**, Section 7910 of the California Government Code requires that the City make the documentation used in the determination of the appropriations limit publicly available at least fifteen (15) days prior to the meeting; and

**WHEREAS**, at a regularly scheduled meeting on June 6, 2023, the City Council established the appropriations limit for Fiscal Year 2023-2024 in the amount of \$246,886,703 through the adoption of Resolution No. 2023-50; and

**WHEREAS**, the Finance Department has identified an error in the calculation of the appropriations limit for Fiscal Years 2022-2023 and 2023-2024; and

**WHEREAS**, the City Council established an amended appropriations limit for Fiscal Year 2022-2023 through the adoption of Resolution No. 2023-61; and

**WHEREAS**, the City Council desires to amend the appropriations limit for Fiscal Year 2023-2024; and

**WHEREAS**, the documentation used to calculate the amended limit was made available for public inspection at least fifteen (15) days prior to July 18, 2023.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The amended appropriations limit for the City of West Covina for Fiscal Year 2023-2024 is established in the amount of \$246,689,528.

**SECTION 2.** The City Council, by recorded vote of the City Council in adopting this Resolution, selects and determines that, for purposes of establishing the amended appropriations limit for Fiscal Year 2023-2024, “change in the cost of living” shall be the percentage change in California per capita income from the preceding year in accordance with Article XIII B, Section 8(e)(1)(A) of the California Constitution.

**SECTION 3.** The City Council, by recorded vote of the City Council in adopting this Resolution, selects and determines that, for purposes of establishing the amended appropriations limit for Fiscal Year 2023-2024, “change in population” shall be the population increase for the City of West Covina in accordance with Section 8(f) of Article XIII B of the California Constitution and Section 7901(b) of the California Government Code.

**SECTION 4.** Resolution No. 2023-50 is hereby repealed.

**SECTION 5.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

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Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-62 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF RESOLUTION MAKING FINDINGS REGARDING THE NEED FOR MODIFICATIONS TO PROVISIONS OF THE 2022 CALIFORNIA FIRE CODE**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-58 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, MAKING FINDINGS REGARDING THE NEED FOR MODIFICATIONS TO PROVISIONS OF THE 2022 CALIFORNIA FIRE CODE DUE TO LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS**

### BACKGROUND:

The California Building Standards Commission adopts and publishes the California Building Standards Code (Title 24 California Code of Regulations), which includes the California Fire Code, every three years. The California Fire Code is adopted by reference the International Fire Code. The 2022 California Codes took effect January 1, 2023.

Provisions of the California Health and Safety Code require the City to adopt the 2022 Fire Code by reference. The City is permitted to amend the 2022 Fire Code, provided that the City makes express findings that the modifications are reasonably necessary due to local climatic, geological, and topographical conditions, or for administrative reasons. Since West Covina has special local climatic, geologic, and topographic conditions, the City's adoption of the Fire Code includes amendments to address coordination between the California Fire Code sections and those previously adopted in the West Covina Municipal Code.

On November 1, 2022, the City Council adopted Resolution No. 2022-111, setting forth express findings relating to the local climatic, geological and topographic conditions in West Covina that make the amendments reasonably necessary. The findings are set forth in Exhibit A to the Resolution. On November 15, 2022, the City Council adopted Ordinance No. 2503, adopting by reference the 2022 California Fire Code, with amendments.

As required by California Health and Safety Code Section 17958.7, the City filed a copy of Resolution No. 2022-111 with the California Building Standards Commission for review and approval.

Due to changes in the review process at the state level, the California Building Standards Commission has directed that Exhibit A be amended to include the locally adopted Fire Code Appendices.

**DISCUSSION:**

Staff has revised Exhibit A to reference the addition of Appendices D, E, F, G, I, K, M, N, O based upon the direction provided by the California Building Standards Commission.

The Fire Department is requesting that the City Council adopt the proposed resolution, which includes the revised Exhibit A. The proposed resolution will replace Resolution No. 2022-111. Once adopted by the City Council, staff will provide the resolution to the California Building Standards Commission for review and approval.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

**OPTIONS:**

The City Council has the following options:

1. Approve staff's recommendation; or
2. Provide alternative direction.

**ENVIRONMENTAL REVIEW:**

The proposal is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to activity that results in direct or reasonably foreseeable indirect physical change in the environment and for activity considered to be a project, respectively. The resolution would not result in a physical change as it involves mandated filings with the California Building Standards Commission.

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**Fiscal Impact**

**FISCAL IMPACT:**

This is strictly an administrative item. Therefore, there is no fiscal impact associated with this action.

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**Attachments**

Attachment No. 1 - Resolution No. 2023-58

**CITY COUNCIL GOALS & OBJECTIVES:** Protect Public Safety  
A Well-Planned Community  
Enhance City Image and Effectiveness

**RESOLUTION NO. 2023-58**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, MAKING FINDINGS REGARDING THE NEED FOR MODIFICATIONS TO PROVISIONS OF THE 2022 CALIFORNIA FIRE CODE DUE TO LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS**

**WHEREAS**, California Health and Safety Code Section 18938 makes certain provisions published in the California Building Standards Code pursuant to California Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective 180 days after publication by the California Building Standards Commission ("Commission"), or at a later date established by the Commission; and

**WHEREAS**, California Health and Safety Code Section 17958 permits cities to amend the requirements of the California Building Standards Code, which includes the California Fire Code, in accordance with California Health and Safety Code Sections 17958.5 and 17958.7; and

**WHEREAS**, Section 13143.5 of the California Health and Safety Code permits the City, by ordinance, to make changes or modifications to the California Fire Code that are more stringent than the requirements published in the California Fire Code, relating to fire and panic safety; and

**WHEREAS**, California Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Fire Code to make such modifications in such provisions as a city determines, pursuant to California Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, California Health and Safety Code Section 17958.7 requires that a city, before making modifications pursuant to California Health and Safety Code Section 17958.5, make an express finding that such modifications are reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, under California Health and Safety Code Section 17958.7, modifications pursuant to California Health and Safety Code Section 17958.5 may not become effective until the required findings and the modifications have been filed with the California Building Standards Commission; and

**WHEREAS**, the City Council of the City of West Covina ("City Council") has adopted an ordinance adopting by reference certain provisions of the 2022 California Fire Code and making modifications to certain of those provisions pursuant to California Health and Safety Code Section 17958.5 ("Fire Code Adoption Ordinance"); and

**WHEREAS**, the City Council has reviewed the attached Exhibit A, which sets forth the reasons for the modifications to the 2022 California Fire Code contained in the Fire Code Adoption Ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council finds and declares that the changes to the provisions of the 2022 California Fire Code set forth in the Fire Code Adoption Ordinance are reasonably necessary because of the local climatic, geological, or topographical conditions set forth in Exhibit A in accordance with California Health and Safety Code Section 17958.7.

**SECTION 2.** The City Council hereby repeals Resolution No. 2022-111, adopted by the City Council on November 1, 2022.

**SECTION 3.** The City Clerk shall file a copy of this Resolution, including Exhibit A, shall with the California Building Standards Commission in accordance with California Health and Safety Code Section 17958.7.

**SECTION 4.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

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Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-58 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk

## EXHIBIT A

### FINDINGS REGARDING THE NEED FOR AMENDMENTS TO PROVISIONS IN THE 2022 CALIFORNIA FIRE CODE DUE TO LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS

The City of West Covina makes the following findings regarding the need to amend the 2022 California Fire Code:

**Finding No. 1 – Climatic Conditions:** The City of West Covina experiences low humidity, high winds, and warm temperatures throughout the year creating conditions which are particularly conducive to the ignition and spread of grass, brush, and structure fires.

**Finding No. 2 – Topographical Conditions:** The hillside areas in the City along with long, narrow roadways significantly impact the ability of emergency responders to extinguish or control wildland or structure fires.

**Finding No. 3 – Geographic Conditions:** The City of West Covina is situated adjacent to active earthquake faults capable of producing substantial seismic events. Should a significant seismic event occur, uncontrolled hazardous materials releases and fires could pose the greatest threat to the largest number of people. Since the City is divided by a freeway and highway, a major earthquake would significantly impact the ability of fire crews to respond to emergencies should one or more roadways be blocked or damaged due to bridge collapse or debris from falling structures. Additionally, fire suppression capabilities will be severely limited should the water system be extensively damaged during the seismic event.

Therefore, in order to minimize the risks to persons and property due to potential response delays and compromised fire suppression capabilities, mitigation measures are necessary such as but not limited to, automatic fire suppression systems, controls for hazardous materials, safety provisions in buildings for firefighters and additional fire hydrants.

The table below sets forth the City of West Covina's amendments to the 2022 California Fire Code and states which of the findings above make each amendment reasonably necessary.

| Sections of the 2022 Fire Code                        | Added, Amended or Deleted? | Findings       |
|---|----------------------------|----------------|
| 101.1 (Title)   | Amended                    | Administrative |
| 104.11 (Fire Investigations)                          | Added                      | 1, 2, 3        |
| 105.5 (Required Operational Permits)                  | Amended                    | 1, 2, 3        |
| 105.5.55 (Christmas Tree Sales Lots)                  | Added                      | 1, 2, 3        |
| 105.5.55.1 (Permits – Christmas Tree Sales Lots)      | Added                      | 1, 2, 3        |
| 105.5.55.2 (Fire Protection)                          | Added                      | 1, 2, 3        |
| 105.5.55.3 (Tents or Canopies on Christmas Tree Lots) | Added                      | 1, 2, 3        |
| 105.5.55.4 (Display)                                  | Added                      | 1, 2, 3        |
| 105.5.55.5 (Lot Closure)                              | Added                      | 1, 2, 3        |
| 111.1 (Board of Appeals Established)                  | Amended                    | Administrative |
| Appendix A - A101.3 (Membership of Board)             | Amended                    | Administrative |
| 112.4 (Violation Penalties)                           | Amended                    | Administrative |
| 304.1.2 (Vegetation)                                  | Amended                    | 1, 2, 3        |

|  |         |         |
|--|---------|---------|
| 304.1.2.1 (High Fire Hazard Designation)                       | Added   | 1, 2, 3 |
| 503.3 (Markings or Postings of Fire Apparatus Access Roads)    | Amended | 1, 2, 3 |
| 503.4 (Obstruction or Blocking of Fire Apparatus Access Roads) | Amended | 1, 2, 3 |
| 503.5.1 (Security Gates and Building Security Access)          | Amended | 1, 2, 3 |
| 503.6 (Security Gates and Building Security Access)            | Amended | 1, 2, 3 |
| 505.1 (Address Numbers)  | Amended | 1, 2, 3 |
| 507.3 (Fire Flow)  | Amended | 1, 2, 3 |
| Appendix B (Fire Flow)   | Amended | 1, 2, 3 |
| 901.4 (Installation)   | Amended | 1, 2, 3 |
| 901.4.1 (Group R Occupancies)                                  | Amended | 1, 2, 3 |
| 901.4.2 (Group R Occupancies – Signage and Valves)             | Amended | 1, 2, 3 |
| 901.6.1 (Standards)  | Amended | 1, 2, 3 |
| 903.2 (Fire Sprinkler Systems – Where Required)                | Amended | 1, 2, 3 |
| 903.2.3 (Group E)  | Amended | 1, 2, 3 |
| 903.2.11 (Specific Buildings and Hazards)                      | Amended | 1, 2, 3 |
| 903.3.5.3 (Hydraulically Calculated Systems)                   | Added   | 1, 2, 3 |
| 903.4.2.1 (Alarm Devices)                                      | Added   | 1, 2, 3 |
| 5601.1.3 (Fireworks)   | Amended | 1, 2, 3 |
| 5608.2 (Permit Required)                                       | Added   | 1, 2, 3 |
| 5609.2 (Sale and Retail Display)                               | Added   | 1, 2, 3 |
| 6104.2 (Maximum Capacity within Established Limits)            | Amended | 1, 2, 3 |
| Chapter 80 (Referenced Standards)                              | Amended | 1, 2, 3 |
| Appendix D   | Added   | 1, 2, 3 |
| Appendix E   | Added   | 1, 2, 3 |
| Appendix F   | Added   | 1, 2, 3 |
| Appendix G   | Added   | 1, 2, 3 |
| Appendix I   | Added   | 1, 2, 3 |
| Appendix K   | Added   | 1, 2, 3 |
| Appendix M   | Added   | 1, 2, 3 |
| Appendix N   | Added   | 1, 2, 3 |
| Appendix O   | Added   | 1, 2, 3 |



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF RATIFICATION OF APPROVAL OF PUBLIC DISPLAYS OF FIREWORKS**

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### RECOMMENDATION:

It is recommended that the City Council ratify the approval of the following public displays of fireworks:

1. Mt. Sac Early College Academy Graduation Ceremony on June 6, 2023
2. Edgewood High School Graduation Ceremony on June 7, 2023
3. West Covina High School Graduation Ceremony on June 8, 2023
4. City of West Covina Independence Day Celebration on July 4, 2023

### BACKGROUND:

The City of West Covina has adopted the California Fire Code, with amendments. Section 10-24 of Article II of Chapter 10 of the West Covina Municipal Code outlines the City's amendments to the California Fire Code.

In Section 10-24, the City has added Section 5608.2, which establishes the procedure to apply for a Fire Department permit to conduct public display of fireworks shows. Section 5608.2 provides:

"The city council may permit any person, licensed by the State Fire Marshal, to conduct a public display of fireworks, and for that purpose to use and discharge fireworks at such times and such places in the city as the city council may fix and establish, provided that a written application for a permit to do so is filed with the chief of the fire department of the city at least 15 days in advance of the date of the display. It shall be the duty of the chief of the fire department to whom the application for a permit is made to make an investigation and submit a report of his or her findings and recommendations for or against reasons therefore, to the city council. The city council have the power in its discretion to grant or deny the permit. If the permit is granted, the applicant shall furnish the city with a certificate of insurance in adequate amount, which shall also contain a clause holding the city harmless from any damage or injury resulting from granting the permit."

### DISCUSSION:

The West Covina Unified School District requested approval for fireworks shows at West Covina High School on June 6, 2023, June 7, 2023, and June 8, 2023, for the graduation ceremonies for Mt. Sac Early Academy, Edgewood High School and West Covina High School. This location has been used in previous years for the fireworks shows. The West Covina Unified School District utilized Pyro Spectaculars of Rialto, California for all three graduation ceremonies. A current certificate of insurance has been filed with the West Covina Fire Department. The Fire Department supported these planned events.

The City's Independence Day Celebration firework show was held at the Sportsplex, 2100 S. Azusa Ave, on July 4, 2023. This location has been used in previous years for the City's Independence Day Celebration and previously this year for the Centennial Birthday Celebration. The site provides a safe venue for the firework show. The City awarded the contract for its display to Pyro Spectaculars of Rialto, California. A current certificate of insurance has been filed with the West Covina Fire Department. The Fire Department supported this planned event with conditions of approval up to and including the time of the event.

|    | Event  | Location  | Date         | Time   |
|----|--|---|--------------|--------|
| 1. | Mt. Sac High School Graduation Ceremony          | West Covina High School<br>1609 E. Cameron Avenue | June 6, 2023 | 8:15pm |
| 2. | Edgewood High School Graduation Ceremony         | West Covina High School<br>1609 E. Cameron Avenue | June 7, 2023 | 8:15pm |
| 3. | West Covina High School Graduation Ceremony      | West Covina High School<br>1609 E. Cameron Avenue | June 8, 2023 | 8:15pm |
| 4. | City of West Covina Independence Day Celebration | Sportsplex<br>2100 S. Azusa Ave                   | July 4, 2023 | 9:00pm |

Meetings with the pyrotechnic operators, the School District, and with the Fire Department were completed prior to each of the events. The firing site plans were submitted, reviewed, and approved by staff.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed this staff report.

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#### **Fiscal Impact**

##### **FISCAL IMPACT:**

The Fire Department received revenue in the amount of \$7,671.00 from West Covina Unified School District for Mt. Sac, Edgewood and West Covina High School fireworks shows. Revenues associated with staff, inspections and permit costs were recorded under the General Fund under Licenses and Permits (110.32.4200) and Charges for Service (110.32.4600).

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**CITY COUNCIL GOALS & OBJECTIVES:** Protect Public Safety





## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF ADOPTION AGREEMENT FOR ELIGIBLE GOVERNMENTAL 457 PLAN**

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### RECOMMENDATION:

It is recommended that City Council authorize the Acting City Manager to execute the Adoption Agreement to add a Roth 457 option to the City's 457(b) Deferred Compensation Plan.

### BACKGROUND:

Local governments are not eligible to maintain 401(k) plans. However, they can provide similar tax-favored retirement benefits for their employees through a 457(b) plan. Plans of deferred compensation are available for local governments tax-exempt under Internal Revenue Code ("IRC") Section 501. They can be either eligible plans under IRC 457(b) or ineligible plans under IRC 457(f). Plans eligible under 457(b) allow employees of sponsoring organizations to defer income taxation on retirement savings into future years.

Employers or employees through salary reductions contribute up to the IRC 402(g) limit (\$22,500 in 2023) on behalf of participants under the plan. Contributions to a 457(b) plan are tax-deferred. Earnings on the retirement money are tax-deferred. Additionally, a governmental 457(b) plan may be amended to allow designated Roth contributions and in-plan rollovers to designated Roth accounts.

### DISCUSSION:

The City currently offers 457(b) Deferred Compensation Plans to employees. Staff recommends amending the City's the 457 Deferred Compensation Plan to allow designated Roth contributions and in-plan rollovers to designated Roth accounts.

### LEGAL REVIEW:

The City Attorney's Office has reviewed the agreement and approved it as to form.

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### Fiscal Impact

#### FISCAL IMPACT:

There is no impact to the City's assets associated with this action. This action simply increases the number of investment options available to employees under their deferred compensation plan.

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### **Attachments**

Attachment No. 1 - Adoption Agreement

**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability

**ADOPTION AGREEMENT FOR  
ELIGIBLE GOVERNMENTAL 457 PLAN**

The undersigned Employer, by executing this Adoption Agreement, establishes an Eligible 457 Plan ("Plan"). The Employer, subject to the Employer's Adoption Agreement elections, adopts fully the Plan provisions. This Adoption Agreement, the basic plan document and any attached Appendices, amendments, or agreements permitted or referenced therein, constitute the Employer's entire plan document. *All "Election" references within this Adoption Agreement or the basic plan document are Adoption Agreement Elections. All "Article" or "Section" references are basic plan document references. Numbers in parentheses which follow election numbers are basic plan document references.* Where an Adoption Agreement election calls for the Employer to supply text, the Employer may lengthen any space or line, or create additional tiers. When Employer-supplied text uses terms substantially similar to existing printed options, all clarifications and caveats applicable to the printed options apply to the Employer-supplied text unless the context requires otherwise. The Employer makes the following elections granted under the corresponding provisions of the basic plan document.

1. **EMPLOYER (1.11).**

Name: City of West Covina, CA

Address: 1444 W Garvey Ave S  
Street  
West Covina California 91790-2716  
City State Zip

Telephone: (626) 939-8476

Taxpayer Identification Number (TIN): 95-6000810

2. **PLAN NAME.**

Name: City of West Covina 457(b) Deferred Compensation Plan

3. **PLAN YEAR (1.25).** Plan Year means the 12 consecutive month period (except for a short Plan Year) ending every (Choose one of a. or b. and choose c. if applicable): [Note: Complete any applicable blanks under Election c. with a specific date, e.g., "June 30" OR "the last day of February" OR "the first Tuesday in January." In the case of a Short Plan Year or a Short Limitation Year, include the year, e.g., "May 1, 2013."]

a. ☒ **December 31.**

b. ☐ **Plan Year:** ending: \_\_\_\_\_.

c. ☐ **Short Plan Year:** commencing: \_\_\_\_\_ and ending: \_\_\_\_\_.

4. **EFFECTIVE DATE (1.08).** The Employer's adoption of the Plan is a (Choose one of a. or b. Complete c. if new plan OR complete c. and d. if an amendment and restatement. Choose e. if applicable):

a. ☐ **New Plan.**

b. ☒ **Restated Plan.** The Plan is a substitution and amendment of an existing 457 plan.

**Initial Effective Date of Plan**

c. ☒ October 1, 1993 (enter month day, year; hereinafter called the "Effective Date" unless 4d is entered below)

**Restatement Effective Date** (If this is an amendment and restatement, enter effective date of the restatement.)

d. ☒ April 20, 2022 (enter month day, year)

**Special Effective Dates:** (optional)

e. ☐ **Describe:** \_\_\_\_\_.

5. **CONTRIBUTION TYPES.** (If this is a frozen Plan (i.e., all contributions have ceased), choose a. only):

**Frozen Plan**

a. ☐ **Contributions cease.** All Contributions have ceased or will cease (Plan is frozen).

1. **Effective date of freeze:** \_\_\_\_\_ [Note: Effective date is optional unless this is the amendment or restatement to freeze the Plan.]

**Contributions.** The Employer and/or Participants, in accordance with the Plan terms, make the following Contribution Types to the Plan (Choose one or more of b. through d. if applicable):

- b. ☒ **Pre-Tax Elective Deferrals.** The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Salary Reduction Agreement (Choose one or more as applicable.):

And will Matching Contributions be made with respect to Elective Deferrals?

1. ☐ **Yes.** See Question 16.

2. ☒ **No.**

And will **Roth Elective Deferrals** be made?

3. ☐ **Yes.** [Note: The Employer may not limit Deferrals to Roth Deferrals only.]

4. ☒ **No.**

- c. ☐ **Nonelective Contributions.** See Question 17.

- d. ☒ **Rollover Contributions.** See Question 30.

6. **EXCLUDED EMPLOYEES (1.10).** The following Employees are Excluded Employees and are not eligible to participate in the Plan (Choose one of a. or b.):

- a. ☒ **No exclusions.** All Employees are eligible to participate.

- b. ☐ **Exclusions.** The following Employees are Excluded Employees (Choose one or more of 1. through 4.):

1. ☐ **Part-time Employees.** The Plan defines part-time Employees as Employees who normally work less than \_\_\_\_\_ hours per week.

2. ☐ **Hourly-paid Employees.**

3. ☐ **Leased Employees.** The Plan excludes Leased Employees.

4. ☐ **Specify:** \_\_\_\_\_.

7. **INDEPENDENT CONTRACTOR (1.16).** The Plan (Choose one of a., b. or c.):

- a. ☒ **Participate.** Permits Independent Contractors to participate in the Plan.

- b. ☐ **Not Participate.** Does not permit Independent Contractors to participate in the Plan.

- c. ☐ **Specified Independent Contractors.** Permits the following specified Independent Contractors to participate:

[Note: If the Employer elects to permit any or all Independent Contractors to participate in the Plan, the term Employee as used in the Plan includes such participating Independent Contractors.]

8. **COMPENSATION (1.05).** Subject to the following elections, Compensation for purposes of allocation of Deferral Contributions means:

**Base Definition** (Choose one of a., b., c. or d.):

- a. ☒ Wages, tips and other compensation on Form W-2.

- b. ☐ Code §3401(a) wages (wages for withholding purposes).

- c. ☐ 415 safe harbor compensation.

- d. ☐ Alternative (general) 415 Compensation.

[Note: The Plan provides that the base definition of Compensation includes amounts that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2), & 457. Compensation for an Independent Contractor means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies below.]

**Modifications to Compensation definition.** The Employer elects to modify the Compensation definition as follows (Choose one of e. or f.):

- e. ☒ **No modifications.** The Plan makes no modifications to the definition.

- f. ☐ **Modifications** (Choose one or more of 1. through 5.):

1. ☐ **Fringe benefits.** The Plan excludes all reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation and welfare benefits.

2. ☐ **Elective Contributions.** [1.05(E)] The Plan excludes a Participant's Elective Contributions.

3. ☐ **Bonuses.** The Plan excludes bonuses.
4. ☐ **Overtime.** The Plan excludes overtime.
5. ☐ **Specify:** \_\_\_\_\_.

**Compensation taken into account.** For the Plan Year in which an Employee first becomes a Participant, the Plan Administrator will determine the allocation of matching and nonelective contributions by taking into account *(Choose one of g. or h.):*

- g. ☐ **Plan Year.** The Employee's Compensation for the entire Plan Year. *(N/A if no matching or nonelective contributions)*
- h. ☐ **Compensation while a Participant.** The Employee's Compensation only for the portion of the Plan Year in which the Employee actually is a Participant. *(N/A if no matching or nonelective contributions)*

9. **POST-SEVERANCE COMPENSATION (1.05(F)).** Compensation includes the following types of Post-Severance Compensation paid within any applicable time period as may be required *(Choose one of a. or b.):*

- a. ☐ **None.** The Plan does not take into account Post-Severance Compensation as to any Contribution Type except as required under the basic plan document.
- b. ☒ **Adjustments.** The following Compensation adjustments apply *(Choose one or more):*
  1. ☒ **Regular Pay.** Post-Severance Compensation will include Regular Pay and it will apply to all Contribution Types.
  2. ☒ **Leave-Cashouts.** Post-Severance Compensation will include Leave Cashouts and it will apply to all Contribution Types.
  3. ☒ **Nonqualified Deferred Compensation.** Post-Severance Compensation will include Deferred Compensation and it will apply to all Contribution Types.
  4. ☐ **Salary Continuation for Disabled Participants.** Post-Severance Compensation will include Salary Continuation for Disabled Participants and it will apply to all Contribution Types.
  5. ☐ **Differential Wage Payments.** Post-Severance Compensation will include Differential Wage Payments (military continuation payments) and it will apply to all Contribution Types.
  6. ☐ **Describe alternative Post-Severance Compensation definition, limit by Contribution Type, or limit by Participant group:** \_\_\_\_\_.

10. **NORMAL RETIREMENT AGE (1.20).** A Participant attains Normal Retirement Age under the Plan *(Choose one of a. or b.):*

- a. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2. The age may not be less than age 65, or, if earlier, the age at which a Participant may retire and receive benefits under the Employer's pension plan, if any.]*
- b. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 65 and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

**Special Provisions for Police or Fire Department Employees** *(Choose c. and/or d. as applicable):*

- c. ☒ **Police department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*
  1. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*
  2. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*
- d. ☒ **Fire department employees.** [Plan Section 3.05(B)(3)] *(Choose 1. or 2.):*
  1. ☐ **Plan designation.** [Plan Section 3.05(B)] When the Participant attains age \_\_\_\_\_. *[Note: The age may not exceed age 70 1/2 and may not be less than age 40.]*
  2. ☒ **Participant designation.** [Plan Section 3.05(B) and (B)(1)] When the Participant attains the age the Participant designates, which may not be earlier than age 40 (no earlier than age 40) and may not be later than age 70 1/2. *[Note: The age may not exceed age 70 1/2.]*

11. **ELIGIBILITY CONDITIONS (2.01).** *(Choose one of a. or b.):*

- a. ☒ **No eligibility conditions.** The Employee is eligible to participate in the Plan as of his/her first day of employment with the employer.
- b. ☐ **Eligibility conditions.** To become a Participant in the Plan, an Eligible Employee must satisfy the following eligibility conditions *(Choose one or more of 1., 2. or 3.):*
  1. ☐ **Age.** Attainment of age \_\_\_\_\_.

2. ☐ **Service.** Service requirement (*Choose one of a. or b.*):
- a. ☐ **Year of Service.** One year of Continuous Service.
- b. ☐ **Months of Service.** \_\_\_\_\_ month(s) of Continuous Service.
3. ☐ **Specify:** \_\_\_\_\_.

12. **PLAN ENTRY DATE (1.24).** "Plan Entry Date" means the Effective Date and (*Choose one of a. through d.*):

- a. ☐ **Monthly.** The first day of the month coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- b. ☐ **Annual.** The first day of the Plan Year coinciding with or next following the Employee's satisfaction of the Plan's eligibility conditions, if any.
- c. ☒ **Date of hire.** The Employee's employment commencement date with the Employer.
- d. ☐ **Specify:** \_\_\_\_\_.

13. **SALARY REDUCTION CONTRIBUTIONS (1.30).** A Participant's Salary Reduction Contributions under Election 5b. are subject to the following limitation(s) in addition to those imposed by the Code (*Choose one of a. or b.*):

- a. ☒ **No limitations.**
- b. ☐ **Limitations.** (*Choose one or more of 1., 2. or 3.*):
1. ☐ **Maximum deferral amount.** A Participant's Salary Reductions may not exceed: \_\_\_\_\_ (*specify dollar amount or percentage of Compensation*).
2. ☐ **Minimum deferral amount.** A Participant's Salary Reductions may not be less than: \_\_\_\_\_ (*specify dollar amount or percentage of Compensation*).
3. ☐ **Specify:** \_\_\_\_\_.

[*Note: Any limitation the Employer elects in b.1. through b.3. will apply on a payroll basis unless the Employer otherwise specifies in b.3.*]

**Special NRA Catch-Up Contributions (3.05).** The Plan (*Choose one of c. or d.*):

- c. ☒ **Permits.** Participants may make NRA catch-up contributions.
- AND, Special NRA Catch-Up Contributions** (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1. ☐ will be taken into account in applying any matching contribution under the Plan.
2. ☐ will not be taken into account in applying any matching contribution under the Plan.
- d. ☐ **Does not permit.** Participants may not make NRA catch-up contributions.

**Age 50 Catch-Up Contributions (3.06).** The Plan (*Choose one of e. or f.*):

- e. ☒ **Permits.** Participants may make age 50 catch-up contributions.
- AND, Age 50 Catch-Up Contributions** (*Choose one of 1. or 2.*): (*N/A if no matching contributions*)
1. ☐ will be taken into account in applying any matching contribution under the Plan.
2. ☐ will not be taken into account in applying any matching contribution under the Plan.
- f. ☐ **Does not permit.** Participants may not make age 50 catch-up contributions.

14. **SICK, VACATION AND BACK PAY (3.02(A)).** The Plan (*Choose one of a. or b.*):

- a. ☒ **Permits.** Participants may make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.
- b. ☐ **Does Not Permit.** Participants may not make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

15. **AUTOMATIC ENROLLMENT (3.02(B)).** Does the Plan provide for automatic enrollment (*Choose one of the following*) [*Note: if Eligible Automatic Contribution Arrangement (EACA), select 15c and complete Questions 31 & 32*]:

- a. ☒ **Does not apply.** Does not apply the Plan's automatic enrollment provisions.

- b. ☐ **Applies.** Applies the Plan's automatic enrollment provisions. The Employer as a Pre-Tax Elective Deferral will withhold \_\_\_\_\_% from each Participant's Compensation unless the Participant elects a different percentage (including zero) under his/her Salary Reduction Agreement. The automatic election will apply to *(Choose one of 1. through 3.)*:
1. ☐ **All Participants.** All Participants who as of \_\_\_\_\_ are not making Pre-Tax Elective Deferrals at least equal to the automatic amount.
  2. ☐ **New Participants.** Each Employee whose Plan Entry Date is on or following: \_\_\_\_\_.
  3. ☐ **Describe Application of Automatic Deferrals:** \_\_\_\_\_.

- c. ☐ **EACA.** The Plan will provide an Eligible Automatic Contribution Arrangement (EACA). Complete Questions 31 & 32.

16. **MATCHING CONTRIBUTIONS (3.03).** The Employer Matching Contributions under Election 5.b.1. are made as follows *(Choose one or more of a. through d.)*:

- a. ☐ **Fixed formula.** An amount equal to \_\_\_\_\_ of each Participant's Salary Reduction Contributions.
- b. ☐ **Discretionary formula.** An amount (or additional amount) equal to a matching percentage the Employer from time to time may deem advisable of each Participant's Salary Reduction Contributions.
- c. ☐ **Tiered formula.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's Salary Reduction Contributions, determined as follows:

**NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

| Tiers of Contributions<br>(indicate \$ or %) | Matching Percentage |
|--|---------------------|
| First _____                                  | _____ %             |
| Next _____                                   | _____ %             |
| Next _____                                   | _____ %             |
| Next _____                                   | _____ %             |

- d. ☐ **Specify:** \_\_\_\_\_.

**Time Period for Matching Contributions.** The Employer will determine its Matching Contribution based on Salary Reduction Contributions made during each *(Choose one of e. through h.)*:

- e. ☐ **Plan Year.**
- f. ☐ **Plan Year quarter.**
- g. ☐ **Payroll period.**
- h. ☐ **Specify:** \_\_\_\_\_.

**Salary Reduction Contributions Taken into Account.** In determining a Participant's Salary Reduction Contributions taken into account for the above-specified time period under the Matching Contribution formula, the following limitations apply *(Choose one of i. through l.)*:

- i. ☐ **All Salary Reduction Contributions.** The Plan Administrator will take into account all Salary Reduction Contributions.
- j. ☐ **Specific limitation.** The Plan Administrator will disregard Salary Reduction Contributions exceeding \_\_\_\_\_% of the Participant's Compensation.
- k. ☐ **Discretionary.** The Plan Administrator will take into account the Salary Reduction Contributions as a percentage of the Participant's Compensation as the Employer determines.
- l. ☐ **Specify:** \_\_\_\_\_.

**Allocation Conditions.** To receive an allocation of Matching Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of m. or n.)*:

- m. ☐ **No allocation conditions.**
- n. ☐ **Conditions.** The following allocation conditions apply to Matching Contributions *(Choose one or more of 1. through 4.)*:
  1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.

2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
4. ☐ **Specify:** \_\_\_\_\_.

17. **NONELECTIVE CONTRIBUTIONS (1.19).** The Nonelective Contributions under Election 5.c. are made as follows: *(Choose one):*

- a. ☐ **Discretionary - Pro-Rata.** An amount the Employer in its sole discretion may determine.
- b. ☐ **Fixed - Pro Rata.** \_\_\_\_\_% of Compensation.
- c. ☐ **Other.** A Nonelective Contribution may be made as follows:

\_\_\_\_\_.

**Allocation Conditions. (3.08).** To receive an allocation of Nonelective Contributions, a Participant must satisfy the following allocation condition(s) *(Choose one of d. or e.):*

- d. ☐ **No allocation conditions.**
- e. ☐ **Conditions.** The following allocation conditions apply to Nonelective Contributions *(Choose one or more of 1. through 4.):*
1. ☐ **Service condition.** The Participant must complete the following number of months of Continuous Service during the Plan Year: \_\_\_\_\_.
2. ☐ **Employment condition.** The Participant must be employed by the Employer on the last day of the Plan Year.
3. ☐ **Limited Severance Exception.** Any condition specified in 1. or 2. does not apply if the Participant incurs a Severance from Employment during the Plan Year on account of death, disability or attainment of Normal Retirement Age in the current Plan Year or in a prior Plan Year.
4. ☐ **Specify:** \_\_\_\_\_.

18. **TIME AND METHOD OF PAYMENT OF ACCOUNT (4.02).** The Plan will distribute to a Participant who incurs a Severance from Employment his/her Vested Account as follows:

**Timing.** The Plan, in the absence of a permissible Participant election to commence payment later, will pay the Participant's Account *(Choose one of a. through e.):*

- a. ☐ **Specified Date.** \_\_\_\_\_ days after the Participant's Severance from Employment.
- b. ☐ **Immediate.** As soon as administratively practicable following the Participant's Severance from Employment.
- c. ☐ **Designated Plan Year.** As soon as administratively practicable in the \_\_\_\_\_ Plan Year beginning after the Participant's Severance from Employment.
- d. ☐ **Normal Retirement Age.** As soon as administratively practicable after the close of the Plan Year in which the Participant attains Normal Retirement Age.
- e. ☒ **Specify:** The Plan will commence distribution in the absence of a Participant's election to commence payment earlier, no later than the Participant's required beginning date as defined under Plan Section 4.03

**Method.** The Plan, in the absence of a permissible Participant election, will distribute the Participant's Account under one of the following method(s) of distribution *(Choose one or more of f. through j. as applicable):*

- f. ☒ **Lump sum.** A single payment.
- g. ☐ **Installments.** Multiple payments made as follows: \_\_\_\_\_.
- h. ☒ **Installments for required minimum distributions only.** Annual payments, as necessary under Plan Section 4.03.
- i. ☐ **Annuity distribution option(s):** \_\_\_\_\_.
- j. ☐ **Specify:** \_\_\_\_\_.

**Participant Election.** [Plan Sections 4.02(A) and (B)] The Plan *(Choose one of k., l. or m.):*

- k. ☐ **Permits.** Permits a Participant, with Plan Administrator approval of the election, to elect to postpone distribution beyond the time the Employer has elected in a. through e. and also to elect the method of distribution (including a method not described in f. through j. above).
- l. ☐ **Does not permit.** Does not permit a Participant to elect the timing and method of Account distribution.
- m. ☒ **Specify:** A Participant, with Plan Administrator approval of the election, may elect the method of distribution from the following choices: lump sum, installments or partial distribution



**Mandatory Distributions.** Notwithstanding any other distribution election, following Severance from Employment (*Choose n. or o.*):

- n. ☐ **No Mandatory Distributions.** The Plan will not make a Mandatory Distribution.
- o. ☒ **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$5,000 (unless a different amount selected below) as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.
  - 1. ☒ **Mandatory Distribution.** If the Participant's Vested Account is not in excess of \$ 1,000 as of the date of distribution, the Plan will make a Mandatory Distribution following Severance from Employment.

**Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions or consent rules.

- p. ☐ Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

**NOTE:** Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

19. **BENEFICIARY DISTRIBUTION ELECTIONS.** Distributions following a Participant's death will be made as follows (*Choose one of a. through d.*):

- a. ☐ **Immediate.** As soon as practical following the Participant's death.
- b. ☐ **Next Calendar Year.** At such time as the Beneficiary may elect, but in any event on or before the last day of the calendar year which next follows the calendar year of the Participant's death. (*N/A if participant is restricted*)
- c. ☒ **As Beneficiary elects.** At such time as the Beneficiary may elect, consistent with Section 4.03. (*N/A if participant is restricted*)
- d. ☐ **Describe:** \_\_\_\_\_.

[*Note: The Employer under Election 19d. may describe an alternative distribution timing or afford the Beneficiary an election which is narrower than that permitted under Election 19c., or include special provisions related to certain beneficiaries, (e.g., a surviving spouse). However, any election under Election 19d. must require distribution to commence no later than the Section 4.03 required date.*]

20. **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT (4.05).** A Participant prior to Severance from Employment may elect to receive a distribution of his/her Vested Account under the following distribution options (*Choose one of a. or b.*):

- a. ☐ **None.** A Participant may not receive a distribution prior to Severance from Employment.
- b. ☒ **Distributions.** Prior to Severance from Employment are permitted as follows (*Choose one or more of 1. through 4.*):
  - 1. ☒ **Unforeseeable emergency.** A Participant may elect a distribution from his/her Account in accordance with Plan Section 4.05(A) (for the Participant, spouse, dependents or beneficiaries)
  - 2. ☒ **De minimis exception.** [Plan Section 4.05(B)] If the Participant: (i) has an Account that does not exceed \$5,000; (ii) has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (iii) has not received a prior Plan distribution under this de minimis exception, then (*Choose one of a., b. or c.*):
    - a. ☒ **Participant election.** The Participant may elect to receive all or any portion of his/her Account.
    - b. ☐ **Mandatory distribution.** The Plan Administrator will distribute the Participant's entire Account.
    - c. ☐ **Hybrid.** The Plan Administrator will distribute a Participant's Account that does not exceed \$ \_\_\_\_\_ and the Participant may elect to receive all or any portion of his/her Account that exceeds \$ \_\_\_\_\_ but that does not exceed \$5,000.
  - 3. ☒ **Age 70 1/2.** A Participant who attains age 70 1/2 prior to Severance from Employment may elect distribution of any or all of his/her Account.
  - 4. ☐ **Specify:** \_\_\_\_\_.

[*Note: An Employer need not permit any in-service distributions. Any election must comply with the distribution restrictions of Code Section 457(d).*]

21. **QDRO (4.06).** The QDRO provisions (*Choose one of a., b. or c.*):

- a. ☒ **Apply.**
- b. ☐ **Do not apply.**
- c. ☐ **Specify:** \_\_\_\_\_.

22. **ALLOCATION OF EARNINGS (5.07(B))**. The Plan allocates Earnings using the following method (*Choose one or more of a. through f.*):

- a. ☒ **Daily**. See Section 5.07(B)(4)(a).
- b. ☐ **Balance forward**. See Section 5.07(B)(4)(b).
- c. ☐ **Balance forward with adjustment**. See Section 5.07(B)(4)(c). Allocate pursuant to the balance forward method, except treat as part of the relevant Account at the beginning of the Valuation Period \_\_\_\_\_% of the contributions made during the following Valuation Period: \_\_\_\_\_.
- d. ☐ **Weighted average**. See Section 5.07(B)(4)(d). If not a monthly weighting period, the weighting period is \_\_\_\_\_.
- e. ☐ **Directed Account method**. See Section 5.07(B)(4)(e).
- f. ☐ **Describe Earnings allocation method:** \_\_\_\_\_.

[*Note: The Employer under Election 22f. may describe Earnings allocation methods from the elections available under Election 22 and/or a combination thereof as to any: (i) Participant group (e.g., Daily applies to Division A Employees OR to Employees hired after "x" date. Balance forward applies to Division B Employees OR to Employees hired on/before "x" date.); (ii) Contribution Type (e.g., Daily applies as to Discretionary Nonelective Contribution Accounts. Participant-Directed Account applies to Fixed Nonelective Contribution Accounts); (iii) investment type, investment vendor or Account type (e.g., Balance forward applies to investments placed with vendor A and Participant-Directed Account applies to investments placed with vendor B OR Daily applies to Participant-Directed Accounts and balance forward applies to pooled Accounts).*]

23. **HEART ACT PROVISIONS (1.31(C)(3)/3.13)**. The Employer elects to (*Choose one of a. or b. and c. or d.*):

**Continued Benefit Accruals.**

- a. ☐ **Not apply the benefit accrual provisions of Section 3.13.**
- b. ☒ **Apply the benefit accrual provisions of Section 3.13.**

**Distributions for deemed severance of employment (1.31(C)(3))**

- c. ☒ **The Plan does NOT permit distributions for deemed severance of employment.**
- d. ☐ **The Plan permits distributions for deemed severance of employment.**

24. **VESTING/SUBSTANTIAL RISK OF FORFEITURE (5.11)**. A Participant's Deferral Contributions are [*Note: If a Participant incurs a Severance from Employment before the specified events or conditions, the Plan will forfeit the Participant's non-vested Account. Caution: if a Deferral is subject to vesting schedule or other substantial risk of forfeiture, it does not count as a deferral for purposes of the annual deferral limit until the year it is fully vested.*] (*Choose all that apply of a. through d.*):

- a. ☒ **100% Vested/No Risk of Forfeiture**. Immediately Vested without regard to additional Service and no Substantial Risk of Forfeiture. The following contributions are 100% Vested:
  - 1. ☒ **All Contributions**. (skip to 25.)
  - 2. ☐ **Only the following contributions**. (select all that apply):
    - a. ☐ **Salary Reduction Contributions**.
    - b. ☐ **Nonelective Contributions**.
    - c. ☐ **Matching Contributions**.
- b. ☐ **Forfeiture under Vesting Schedule**. Vested according to the following:

**Contributions affected.** The following contributions are subject to the vesting schedule (*Choose one or more of 1., 2. or 3.*):

- 1. ☐ **Salary Reduction Contributions**.
- 2. ☐ **Nonelective Contributions**.
- 3. ☐ **Matching Contributions**.
- 4. ☐ **Vesting Schedule**.

Years of Service

Vested Percentage

|       |         |
|-------|---------|
| _____ | _____ % |
| _____ | _____ % |
| _____ | _____ % |
| _____ | _____ % |
| _____ | _____ % |

For vesting purposes, a "Year of Service" means:

5. \_\_\_\_\_.

[Note: It is extremely rare to apply a vesting schedule to Salary Reduction Contributions.]

c. ☐ **Substantial Risk of Forfeiture.** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows:

**Contributions affected.** The following contributions are subject to the substantial risk of forfeiture under c. (Choose one or more of 1., 2. or 3.):

1. ☐ **Salary Reduction Contributions.**

2. ☐ **Nonelective Contributions.**

3. ☐ **Matching Contributions.**

**Risk Provisions:** Vested only when no longer subject to the following Substantial Risk of Forfeiture as follows (Choose one of 4. or 5.):

4. ☐ The Participant must remain employed by the Employer until \_\_\_\_\_, unless earlier Severance from Employment occurs on account of death or disability, as the Plan Administrator shall establish.

5. ☐ **Specify:** \_\_\_\_\_.

**Additional Provisions** (Choose d. if applicable)

d. ☐ **Specify:** \_\_\_\_\_.

**FORFEITURE ALLOCATION.** [Plan Sections 5.11(A) and 5.14] The Plan Administrator will allocate any Plan forfeitures as selected below. The Employer has the option to use forfeitures to pay plan expenses first and then allocate the remaining forfeitures in accordance with the selections below: (Choose one of the following):

e. ☐ **Additional Contributions.** As the following contribution type (Choose one of 1. or 2.):

1. ☐ **Nonelective.** As an additional Nonelective Contribution.

2. ☐ **Matching.** As an additional Matching Contribution.

f. ☐ **Reduce Fixed Contributions.** To reduce the following fixed contribution (Choose one of 1. or 2.):

1. ☐ **Nonelective.** To reduce the Employer's fixed Nonelective Contribution.

2. ☐ **Matching.** To reduce the Employer's fixed Matching Contribution.

g. ☐ **Specify:** \_\_\_\_\_.

25. **TRUST PROVISIONS.** The following provisions apply to Article VIII of the Plan (Choose as applicable; leave blank if not applicable):

a. ☐ **Modifications.** The Employer modifies the Article VIII Trust provisions as follows: \_\_\_\_\_. The remaining Article VIII provisions apply.

b. ☐ **Substitution.** The Employer replaces the Trust with the Trust Agreement attached to the Plan.

26. **CUSTODIAL ACCOUNT/ANNUITY CONTRACT (8.16).** The Employer will hold all or part of the Deferred Compensation in one or more custodial accounts or annuity contracts which satisfy the requirements of Code §457(g) (Choose a. or b., c. if applicable):

a. ☒ **Custodial account(s).**

b. ☒ **Annuity contract(s).**

c. ☐ **Specify:** \_\_\_\_\_.

[Note: The Employer under c. may wish to identify the custodial accounts or annuity contracts or to designate a portion of the Deferred Compensation to be held in such vehicles versus held in the Trust.]

27. **VALUATION.** In addition to the last day of the Plan Year, the Trustee (or Plan Administrator as applicable) must value the Trust Fund (or Accounts) on the following Valuation Date(s) (Choose one of a. or b.):

a. ☐ **No additional Valuation Dates.**

b. ☒ **Additional Valuation Dates.** (Choose one or more of 1., 2. or 3.):

1. ☒ **Daily Valuation Dates.** Each business day of the Plan Year on which Plan assets for which there is an established market are valued and the Trustee or Employer is conducting business.

2. ☐ **Last day of a specified period.** The last day of each \_\_\_\_\_ of the Plan Year.

28. TRUSTEE (Select all that apply; leave blank if not applicable.):

- | Name(s) | Title(s) |
|---------|----------|
|         |          |
|         |          |
|         |          |

Address: \_\_\_\_\_ Street

| City | State | Zip |
|------|-------|-----|
|------|-------|-----|

Telephone: \_\_\_\_\_

- Name: \_\_\_\_\_

Address: \_\_\_\_\_ Street

| City | State | Zip |
|------|-------|-----|
|------|-------|-----|

Telephone: \_\_\_\_\_

c. ☐ a Directed (nondiscretionary) Trustee over all Plan assets except for the following:

- d. ☐ a Discretionary Trustee over all Plan assets except for the following:

b. ☒ **Permitted pursuant to the Loan Policy.**

**Who may roll over** (*Choose one of a. or b.*):

- b. ☒ **Eligible Employees or Participants.**

**Sources/Types.** The Plan will accept a Rollover Contribution (*Choose one of c. or d.*):

- c. ☒ **All.** From any Eligible Retirement Plan and as to all Contribution Types eligible to be rolled into this Plan.
- d. ☐ **Limited.** Only from the following types of Eligible Retirement Plans and/or as to the following Contribution Types:

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**Distribution of Rollover Contributions** (*Choose one of e., f. or g.*):

- e. ☒ **Distribution without restrictions.** May elect distribution of his/her Rollover Contributions Account in accordance with Plan Section 4.05(C) at any time.
- f. ☐ **No distribution.** May not elect to receive distribution of his/her Rollover Contributions Account until the Plan has a distributable event under Plan Section 4.01.
- g. ☐ **Specify:** \_\_\_\_\_

31. EACA Automatic Deferral Provisions (3.14).

**Participants subject to the Automatic Deferral Provisions.** The Automatic Deferral Provisions apply to Employees who become Participants after the Effective Date of the EACA (except as provided in d. below). Employees who became Participants prior to such Effective Date are subject to the following (a. – d. are optional):

- a. ☐ **All Participants.** All Participants, regardless of any prior Salary Reduction Agreement, unless and until a Participant makes an Affirmative Election after the Effective Date of the EACA.
- b. ☐ **Election of at least Automatic Deferral amount.** All Participants, except those who, on the Effective Date of the EACA, are deferring an amount which is at least equal to the Automatic Deferral Percentage.
- c. ☐ **No existing Salary Reduction Agreement.** All Participants, except those who have in effect a Salary Reduction Agreement on the effective date of the EACA regardless of the Salary Reduction Contribution amount under the Agreement.
- d. ☐ **Describe:** \_\_\_\_\_

**Automatic Deferral Percentage.** Unless a Participant makes an Affirmative Election, the Employer will withhold the following Automatic Deferral Percentage (select e. or f.):

- e. ☐ **Constant.** The Employer will withhold \_\_\_\_\_% of Compensation each payroll period.

**Escalation** of deferral percentage (select one or leave blank if not applicable)

1. ☐ **Scheduled increases.** This initial percentage will increase by \_\_\_\_\_% of Compensation per year up to a maximum of \_\_\_\_\_ of Compensation.
2. ☐ **Other** (described Automatic Deferral Percentage): \_\_\_\_\_

**Automatic Deferral Optional Elections**

- f. ☐ **Optional elections** (select all that apply or leave blank if not applicable)

**Suspended Salary Reduction Contributions.** If a Participant's Salary Reduction Contributions are suspended pursuant to a provision of the Plan (e.g., distribution due to military leave covered by the HEART Act), then a Participant's Affirmative Election will expire on the date the period of suspension begins unless otherwise elected below.

1. ☐ A Participant's Affirmative Election will resume after the suspension period.

**Special Effective Date.** Provisions will be effective as of the earlier of the Effective Date of the EACA provisions unless otherwise specified below.

2. ☐ Special Effective Date: \_\_\_\_\_

32. **In-Plan Roth Rollover Contributions.**

- a. ☒ **Yes, allowed.**

**Effective Date** (enter date)

1. ☒ In-Plan Roth Rollover Effective Date: April 20, 2022

33. **In-Plan Roth Rollover Transfers.**

- a. ☒ **Yes, allowed.**

**Effective Date** (enter date)

1. ☒ In-Plan Roth Rollover Transfers Effective Date: April 20, 2022

This Plan is executed on the date(s) specified below:

**Use of Adoption Agreement.** Failure to complete properly the elections in this Adoption Agreement may result in disqualification of the Employer's Plan. The Employer only may use this Adoption Agreement only in conjunction with the corresponding basic plan document.

EMPLOYER: City of West Covina, CA

By: \_\_\_\_\_

\_\_\_\_\_  
DATE SIGNED



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: CONSIDERATION OF APPOINTMENTS TO THE CALIFORNIA JOINT POWERS  
AUTHORITY**

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### RECOMMENDATION:

It is recommended that the City Council consider the Certification of Director and Alternates to the California Joint Powers Insurance Authority (CJPIA) Board of Directors, appointing Mayor Rosario Diaz as Director, and Mayor Pro Tem Brian Tabatabai and Acting Human Resources and Risk Management Director Stephanie Sikkema as alternates to represent the City.

### BACKGROUND:

The City has been a member of the CJPIA risk management pool for the Authority's Excess Liability, Excess Workers' Compensation and Property Insurance Programs since May 2020.

Each member of the CJPIA designates a public official to serve on the Authority's Board of Directors. This ensures that the interests and needs of all members are represented in its governance. The Board of Directors consists of one representative selected from the governing body of each member of the Authority. Each July, the entire Board of Directors attends an annual business meeting. At the annual meeting, the president and vice president of the Authority and other members of the Executive Committee are elected, reports of the affairs of the Authority are considered, and any other business may be transacted which is within the powers of the Board of Directors.

In May 2020, City Council approved the Certification of Director and Alternate(s) to CJPIA, appointing Councilmember Dario Castellanos as Director, and appointing City Manager David Carmany, Mayor Tony Wu, Mayor Pro Tem Letty Lopez-Viado, Councilmember Lloyd Johnson, and Councilmember Jessica Shewmaker as alternates to represent the City Council.

### DISCUSSION:

Staff recommends the City's appointments be updated to reflect the current Council and staff. The City's primary appointment must be an elected official, the alternate may be a staff member. Attachment No. 1 is the Certification of Director and Alternates to CJPIA, appointing Mayor Rosario Diaz as Director, and Mayor Pro Tem Brian Tabatabai and Acting Human Resources and Risk Management Director Stephanie Sikkema as alternates to represent the City.

### LEGAL REVIEW:

The City Attorney's Office has reviewed this report.

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### **Fiscal Impact**

#### **FISCAL IMPACT:**

This is strictly an administrative item, therefore; there is no fiscal impact associated with this action.

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### **Attachments**

Attachment No. 1 - Certification of Director and Alternate(s)

**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability  
Maintain Good Intergovernmental Relations





## CERTIFICATION OF DIRECTOR AND ALTERNATE(S)

Thereby certify that as of this date, the Official Minutes and Records of the Subcommittee of the City of West Covina confirm that the following persons have been appointed to represent the City Council, in accordance with the provisions of Article 7 of the California Joint Powers Insurance Authority Joint Powers Agreement.

**DIRECTOR (Board Member):**

|                     |              |                                    |
|---------------------|--------------|------------------------------------|
| <u>Rosario Diaz</u> | <u>Mayor</u> | <u>rosario.diaz@westcovina.org</u> |
| Name                | Title        | email address                      |

ALTERNATE(S) (one or more, may be Board Member or staff):

|                        |                      |                                  |
|------------------------|----------------------|----------------------------------|
| <u>Brian Tabatabai</u> | <u>Mayor Pro Tem</u> | <u>btatababai@westcovina.org</u> |
| Name                   | Title                | email address                    |

|                          |  |                                |
|--------------------------|--|--------------------------------|
| <u>Stephanie Sikkema</u> | <u>Acting Human Resources and<br/>Risk Management Director</u> | <u>ssikkema@westcovina.org</u> |
| Name                     | Title  | email address                  |

| Name | Title | email address |
|------|-------|---------------|
|------|-------|---------------|

| Name | Title | email address |
|------|-------|---------------|
|------|-------|---------------|

| Name | Title | email address |
|------|-------|---------------|
|------|-------|---------------|

Signature \_\_\_\_\_

City of West Covina  
Agency (please print agency name)

Date \_\_\_\_\_



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: WEST COVINA LANDSCAPE MAINTENANCE DISTRICT NO. 4, 6 & 7 PUBLIC HEARINGS**

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### RECOMMENDATION:

It is recommended that the City Council adopt the following resolution(s):

**RESOLUTION NO. 2023-40 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4**

**RESOLUTION NO. 2023-41 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6**

**RESOLUTION NO. 2023-42 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE CONSOLIDATED ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7**

### BACKGROUND:

The Landscaping and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for renewal of landscape maintenance districts.

Landscape Maintenance District No. 4 (LMD4) was established in 1975. This district is in the southeasterly part of the City. The assessments collected are used to maintain landscaping, irrigation, hard scape (e.g., sidewalks, walls, etc.), and area lighting on 130 acres of public open space within the boundaries of the district. To encourage innovative housing types and neighborhood designs and to preserve the ridge lines in the San Jose Hills, this area was originally developed with relatively narrow street rights-of-way and small lot sizes. The resulting surplus land was converted to landscaped slope areas and park like "green belt" areas containing walkways, landscaping, and lighting.

Landscape Maintenance District No. 6 (LMD6) was established in 1980 at the request of the owner of the development in lieu of forming a Homeowners' Association. LMD6 is generally located in the easterly end of the City known as South Hills. The funds collected by the LMD6 are used to maintain landscaping and irrigation in public open space areas within its boundaries. LMD6 contains 238 single-family dwellings, approximately 12 acres of landscaped and irrigated areas, and approximately 65 acres of natural area.

Landscape Maintenance District No. 7 (LMD7) was established in 1980 at the request of the owner of the development in lieu of forming a Homeowners' Association. LMD7 is generally located in the easterly end of the City. The funds collected by the district are used to maintain landscaping and irrigation in public open space areas within its boundaries. Currently, LMD7 contains 372 improved and 8 unimproved single-family residential parcels. When development is 100 percent complete, LMD7 will contain 380 developed single residential parcels, 25 acres of landscaped and irrigated area, and 105 acres of natural area.

## **DISCUSSION:**

The Act specifies the procedures for renewal of landscape maintenance districts. At its regular meeting on June 20, 2023, the City Council preliminarily approved the Consolidated Engineer's Report for LMD4, 6 and 7 prepared pursuant to the provisions of the Act. The City Council also declared its intention to levy and collect the assessments in each district for Fiscal Year 2023-24 and set July 18, 2023, as the date for the public hearing.

The preliminary approval of the Consolidated Engineer's Report does not commit the City Council to adopt the proposed assessments for the Districts. During or after the public hearing, the City Council may order changes in the improvements, any zones within the assessment districts, and the proposed diagram or the proposed assessment. However, it cannot raise the assessment rate that is now capped by Proposition 218. The City Council's action only becomes final when the diagram and assessment are confirmed by resolution upon completion of the public hearing.

The next step is conducting the public hearing. Following the public hearing, the City Council may adopt a resolution confirming the diagram and assessment levy either as proposed or as revised by the City Council. The adoption of the resolution levies the assessment for the upcoming Fiscal Year.

The Districts contain landscaped hillside slopes vegetated with plants, shrubbery, and trees while LMD4 also contains lighted paseos. The current scope of work for the operations, maintenance, and care of these areas includes fire clearing along the entire slope and irrigation, maintenance, and repairs.

Increased scope of work for LMD4 is recommended to include the modification of the paseo lighting to LED for energy cost savings, repair and replacement of light standards, hardscape repair and replacement of off-grade, cracked and broken areas. Increased scope of work for all three Districts includes tree trimming of the hillside trees on a trimming cycle, and landscape maintenance including trash removal and clearing of the hillside plants and shrubbery.

As outlined in the June 20, 2023 staff report relating to the Districts, the assessment rates for LMD4 and LMD6 have not been increased in over 15 years while LMD7 has increased very incrementally which has led to reduced services and increased concerns by residents. As costs have risen, maintenance has suffered.

Staff recommends that the assessment rates be maintained at their current levels for Fiscal Year 2023-24:

- The annual assessment rates for LMD4 will be maintained at \$348.02 for a single dwelling unit and \$464 for a duplex unit.
- The annual assessment rates for LMD6 will be maintained at \$650 per lot annually (\$54.16 per month).
- The annual assessment rates for LMD7 will be maintained at \$464.06 per developed lot and

\$139.22 per undeveloped lot.

## LEGAL REVIEW:

The City Attorney's office has reviewed the resolutions and approved them as to form.

## OPTIONS:

The City Council has the following options:

1. Adopt staff's recommendation to maintain the assessment rates at their current levels. The attached "10-Year Fiscal Projection" shows rates being maintained at their current levels and the reserve levels over the next 10 years.
2. Reduce the assessment rates; however, the Districts reserves will be depleted at a faster pace requiring the City's General Fund to subsidize the Districts.
3. Provide alternative direction.

**Prepared by:** Michael Ackerman P.E.

---

## Fiscal Impact

### FISCAL IMPACT:

The Fiscal Year 2023-24 Consolidated Engineer's Report for LMD4, 6 & 7 recommends that the assessment rates be maintained at their current levels.

The annual assessment rates for LMD4 will be maintained at \$348.02 for a single dwelling unit and \$464 for a duplex unit. The projected income from the recommended rates is \$1,162,827. The proposed budget for LMD4 for Fiscal Year 2023-24 is \$1,607,997, which is an increase of 38.6% compared to the original budget for Fiscal Year 2022-23.

The annual assessment rate for LMD6 is based on a special uniform benefit to the property owners and is recommended to remain at its current level of \$650 per lot annually (\$54.16 per month). The total projected revenue from the recommended rates and interest is \$156,760. The proposed budget for LMD6 is \$324,946, which is an increase of 81.26% when compared to the original budget for Fiscal Year 2022-23.

The annual assessment rates for LMD7 will be maintained at \$464.06 per improved lot and \$139.22 per unimproved lot. The total projected revenue is \$176,874 including interest. The proposed budget for LMD7 for Fiscal Year 2023-24 is \$311,866 which is an increase of 85.58% compared to the original budget for Fiscal Year 2022-23. The proposed budget funds only include regular landscape maintenance.

Ongoing improvements such as irrigation system improvements, enhancement to existing landscaping, tree trimming, and other extras are being eliminated to maintain the operating budget within projected revenues from the capped assessment rates.

For Fiscal Year 2023-24, below is the Capital Improvement Projects scheduled:

| District | Description  | Estimated Costs |
|----------|--|-----------------|
| LMD4     | Replacement of Hardscape, repair and replacement of light standards and conversion of existing light fixtures to LED fixtures; as well as comprehensive tree removal and replacement | \$250,000       |
| LMD6     |  | \$100,000       |
| LMD7     |  | \$100,000       |

---

## Attachments

Attachment No. 1 - Resolution No. 2023-40 (LMD4)

Attachment No. 2 - Resolution No. 2023-41 (LMD6)

Attachment No. 3 - Resolution No. 2023-42 (LMD7)

Attachment No. 4- Consolidated Engineer's Report

Attachment No. 5- 10 Year Fiscal Projection: LMD No. 4

Attachment No. 6- 10 Year Fiscal Projection: LMD No. 6

Attachment No. 7- 10 Year Fiscal Projection: LMD No. 7

Attachment No. 8- 15 Year Rate History

**CITY COUNCIL GOALS & OBJECTIVES:** Achieve Fiscal Sustainability and Financial Stability  
A Well-Planned Community

**RESOLUTION NO. 2023-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 4**

**WHEREAS**, the City's Landscape Maintenance District No. 4 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Section 22500 et seq.) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

**WHEREAS**, in connection with the District, the City annually levies an assessment against real property; and

**WHEREAS**, by its Resolution No. 2023-31, adopted June 20, 2023, the City Council directed Willdan Financial Services, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

**WHEREAS**, the Engineer filed said report, entitled "City of West Covina, Landscape Maintenance Districts 4, 6 and 7, Fiscal Year 2023/2024 Consolidated Engineer's Report" (the "Consolidated Report"), which is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

**WHEREAS**, by its Resolution No. 2023-32, adopted June 20, 2023, the City Council preliminarily approved the Consolidated Report relating to the District, declared its intention to levy an assessment in connection with the District for Fiscal Year 2023-24, and called a public hearing on the assessment for July 18, 2023 (the "Hearing"); and

**WHEREAS**, at the Hearing, which was noticed as required by law, all interested persons were afforded the opportunity to hear and be heard and the City Council considered all oral and written statements and all written protests made or filed by any interested person; and

**WHEREAS**, the City Council now desires to complete proceedings to levy the Fiscal Year 2023-24 assessment in connection with the District.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby approves the portion of the Consolidated Report relating to the District as filed.

**SECTION 2.** The City Council hereby confirms the diagram and assessment contained in the Consolidated Report relating to the District.

**SECTION 3.** Pursuant to Section 22631 of the Act, the adoption of this Resolution shall constitute the levy of the assessment for Fiscal Year 2023-24.

**SECTION 4.** The City Clerk is directed to file the diagram and assessment, or a certified copy thereof, with the Los Angeles County Auditor-Controller. The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments.

**SECTION 5.** The City Council finds that the levy and collection of these assessments is statutorily exempt from California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the Guidelines, in that the proceeds of the assessments are to be used for meeting operating expenses, purchasing supplies and meeting financial reserves needs and requirements.

**SECTION 6.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

---

Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-40 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick,  
Assistant City Clerk



RESOLUTION NO. 2023-41

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 6**

**WHEREAS**, the City's Landscape Maintenance District No. 6 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Section 22500 et seq.) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

**WHEREAS**, in connection with the District, the City annually levies an assessment against real property; and

**WHEREAS**, by its Resolution No. 2023-33, adopted June 20, 2023, the City Council directed Willdan Financial Services, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

**WHEREAS**, the Engineer filed said report, entitled "City of West Covina, Landscape Maintenance Districts. 4, 6 and 7, Fiscal Year 2023/2024 Consolidated Engineer's Report" (the "Consolidated Report"), which is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

**WHEREAS**, by its Resolution No. 2023-34, adopted June 20, 2023, the City Council preliminarily approved the portion of the Consolidated Report relating to the District, declared its intention to levy an assessment in connection with the District for Fiscal Year 2023-24, and called a public hearing on the assessment for July 18, 2023 (the "Hearing"); and

**WHEREAS**, at the Hearing, which was noticed as required by law, all interested persons were afforded the opportunity to hear and be heard and the City Council considered all oral and written statements and all written protests made or filed by any interested person; and

**WHEREAS**, the City Council now desires to complete proceedings to levy the Fiscal Year 2023-24 assessment in connection with the District.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby approves the portion of the Consolidated Report relating to the District as filed.

**SECTION 2.** The City Council hereby confirms the diagram and assessment contained in the Consolidated Report relating to the District.

**SECTION 3.** Pursuant to Section 22631 of the Act, the adoption of this Resolution shall constitute the levy of the assessment for Fiscal Year 2023-24.

**SECTION 4.** The City Clerk is directed to file the diagram and assessment, or a certified copy thereof, with the Los Angeles County Auditor-Controller. The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments.

**SECTION 5.** The City Council finds that the levy and collection of these assessments is statutorily exempt from California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the Guidelines, in that the proceeds of the assessments are to be used for meeting operating expenses, purchasing supplies and meeting financial reserves needs and requirements.

**SECTION 6.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

---

Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-41 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick,  
Assistant City Clerk

RESOLUTION NO. 2023-42

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE ENGINEER'S REPORT AND CONFIRMING A DIAGRAM AND ASSESSMENT FOR FISCAL YEAR 2023-24 FOR LANDSCAPE MAINTENANCE DISTRICT NO. 7**

**WHEREAS**, the City's Landscape Maintenance District No. 7 (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Section 22500 et seq.) (the "Act") to fund the maintenance and servicing of certain public landscaping and appurtenant facilities in the City; and

**WHEREAS**, in connection with the District, the City annually levies an assessment against real property; and

**WHEREAS**, by its Resolution No. 2023-35, adopted June 20, 2023, the City Council directed Willdan Financial Services, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

**WHEREAS**, the Engineer filed said report, entitled "City of West Covina, Landscape Maintenance Districts 4, 6 and 7, Fiscal Year 2023/2024 Consolidated Engineer's Report" (the "Consolidated Report"), which is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

**WHEREAS**, by its Resolution No. 2023-36, adopted June 20, 2023, the City Council preliminarily approved the Consolidated Report relating to the District, declared its intention to levy an assessment in connection with the District for Fiscal Year 2023-24, and called a public hearing on the assessment for July 18, 2023 (the "Hearing"); and

**WHEREAS**, at the Hearing, which was noticed as required by law, all interested persons were afforded the opportunity to hear and be heard and the City Council considered all oral and written statements and all written protests made or filed by any interested person; and

**WHEREAS**, the City Council now desires to complete proceedings to levy the Fiscal Year 2023-24 assessment in connection with the District.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby approves the portion of the Consolidated Report relating to the District as filed.

**SECTION 2.** The City Council hereby confirms the diagram and assessment contained in the Consolidated Report relating to the District.

**SECTION 3.** Pursuant to Section 22631 of the Act, the adoption of this Resolution shall constitute the levy of the assessment for Fiscal Year 2023-24.

**SECTION 4.** The City Clerk is directed to file the diagram and assessment, or a certified copy thereof, with the Los Angeles County Auditor-Controller. The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments.

**SECTION 5.** The City Council finds that the levy and collection of these assessments is statutorily exempt from California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the Guidelines, in that the proceeds of the assessments are to be used for meeting operating expenses, purchasing supplies and meeting financial reserves needs and requirements.

**SECTION 6.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

---

Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-42 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk



# **City of West Covina**

## **Landscape Maintenance Districts 4, 6 and 7**

**FISCAL YEAR 2023/2024  
CONSOLIDATED ENGINEER'S REPORT**

**Intent Meeting: June 20, 2023  
Public Hearing: July 18, 2023**

27368 Via Industria  
Suite 110  
Temecula, CA 92590  
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[www.willdan.com](http://www.willdan.com)



# ENGINEER'S REPORT AFFIDAVIT

## Landscape Maintenance Districts 4, 6 and 7

### City of West Covina County of Los Angeles, State of California

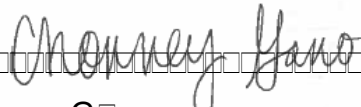
This Consolidated Engineer's Report describes Districts 4, 6 and 7 including the improvements, budgets, parcels, and assessments to be levied for Fiscal Year 2003 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the Districts. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 23rd day of June, 2003


William G. Conney Services

Assessment Engineer

On behalf of the City of West Covina

  
William G. Conney

Project Manager

  
Tyrone Peter

PE # C 1000





# TABLE OF CONTENTS

|                    |  |                  |
|--------------------|--|------------------|
| <b><u>I.</u></b>   | <b><u>OVERVIEW</u></b>                   | <b><u>1</u></b>  |
| A.                 | INTRODUCTION                             | 1                |
| B.                 | COMPLIANCE WITH CURRENT LEGISLATION      | 2                |
| <b><u>II.</u></b>  | <b><u>PLANS AND SPECIFICATIONS</u></b>   | <b><u>5</u></b>  |
| A.                 | IMPROVEMENTS AUTHORIZED BY THE 1972 ACT  | 5                |
| B.                 | DISTRICT OVERVIEW                        | 6                |
| C.                 | DESCRIPTION OF DISTRICT IMPROVEMENTS     | 8                |
| <b><u>III.</u></b> | <b><u>METHOD OF APPORTIONMENT</u></b>    | <b><u>11</u></b> |
| A.                 | GENERAL                                  | 11               |
| B.                 | BENEFIT ANALYSIS                         | 11               |
| C.                 | ASSESSMENT METHODOLOGY                   | 13               |
| <b><u>IV.</u></b>  | <b><u>ESTIMATE OF COSTS</u></b>          | <b><u>17</u></b> |
| A.                 | CAPITAL IMPROVEMENT FUND                 | 17               |
| B.                 | PROPOSED INCREASE SCOPE OF WORK          | 17               |
| C.                 | SUMMARY OF COSTS                         | 19               |
| <b><u>V.</u></b>   | <b><u>DISTRICT BOUNDARY DIAGRAMS</u></b> | <b><u>20</u></b> |
| <b><u>VI.</u></b>  | <b><u>ASSESSMENT ROLL</u></b>            | <b><u>21</u></b> |

## I. OVERVIEW

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### A. INTRODUCTION

The City of West Covina ("City"), under the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code ("1972 Act") and the provisions of the California Constitution Article XIII D ("Constitution"), annually conducted public hearing and levies and collects special assessments in order to provide and maintain the facilities, improvements and services for the districts designated as

#### ***Landscape Maintenance Districts ("Districts")***

The City formed the following districts

- ***Landscape Maintenance District No. 4 ("LMD 4") (Formed in 1975)***
- ***Landscape Maintenance District No. 6 ("LMD 6") (Formed in 1980)***
- ***Landscape Maintenance District No. 7 ("LMD 7") (Formed in 1980)***

The Districts were created at the request of the owner of the developments in lieu of forming a Homeowner's Association. The funds collected by LMD 4 are used to maintain landscaping, irrigation, roadscape, and poseo lighting on 13 acres of public open space within the boundaries of LMD. The funds collected by LMD are used to maintain landscaping and irrigation in public open space areas within its boundaries. The funds collected by LMD are used to maintain landscaping and irrigation in public open space areas within its boundaries.

For fiscal Year 2023, one 100% fee is levied in LMD for exempt properties.

This Engineer's Report ("Report") has been prepared pursuant to Chapter 1, Article 1 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the Districts and the levy and collection of the annual assessments for fiscal Year 2023.

This Report describes the Districts, the improvements, and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the Districts improvements for fiscal Year 2023. The annual assessments to be levied on properties within the Districts provide a funding source for the continued operation and maintenance of the roadscape improvements installed in connection with the development of properties within the Districts. Each fiscal year, the City estimates the District's assessments based on an estimate of the costs to maintain, operate and service the roadscape improvements and based upon available revenues including funds, City contributions and assessment limits. The costs of the

improvements and the proposed annual assessments budgeted and assessed against properties within the Districts may include the estimated expenditures for regular annual maintenance and repairs, incidental expenditures related to the operation and administration of the Districts, deficits or surpluses from prior years' revenues from other sources, and the collection of debt, funds for operation, reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services, and expenses for which the parcel will receive specific benefit.

For the purposes of this Report, the word "parcel" refers to an individual property assigned its own Assessor Parcel Number by the Los Angeles County Assessor's Office. The Los Angeles County Auditor-Controller uses Assessor Parcel Numbers and specific fund numbers to identify properties assessed for specific district benefit assessments on the tax roll.

At notified Annual Public Hearing, the City Council will accept all public comments and written protests regarding the Districts and the annual levy of assessments. Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1995 Act. The assessments as approved will be submitted to the County Auditor-Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the Districts, many of these estimated costs and associated services cannot be funded by the current assessment revenues. To fully fund the improvements, it will be necessary to increase assessment revenues which will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article IIID.

## B. COMPLIANCE WITH CURRENT LEGISLATION

On November 3, 1993, California voters approved Proposition 13. The Right to Vote on Taxes Act ("Prop 218") that established specific requirements for the ongoing imposition of taxes, assessments, and fees. The provisions of this proposition are now contained in the California Constitution as Articles IIIC and IIID and are summarized in our general press.

13 Strengthens the general and specific tax provisions of Proposition 13 and Proposition 13.

• Extends the initiative process to all local taxes, assessments, fees, and charges

3. Adds substantive and procedural requirements to assessments

• Adds substantive and procedural requirements to property-related

Prop 1 required that beginning July 1, 2000, all new and existing assessments (with some exceptions) must conform to new substantive and procedural requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

• Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control

• Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed

• Assessments used exclusively for bond repayments, the assertion of which could violate the Contract Impairment Clause of the US Constitution

• Assessments previously approved by a majority of voters

LMD and the related assessments were established in 1999 at the request of the owner of the property, the initial LMD assessments were not required to conform with the Article IIIID substantive and procedural requirements. The maximum assessment rate for LMD at the time of the passage of Prop 1 was 0.000000 previously approved by the City Council in Fiscal Year 1999-2000 or Fiscal Year 2000-2001. Land use audit was completed to ensure all land use classes will be assessed based on the methodology in place for the District.

LMD and the related assessments were established in 1999 at the request of the owner of the property, the initial LMD assessments were not required to conform with the Article IIIID substantive and procedural requirements. The maximum assessment rate for LMD at the time of the passage of Prop 1 was 0.000000 previously approved by the City Council in Fiscal Year 1999-2000.

LMD and the related assessments were established in 1999 at the request of the owner of the property, the initial LMD assessments were not required to conform with the Article IIIID substantive and procedural requirements. The maximum assessment rate for LMD at the time of the passage of Prop 1 was 0.000000 previously approved by the City Council in Fiscal Year 1999-2000.

Any subsequent increases to the aforementioned Districts' assessments above the maximum rate previously approved by City Council prior to November 3, 2000

will be subject to the procedures and approval process of Section 10 of Article IIIID of the California Constitution. There will be no assessment on any parcel that is not merged after the passage of Proposition 13 unless that new assessment is from a parcel change from a previously assessed parcel.

## ***// PLANS AND SPECIFICATIONS***

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### **A. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT**

As applicable or may be applicable to the Districts, the 1972 Act defines improvements to mean one or any combination of the following:

- The installation or planting of landscaping
- The installation or construction of statutory, boundaries, and other ornamental structures and facilities
- The installation or construction of public lighting facilities
- The installation or construction of any facilities which are appurtenant to any of the foregoing, or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities
- The maintenance or servicing, or both, of any of the foregoing
- The acquisition of any existing improvement otherwise authorized pursuant to this section

Incidental expenses associated with the improvements including, but not limited to:

- The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment
- The costs of printing, advertising, and the publishing, posting, and mailing of notices
- Compensation payable to the County for collection of assessments
- Compensation of any engineer or attorney employed to render services
- Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements
- Any expenses incidental to the issuance of bonds or notes pursuant to Section 30000000
- Costs associated with any elections held for the approval of a new or increased assessment

The 1972 Act defines "Maintenance" or "maintenance" to mean furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

- Repair, removal, or replacement of all or any part of any improvement
- Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury

- The removal of trimmings, rubbish, debris, and other solid waste
- The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti

## **B. DISTRICT OVERVIEW**

### **Landscape Maintenance District No. 4**

LMD 4 is located in the southeasterly part of the City of Covington. The District consists of residential, commercial properties and approximately 13 acres of public open space. The District contains relatively narrow street rights-of-ways and small lot sizes as well as landscaped slope areas and provide "green belt" areas containing sidewalks, landscaping, and lighting.

#### ***Zones of Benefit***

The parcels, lots, subdivisions and developments within the LMD 4 are identified and grouped into ten zones of benefit referred to as "Zones". Each Zone reflects the landscape improvements associated with the development of properties in that zone, in order to fairly and equitably apportion the net cost of providing those improvements to the properties that receive specific benefits from the service and activities associated with those improvements. Most of the parcels in the District are identified as single-family and multi-family residential properties. All parcels receive specific benefits from the improvements because of the increased desirability of a parcel that is located in an area with landscaping, and open space areas. Public agency parcels within the District will not be used for residential purposes or commercial/industrial purposes, and therefore, do not receive specific benefit and will not be assessed. The assessments proposed to be levied on each property do not exceed the reasonable cost of proportionate specific benefit conferred on each property from the funded improvements.

The following is a brief description of the District zones.

#### ***Zone A1***

Parcels in this zone are commercial properties, which are located at the intersections of major arterial roadways. These parcels benefit from the District improvements to a lesser degree due to their proximity to the open space areas. Nonetheless, the parcels are benefited by aesthetically pleasing landscaping and open space areas which enhance the desirability of living in the District, because its promotion of evening business and industry vitality, and contribution to a positive nighttime visual image.

#### ***Zone A2***

Parcels in this zone are condominium type homes within open space areas located along the fringes of the zone. Due to the nature and higher density of the parcels and the higher intensity of the property use, the parcels derive benefits such as providing a more peaceful and relaxed lifestyle due to the surrounding open space areas. Each parcel is assessed per dwelling unit.

### Zone A3

Parcels in this zone are made up of condominiums and apartment complexes with smaller areas of open space within the zone. Due to the denser housing within this zone, Zone A3 is distinctly benefited by the interspersed open space areas within the zone. Although open space areas are smaller than in other zones, the incorporation of such areas into Zone A3's higher intensity property uses peculiarly benefits Zone A3's parcels by providing aesthetically pleasing landscaping and enhancing the desirability of living in Zone A3. Each parcel is assessed per dwelling unit.

### Zone A4

Parcels in this zone are condominium type homes. The open space areas are in close proximity to the condominiums in this zone, thus providing the zone's parcels with benefits such as the enhancement of quality of life within the community characterized by openness, landscape and natural vistas, wildlife and relaxed, peaceful living. Each parcel is assessed per dwelling unit.

### Zone A5

Parcels in this zone are made up of detached single family homes with large open space areas in close proximity. Zone A5 parcels derive a benefit particular to their zone, based on the significant size and proximity of the open space areas to the parcels. The large open spaces in the vicinity of the parcels contribute to lower housing density due to the dedication of acreage for landscaping and natural areas, which thereby reduce the number of buildable parcels. Each parcel is assessed per dwelling unit.

### Zone A6

Parcels in this zone are made up of detached single family homes with open space areas located along the rings of the zone. Having the open space areas along the perimeter of the zone is advantageous to the parcels within the zone due to the open space areas' positive results on the parcels, such as attracting natural flora and fauna, providing a more peaceful and relaxed lifestyle. Each parcel is assessed per dwelling unit.

### Zone A7

Parcels in this zone are made up of detached single family homes. The open space areas are in close proximity to the single family homes. These open space areas are connected with paths that include concrete sidewalks and lights. These paths provide for safe pedestrian travel within the zone and into adjacent zones. Each parcel is assessed per dwelling unit.

### Zone A8

Parcels in this zone are made up of courtyards with open space areas located along the rings of the zone that provide a barrier from the major arterial roadway. The strategic location of open space areas at the ring create an aesthetically pleasing yet practical perimeter around the zone, which provides a more peaceful and relaxed lifestyle by attracting natural flora and fauna to Zone A8 parcels.



Because of the close proximity to major arterial roadways, could not otherwise receive such benefit. Moreover, the higher-intensity property use receives a significant benefit from the natural vistas and landscaping provided by the open space areas. Each parcel is assessed per dwelling unit.

### Zone A9

Parcels in this zone are made up of duplexes. The open space areas are in close proximity to the duplexes and are connected by paseos. The paseos are improved with concrete sidewalks and lights. These paseos provide for safe pedestrian travel within the zone and into adjacent zone and promote social interaction. Each parcel is assessed per dwelling unit.

### Zone A10

Parcels in this zone are made up of exempt properties. Exempt parcels include all publicly owned property that do not benefit from the District Improvements such as public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, all public easements, and right-of-ways, all public parks, public greenbelts and parkways, and all public property being used for public purposes.

### Landscape Maintenance District No. 6

LMD 6 is located in the easterly end of the City known as South Hills on the easterly-sloping slopes of the San Jose Hills. The District contains 3 single-family dwellings, approximately 100 acres of lands irrigated and irrigated area, and approximately 100 acres of natural area.

### Landscape Maintenance District No. 7

LMD 7 is generally located in the easterly end of the City on the north-sloping slopes of the San Jose Hills. Currently, the District contains 300 developed single-family residential parcels, approximately 1000 acres of lands irrigated and irrigated areas and 1000 acres of natural area. That is only 10 percent developed. When development is 100 percent complete, the District will contain 300 developed single-family residential parcels, 1000 acres of lands irrigated and irrigated area, and 1000 acres of natural area.

LMD 7 contains one classification based on development status. One C1 consists of undeveloped parcels. One C2 consists of developed parcels. These properties receive the greater benefit from the services provided.

## C. DESCRIPTION OF DISTRICT IMPROVEMENTS

### Landscape Maintenance District No. 4

The existing facilities to be maintained and serviced in LMD 4 include public open space area, lighting, parkway, and manufactured slopes and appurtenant facilities. There are approximately 1300 acres of open space within the District. LMD 4

contains ligated pases and approximately 3 to 4 foot landsloped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and more of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance repairs.

The District will fund the costs in connection with the district maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities and improvements have been constructed within the District and will be maintained and serviced as described as follows:

#### **Landscaping and Appurtenant Facilities**

Facilities include but are not limited to landsloping, planting, shrubbery, trees, irrigation system, roadslope, fixtures, side-slope maintenance resulting from landslope growth and appurtenant facilities, in public right-of-way, parcels, and dedicated easements within the boundaries of said District.

#### **Lighting and Appurtenant Facilities**

Facilities include but are not limited to poles, fixtures, bulbs, conduits, conductors, equipment including guys, anchors, posts and pedestals, metering devices and appurtenant facilities as required to provide lighting in the public right-of-way and dedicated easements within the boundaries of said District.

The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

### **Landscape Maintenance District No. 6**

The existing facilities to be maintained and serviced in LMD include public open space, manufactured slopes, and appurtenant facilities. There are approximately 10 acres of landsloped and irrigated area and 10 acres of natural open space within the District. LMD contains approximately 3 to 4 foot landsloped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and more of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance repairs.

The District will fund the costs in connection with the District maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities are described as follows:

#### **Landscaping and Appurtenant Facilities**

Utilities include but are not limited to trees, irrigation system, landscape, fixtures, side-slope maintenance resulting from landscape growth and appurtenant utilities, in open spaces and dedicated easements within the boundaries of the District.

The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

### **Landscape Maintenance District No. 7**

The existing utilities to be maintained and serviced in LMD include public open spaces and manufactured slopes and appurtenant utilities. Upon completion, the District will contain 22 acres of landscaped and irrigated areas and 122 acres of natural open space. LMD contains landscaped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and care of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance and repairs.

The District will fund the costs in connection with the District maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these utilities. The utilities are described as follows:

#### **Landscaping and Appurtenant Facilities**

Utilities include but are not limited to trees, irrigation system, landscape, fixtures, side-slope maintenance resulting from landscape growth and appurtenant utilities, in public open space areas and dedicated easements within the boundaries of the District.

The detailed plans and specifications of the District Improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

### III. METHOD OF APPORTIONMENT

#### A. GENERAL

The 1999 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance and servicing of public lights, landscaping, and appurtenant utilities. The 1999 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value.

Section 3 defines the net amount to be assessed as follows:

*“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”*

Furthermore, Article III D Section 1 of the Constitution states that:

*“The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the property related service being provided.”*

The formula used for calculating assessments reflects the composition of the parcels and the improvements and services provided within the Districts to fairly apportion the costs based on estimated special benefit to each parcel.

#### B. BENEFIT ANALYSIS

Each of the improvements, the associated costs and assessments of the Districts have been reviewed, identified, and allocated based on special benefit pursuant to the provisions of the Constitution and 1999 Act. The improvements associated with each District have been identified as necessary, required and/or desired for the orderly development of the properties within the Districts to their full potential, consistent with the proposed development plans and applicable portions of the development plans such, these improvements could be necessary and required of individual property owners for the development of such properties, and the ongoing operation, servicing and maintenance of these improvements could be the financial obligation of those properties. Therefore, the improvements and the annual costs of ensuring the maintenance and operation of the improvements are of special benefit to the properties in the Districts.

The method of apportionment method of assessment is based on the premise that each assessed parcel within the Districts receives special benefit from the improvements where the parcel is located as well as from adjacent landscaping and public street lighting improvements. The desirability and security of properties

is enhanced by the presence of street lighting, well maintained landscaping and open space areas in close proximity to those properties.

The specific benefits of landscaping and open space improvements within the Districts are specifically:

- Enhanced desirability of properties through association with the improvements.
- Improved aesthetic appeal of properties providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space, open space areas, and landscaping.
- Environmental enhancement through improved erosion resistance, dust and debris control, and fire prevention.
- Increased sense of pride in ownership of property within the Districts resulting from well-maintained improvements associated with the properties.
- Reduced criminal activity and property-related crimes (especially vandalism) against properties in the Districts through well-maintained surroundings and amenities including appropriate lighting.
- Enhanced environmental quality of the parcels by moderating temperatures, providing oxygenation, and attenuating noise.

The specific benefits of street lighting are the convenience, safety, and security of property, improvements, and goods. Specifically:

- Enhanced deterrence of crime and the aid to police protection.
- Increased nighttime safety on roads and streets.
- Improved ability of pedestrians and motorists to see.
- Improved ingress and egress to property.
- Reduced vandalism and other criminal acts and damage to improvements or property.
- Improved traffic circulation and reduced nighttime accidents and personal property loss.
- Increased promotion of business during nighttime hours in the case of commercial properties.

The preceding specific benefits contribute to a specific enhancement and desirability of each of the assessed parcels within the Districts. Although the improvements may include landscaping and lighting improvements and other amenities available or visible to the public at large, the construction and installation of these improvements are only necessary for the development of properties within

the Districts and are not required nor necessarily desired by any properties or developments outside the Districts boundary. Therefore, any public access or use of the improvements by others is incidental and there is no measurable general benefit to properties outside the Districts or to the public at large.

### C. ASSESSMENT METHODOLOGY

The method of apportionment for the Districts calculates the receipt of specific benefit from the respective improvements based on the actual or proposed land use of the parcels. The specific benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel's actual land use or proposed planned development and is reliant upon the specific benefit received from the improvements planned for each District.

To identify and determine the specific benefit to be received by each parcel, it is necessary to consider the entire scope of each District improvements as well as individual property development within the Districts. The costs associated with the improvements shall be fairly distributed among the parcels based upon the specific benefit received by each parcel. Additionally, in compliance with the Constitution, each parcel's assessment may not exceed the reasonable cost of the proportional specific benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon total improvements that benefit the parcels as well as the proposed land use of each property is compared to other parcels that benefit from those specific improvements.

#### Assessment Units

To assess benefits equitably, it is necessary to relate the different type of parcel improvements to each other. The Assessment Unit ("AU") method of assessment apportionment uses the single-family home site as the basic unit of assessment. A single-family home site equals one AU. Every other land use is converted to AUs based on an assessment formula that equates the property's specific development status, type of development and use, and size of property, is compared to a single-family home site.

The AU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1990 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size, and development.

The following formula is used to calculate each parcel's AU proportioned benefit or LMD and LMD AU.

$$\text{Parcel Type AU} \times \text{Acreage/Dwelling Units/Parcel/Lot} = \text{Parcel AU}$$

The total number of assessment Units ("AU's") is the sum of the individual AUs applied to the parcels that receive a specific benefit from the improvements. An assessment amount per AU ("Rate") is established by taking the total cost of the

improvements including administration costs and dividing that amount by the total number of lots of the parcels benefiting from the improvements. This Rate is then applied back to each parcel's individual AU to determine the parcel's proportionate benefit and assessment obligation.

$$\text{Total Balance to Levy} / \text{Total AU} = \text{Rate per AU}$$

$$\text{Rate per AU} \times \text{Parcel AU} = \text{Parcel Levy Amount}$$

## Landscape Maintenance District No. 4

**Single-Family Residential** – This land use is defined as fully subdivided residential home site lot or lot-out structure or planned single-family residential lot as identified by a submitted or approved tentative tract map or final tract map. This land use is assessed, 1¢ per lot or parcel. This is the base value that other land use types are compared and weighted against the assessment unit or units.

**Multi-Family Residential** – This land use is defined as a fully subdivided residential parcels that includes duplexes, apartments and condominiums identified by a submitted or approved tentative tract map or final tract map. This land use is assessed, 1¢ per dwelling unit.

**Developed Commercial** – This land use is defined as property developed for either commercial or industrial use. This type of property receives greater benefit than Single Family or Multi-Family property due to typically larger lot size in relation to residential properties. The commercial properties within zone 01 are grouped into three different areas with pre-designed assessment units at the time of formation. For any newly developed commercial properties, they will be assessed, 1¢ per acreage with a minimum of 0.001 acres.

**Exempt Parcels** – This land use identified properties that are not assessed and are assigned 0¢. This land use classification may include, but is not limited, to lots or parcels identified as public streets and other roadways (typically not assigned an APN by the County), dedicated public easements, open space areas and right-of-ways, common areas, sliver parcels and curved lots or any other property that cannot be developed. Properties and other publicly owned properties that are part of the District improvements and are therefore exempted from assessment.

The following table provides a listing of land use types, land use code designations, the Equivalent Benefit Unit factor applied to that land use type, and the multiplying factor used to calculate each parcel's individual AU.

## Land Use Codes and Assessment Units

| Property Type             | Land Use Code | Assessment Units | Multiplier     |
|---------------------------|---------------|------------------|----------------|
| Single Family Residential | SFR           | 1.000            | Lot/Parcel     |
| Multi-Family Residential  | MFR           | 1.000            | Unit           |
| Developed Commercial      | COM           | 0.000            | Square Footage |
| Exempt Parcel             | EEE           | 0.000            | Parcel         |

The benefit formula applied to parcels within LMD is based on the preceding table. Each parcel's BU correlates the parcel's special benefit received as compared to the other parcels benefiting from the improvements.

The following table summarizes the assessment rates for LMD.

**City of West Covina  
Landscape Maintenance District No. 4  
FY 2023/2024 Preliminary Assessment Summary and Comparison**

| Zone         | % of Budget    | Parcel Count | Assessment Units | FY 2022/23 Assessment Rates | FY 2023/24 Proposed Assessment Rates | Total Assessment      |
|--------------|----------------|--------------|------------------|-----------------------------|--------------------------------------|-----------------------|
| 01           | 1.001%         | 31           | 0.01000          | 0.00010                     | 0.00010                              | 0.00,10100            |
| 02           | 1.000%         | 01           | 0.01000          | 0.00000                     | 0.00000                              | 1,00000               |
| 03           | 0.000%         | 300          | 1,303.000        | 0.00033                     | 0.00033                              | 0.00,00300            |
| 04           | 0.000%         | 000          | 0.00000          | 0.03000                     | 0.03000                              | 11,00000              |
| 05           | 3.000%         | 100          | 1.00000          | 0.00000                     | 0.00000                              | 0.00,00300            |
| 06           | 0.13%          | 000          | 0.00000          | 0.00000                     | 0.00000                              | 0.1,33000             |
| 07           | 0.0000%        | 1,003        | 1,003.000        | 0.30000                     | 0.30000                              | 0.03,00000            |
| 08           | 1.0000%        | 110          | 0.00000          | 0.30000                     | 0.30000                              | 1.00,00300            |
| 09           | 1.0001%        | 133          | 0.00000          | 0.00000                     | 0.00000                              | 1.03,00000            |
| 10           | 0.000%         | 0            | 0.000            | 0.0000                      | 0.0000                               | 0.000                 |
| <b>Total</b> | <b>100.00%</b> | <b>3,230</b> | <b>5,162.00</b>  |                             |                                      | <b>\$1,162,826.91</b> |

### BENEFIT ZONE LEGEND

- 01 Commercial Property
- 02 Condos Triangle Area, East of 6th Avenue and north of Woodgrove Park
- 03 Condos Minimum Maintenance Benefit
- 04 Condos Medium Maintenance Benefit
- 05 Single Family Triangle Area (Special Area, East of 6th Avenue and north of Main Road)
- 06 Single Family Medium Maintenance Benefit
- 07 Single Family Maximum Maintenance Benefit
- 08 Purple Minimum Maintenance Benefit
- 09 Duplex Minimum Maintenance Benefit
- 10 Exempt Parcels

### Landscape Maintenance District No. 6



**Single-Family Residential** – This land use is defined as fully subdivided residential home site with or without structure or planned single-family residential lot as identified by a submitted or approved tentative tract map or final tract map. This land use is assessed, 1¢ per lot or parcel. This is the base value that other land use types are compared and weighted against the assessment unit or AU.

The following table summarizes the assessment rates for Single Family Residential properties in LMD and compares the proposed assessment with the prior year's assessment.

**City of West Covina**  
**Landscape Maintenance District No. 6**  
**FY 2023/2024 Preliminary Assessment Summary and Comparison**

| Land Use Class            | Parcel Count | AU            | FY 2022/2023 Assessment Rate | FY 2023/2024 Proposed Assessment Rate | Total Assessment    |
|---------------------------|--------------|---------------|------------------------------|---------------------------------------|---------------------|
| Single Family Residential | 238          | 238.00        | 0.000000                     | 0.000000                              | \$100,000.00        |
| <b>Total</b>              | <b>238</b>   | <b>238.00</b> |                              |                                       | <b>\$154,700.00</b> |

**Landscape Maintenance District No. 7**

The following table summarizes the different assessment rates for the different zone classifications in LMD and compares the proposed assessment with the prior year's assessment.

**City of West Covina**  
**Landscape Maintenance District No. 7**  
**FY 2023/2024 Preliminary Assessment Summary and Comparison**

| Zone         | Parcel Count | FY 2022/2023 Assessment Rate | FY 2023/2024 Proposed Assessment Rate | Total Assessment    |
|--------------|--------------|------------------------------|---------------------------------------|---------------------|
| C1           | 1            | 0.130000                     | 0.130000                              | \$1,113.00          |
| C2           | 379          | 0.000000                     | 0.000000                              | 100,000.00          |
| <b>Total</b> | <b>380</b>   |                              |                                       | <b>\$173,744.08</b> |

## IV. ESTIMATE OF COSTS

The 100000 provides that the estimated costs of the improvements shall include the total cost of the improvements, including incidental expenses.

The 100000 also provides that the amount of any surplus, deficit, or contribution be included in the estimated cost of improvements. The net amount to be assessed on the lots or parcels within each District are the total cost of maintenance, and servicing of adjustments either positive or negative for reserves, surpluses, deficits, and/or contributions.

### A. CAPITAL IMPROVEMENT FUND

For this Year 2023, there are no capital improvements for any of the Districts.

| Projects |  |                 |
|----------|--|-----------------|
| District | Description  | Estimated Costs |
| LMD      | Replacement of curbs, repair and replacement of light standards and conversion of existing light fixtures to LED | \$100,000       |
| LMD      | Light fixtures and all of comprehensive tree removal and replacement   | \$100,000       |
| LMD      |  | \$100,000       |

### B. PROPOSED INCREASE SCOPE OF WORK

Located in the budgets is the proposed increase in scope of maintenance for all optimal levels for the Districts.

#### Landscape Maintenance District No. 4

LMD contains lighted pavers and approximately 30 to 40 foot landsloped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and care of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance repairs. Increased scope of work for LMD is recommended to include the modification of the paver lighting to LED for energy cost savings, repair and replacement of light standards, curbs, repair and replacement of sidewalks, graded and broken areas, tree trimming of the hillside trees on a trimming cycle, and landscape maintenance including tree removal and clearing of the hillside plants and shrubbery. It is estimated that the budget required for the increased lighting, curbs, and landscaping scope is approximately double the existing budget.

#### Landscape Maintenance District No. 6

LMD contains approximately 30 to 40 foot landsloped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and care of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance repairs. Increased scope of work for

the LMD is recommended to include the repair and replacement of light standards, roadside repair and replacement of curbside, cracked and broken curbs, tree trimming of the hillside trees on a trimming cycle, and landscape maintenance including trash removal and clearing of the hillside plants and shrubbery. It is estimated that the budget required for the increased lighting, roadside, and landscape scope is approximately double the existing budget.

### **Landscape Maintenance District No. 7**

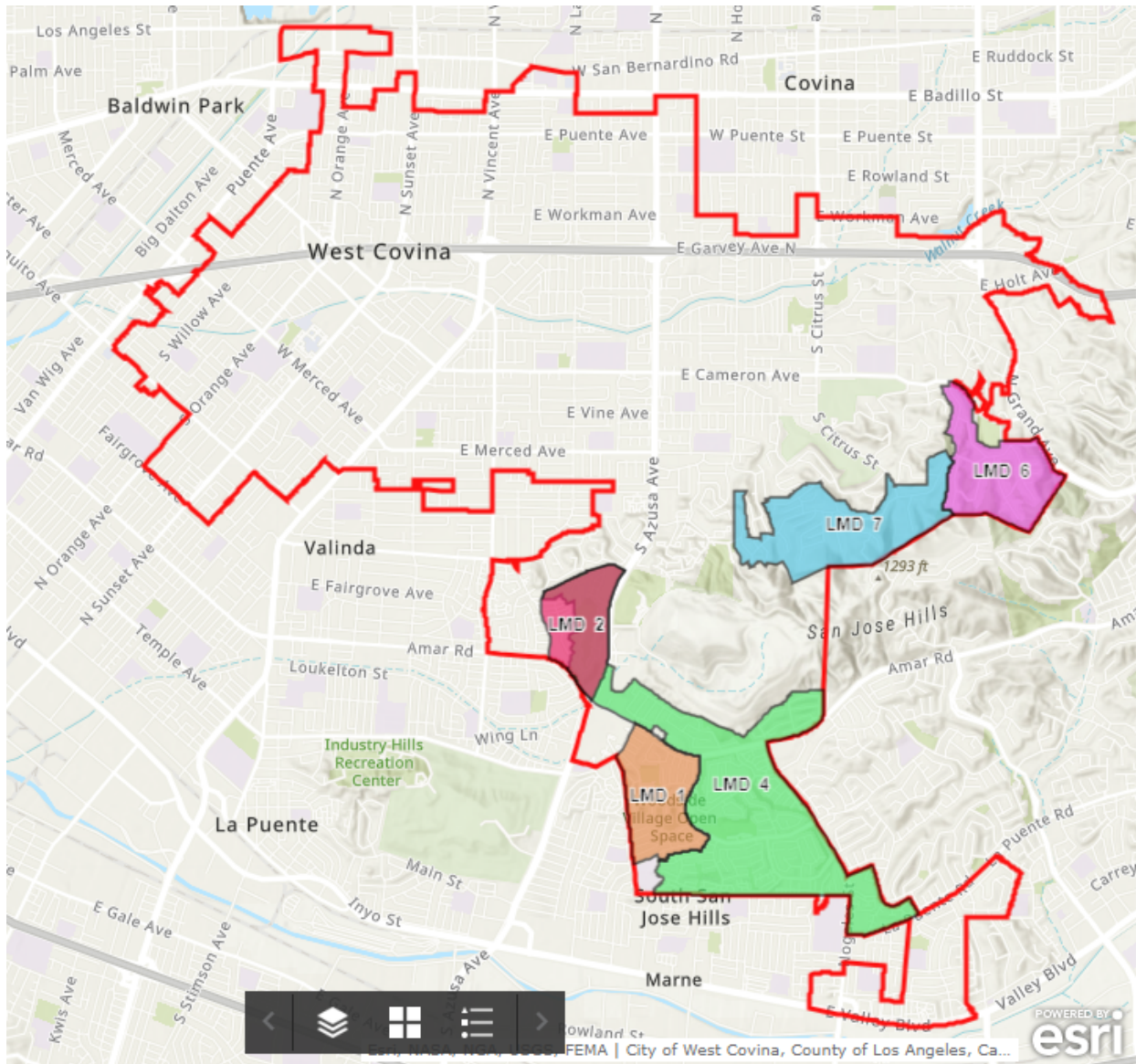
LMD contains landscaped hillside slopes vegetated with plants, shrubbery, and trees. The current scope of work for the operations, maintenance, and care of these areas include 3 to 4 feet of fire clearing at the tops and toes of slopes and irrigation maintenance and repairs. Increased scope of work for LMD is recommended to include tree trimming of the hillside trees on a trimming cycle and landscape maintenance including trash removal and clearing of the hillside plants and shrubbery. It is estimated that the budget required for the increased and landscape maintenance and operations scope is approximately double the existing budget.

### C. SUMMARY OF COSTS

| Levy Component<br>DIRECT COSTS                | LMD 4                   |                        | LMD 6                   |                        | LMD 7                   |                        |
|---|-------------------------|------------------------|-------------------------|------------------------|-------------------------|------------------------|
|   | Existing<br>Maintenance | Optimal<br>Maintenance | Existing<br>Maintenance | Optimal<br>Maintenance | Existing<br>Maintenance | Optimal<br>Maintenance |
| Personnel Services                            | \$100,000               | \$100,011              | \$30,001                | \$30,000               | \$100,300               | \$100,010              |
| Maintenance Contracts                         | \$30,300                | \$1,100,000            | \$101,100               | \$30,000               | \$0,030                 | \$100,000              |
| Utilities (Electricity & Water)               | \$30,000                | \$1,310,001            | \$0,103                 | \$130,300              | \$0,000                 | \$100,000              |
| Maintenance Supplies                          | \$3,010                 | \$0,000                | \$0                     | \$0                    | \$0                     | \$0                    |
| Property and Liability Insurance              | \$110                   | \$10,030               | \$13,031                | \$0,000                | \$11,000                | \$0,000                |
| PDES  | \$0,000                 | \$100,000              | \$0,000                 | \$10,000               | \$0,000                 | \$10,000               |
| Capital Improvement Project                   | \$30,000                | \$30,000               | \$100,000               | \$30,000               | \$100,000               | \$30,000               |
| <b>Total Direct Costs</b>                     | <b>\$1,698,963</b>      | <b>\$3,397,927</b>     | <b>\$386,194</b>        | <b>\$772,389</b>       | <b>\$365,792</b>        | <b>\$731,584</b>       |
| <b>ADMINISTRATION COSTS</b>                   |                         |                        |                         |                        |                         |                        |
| Levy Administration and Professional Services | \$3,003                 | \$3,003                | \$0,300                 | \$0,300                | \$0,300                 | \$0,300                |
| County Collection Fee                         | \$000                   | \$000                  | \$00                    | \$00                   | \$100                   | \$100                  |
| City Overhead and Administration              | \$100,100               | \$300,300              | \$30,300                | \$00,003               | \$3,000                 | \$00,100               |
| <b>Total Administration Costs</b>             | <b>\$159,034</b>        | <b>\$313,218</b>       | <b>\$38,752</b>         | <b>\$75,133</b>        | <b>\$46,074</b>         | <b>\$89,658</b>        |
| <b>COLLECTIONS/(CREDITS) APPLIED TO LEVY</b>  |                         |                        |                         |                        |                         |                        |
| <b>TOTAL DIRECT AND ADMIN COSTS</b>           | <b>\$1,857,997</b>      | <b>\$3,711,145</b>     | <b>\$424,946</b>        | <b>\$847,522</b>       | <b>\$411,866</b>        | <b>\$821,242</b>       |
| Reserve Collection Transfer                   | \$1000,1000             | \$100,000,3100         | \$100,0000              | \$1000,0000            | \$130,1000              | \$1000,0000            |
| Capital Improvement Fund Collection Transfer  | \$1000,0000             | \$1000,0000            | \$100,0000              | \$1000,0000            | \$100,0000              | \$1000,0000            |
| General Benefit Contribution                  | \$0                     | \$0                    | \$0                     | \$0                    | \$0                     | \$0                    |
| General Fund/Other Revenue Contributions      | \$0                     | \$0                    | \$0                     | \$0                    | \$0                     | \$0                    |
| <b>Total Collections/(Credits)</b>            | <b>(\$695,170)</b>      | <b>(\$2,548,318)</b>   | <b>(\$270,246)</b>      | <b>(\$692,822)</b>     | <b>(\$238,122)</b>      | <b>(\$647,498)</b>     |
| <b>Balance to Levy (Budgeted)</b>             | <b>\$1,100,000</b>      | <b>\$1,100,000</b>     | <b>\$100,000</b>        | <b>\$100,000</b>       | <b>\$103,000</b>        | <b>\$103,000</b>       |
| <b>FUND BALANCE INFORMATION</b>               |                         |                        |                         |                        |                         |                        |
| <b>Estimated Beginning Fund Balance</b>       | <b>\$2,186,547</b>      | <b>\$2,186,547</b>     | <b>\$275,169</b>        | <b>\$275,169</b>       | <b>\$403,355</b>        | <b>\$403,355</b>       |
| Reserve Fund Adjustments                      | \$1000,1000             | \$100,000,3100         | \$100,0000              | \$1000,0000            | \$130,1000              | \$1000,3010            |
| Interest                                      | \$10,000                | \$10,000               | \$0,000                 | \$0,000                | \$3,130                 | \$3,130                |
| 1011 Debt District Adjustments                | \$0,000                 | \$0,000                | \$0                     | \$0                    | \$0                     | \$0                    |
| Capital Improvement Adjustments               | \$1000,0000             | \$1000,0000            | \$100,0000              | \$1000,0000            | \$100,0000              | \$1000,0000            |
| <b>Estimated Ending Reserve Balance</b>       | <b>\$1,518,337</b>      | <b>(\$334,811)</b>     | <b>\$6,983</b>          | <b>(\$415,593)</b>     | <b>\$168,363</b>        | <b>\$244,134</b>       |

## V. DISTRICT BOUNDARY DIAGRAMS

The diagram showing the exterior boundaries of the Districts, boundaries of any open space within the Districts, and the lines and dimensions of each lot or parcel within the Districts is on file in the office of the City Community Development Department, Engineering Division, and incorporated herein by reference. The lines and dimensions shown on the Los Angeles County Assessor's parcel maps for the current year are incorporated by reference and made part of this Report.



## VI. ASSESSMENT ROLL

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Parcel identification, for each lot or parcel within the Districts, shall be the parcel as shown on the Los Angeles County Assessor Parcel Maps and/or the Los Angeles County Sealed Tax Roll for the year in which this Report is prepared. The proposed assessment for each parcel within the Districts has been prepared in accordance with the assessment rates presented in the Budget and the method of apportionment described in this report and has been presented to the City Clerk under a separate cover.

Non-assessable lots or parcels may include government owned land, public utility owned property, land principally encumbered with public right-of-ways or easements and dedicated common areas.

The assessment information for each parcel as outlined in this Report and confirmed by the City Council, shall be submitted to the County Auditor/Controller, and included on the property tax roll for its year 2023. The parcels or assessment numbers within the Districts and referenced by this Report are re-numbered, reapportioned or changed by the County Assessor's Office after approval of the Report, the new parcel or assessment numbers with the appropriate assessment amount will be submitted to the County Auditor/Controller. If the parcel change made by the County includes a parcel split, parcel merger or tax status change, the assessment amount submitted on the new parcels or assessment numbers will be based on the method of apportionment and assessment rates approved in this Report by the City Council.

**City of West Covina**  
**Landscape Maintenance District No. 4**  
**10 Year Fiscal Projection**

| Percent Increase                 | 0%                 | 0%                 | 0%                 | 0%                 | 0%                 | 0%                   | 0%                   | 0%                   | 0%                   | 0%                   |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Fiscal Year                      | 23-24              | 24-25              | 25-26              | 26-27              | 27-28              | 28-29                | 29-30                | 30-31                | 31-32                | 32-33                |
| <b>Assessment Income</b>         | <b>\$1,162,827</b> | <b>\$1,162,827</b> | <b>\$1,162,827</b> | <b>\$1,162,827</b> | <b>\$1,162,827</b> | <b>\$1,162,827</b>   | <b>\$1,162,827</b>   | <b>\$1,162,827</b>   | <b>\$1,162,827</b>   | <b>\$1,162,827</b>   |
| Interest <sup>(1)</sup>          | 17,960             | 3,037              | 2,106              | 1,108              | 41                 | (1,096)              | (2,306)              | (3,588)              | (4,946)              | (6,380)              |
| Transfer In From LMD 2           | 9,000              | 9,000              | 9,000              | 9,000              | 9,000              | 9,000                | 9,000                | 9,000                | 9,000                | 9,000                |
| Prior Year Balance               | 2,186,547          | 1,518,337          | 1,053,044          | 554,017            | 20,532             | (548,147)            | (1,152,775)          | (1,794,119)          | (2,472,964)          | (3,190,107)          |
| <b>Total Funding</b>             | <b>\$3,376,334</b> | <b>\$2,693,201</b> | <b>\$2,226,977</b> | <b>\$1,726,952</b> | <b>\$1,192,401</b> | <b>\$622,584</b>     | <b>\$16,746</b>      | <b>(\$625,881)</b>   | <b>(\$1,306,083)</b> | <b>(\$2,024,661)</b> |
| Maintenance Costs <sup>(2)</sup> | 1,607,997          | 1,640,157          | 1,672,960          | 1,706,419          | 1,740,548          | 1,775,359            | 1,810,866            | 1,847,083            | 1,884,025            | 1,921,705            |
| Capital Improvements             | 250,000            | 0                  | 0                  | 0                  | 0                  | 0                    | 0                    | 0                    | 0                    | 0                    |
| <b>Total Cost</b>                | <b>\$1,857,997</b> | <b>\$1,640,157</b> | <b>\$1,672,960</b> | <b>\$1,706,419</b> | <b>\$1,740,548</b> | <b>\$1,775,359</b>   | <b>\$1,810,866</b>   | <b>\$1,847,083</b>   | <b>\$1,884,025</b>   | <b>\$1,921,705</b>   |
| <b>Ending Balance</b>            | <b>\$1,518,337</b> | <b>\$1,053,044</b> | <b>\$554,017</b>   | <b>\$20,532</b>    | <b>(\$548,147)</b> | <b>(\$1,152,775)</b> | <b>(\$1,794,119)</b> | <b>(\$2,472,964)</b> | <b>(\$3,190,107)</b> | <b>(\$3,946,366)</b> |
| Assessment Rate                  | Varies             | Varies             | Varies             | Varies             | Varies             | Varies               | Varies               | Varies               | Varies               | Varies               |

Notes: (1) Interest is approximately 0.4% of one-half of the previous year ending balance.

(2) 2% increase in maintenance cost each year due to inflation.

**City of West Covina  
Landscape Maintenance District No. 6  
10 Year Fiscal Projection**

| <b>Percent Increase</b>                   | <b>0%</b>        | <b>0%</b>          | <b>0%</b>          | <b>0%</b>          | <b>0%</b>          | <b>0%</b>          | <b>0%</b>            | <b>0%</b>            | <b>0%</b>            | <b>0%</b>            |
|---|------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|----------------------|----------------------|
| <b>Fiscal Year</b>                        | <b>23-24</b>     | <b>24-25</b>       | <b>25-26</b>       | <b>26-27</b>       | <b>27-28</b>       | <b>28-29</b>       | <b>29-30</b>         | <b>30-31</b>         | <b>31-32</b>         | <b>32-33</b>         |
| <b>Assessment Income</b>                  | <b>\$154,700</b> | <b>\$154,700</b>   | <b>\$154,700</b>   | <b>\$154,700</b>   | <b>\$154,700</b>   | <b>\$154,700</b>   | <b>\$154,700</b>     | <b>\$154,700</b>     | <b>\$154,700</b>     | <b>\$154,700</b>     |
| Interest <sup>(1)</sup>                   | 2,060            | 14                 | (339)              | (707)              | (1,089)            | (1,485)            | (1,896)              | (2,322)              | (2,764)              | (3,222)              |
| Prior Year Balance                        | 275,169          | 6,983              | (169,748)          | (353,461)          | (544,303)          | (742,424)          | (947,976)            | (1,161,114)          | (1,381,997)          | (1,610,787)          |
| <b>Total Funding</b>                      | <b>\$431,929</b> | <b>\$161,697</b>   | <b>(\$15,387)</b>  | <b>(\$199,468)</b> | <b>(\$390,692)</b> | <b>(\$589,209)</b> | <b>(\$795,172)</b>   | <b>(\$1,008,736)</b> | <b>(\$1,230,061)</b> | <b>(\$1,459,308)</b> |
| Maintenance Costs <sup>(2)</sup>          | 324,946          | 331,445            | 338,074            | 344,835            | 351,732            | 358,767            | 365,942              | 373,261              | 380,726              | 388,341              |
| Capital Improvements                      | 100,000          | 0                  | 0                  | 0                  | 0                  | 0                  | 0                    | 0                    | 0                    | 0                    |
| <b>Total Cost</b>                         | <b>\$424,946</b> | <b>\$331,445</b>   | <b>\$338,074</b>   | <b>\$344,835</b>   | <b>\$351,732</b>   | <b>\$358,767</b>   | <b>\$365,942</b>     | <b>\$373,261</b>     | <b>\$380,726</b>     | <b>\$388,341</b>     |
| <b>Ending Balance</b>                     | <b>\$6,983</b>   | <b>(\$169,748)</b> | <b>(\$353,461)</b> | <b>(\$544,303)</b> | <b>(\$742,424)</b> | <b>(\$947,976)</b> | <b>(\$1,161,114)</b> | <b>(\$1,381,997)</b> | <b>(\$1,610,787)</b> | <b>(\$1,847,649)</b> |
| Assessment of Highest Zone <sup>(3)</sup> | \$650            | \$650              | \$650              | \$650              | \$650              | \$650              | \$650                | \$650                | \$650                | \$650                |

Notes: (1) Interest is approximately 0.4% of one-half of the previous year ending balance.

(2) 2% increase in maintenance cost each year due to inflation.

(2) Previously approved maximum highest rate of \$650, may not be increased further without vote.



**City of West Covina**  
**Landscape Maintenance District No. 7**  
**10 Year Fiscal Projection**

| Percent Increase                    | 0%               | 0%               | 0%                 | 0%                 | 0%                 | 0%                 | 0%                 | 0%                 | 0%                   | 0%                   |
|-------------------------------------|------------------|------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|
| Fiscal Year                         | 23-24            | 24-25            | 25-26              | 26-27              | 27-28              | 28-29              | 29-30              | 30-31              | 31-32                | 32-33                |
| <b>Assessment Income</b>            | <b>\$173,744</b> | <b>\$173,744</b> | <b>\$173,744</b>   | <b>\$173,744</b>   | <b>\$173,744</b>   | <b>\$173,744</b>   | <b>\$173,744</b>   | <b>\$173,744</b>   | <b>\$173,744</b>     | <b>\$173,744</b>     |
| Interest <sup>(1)</sup>             | 3,130            | 337              | 49                 | (253)              | (568)              | (896)              | (1,239)            | (1,597)            | (1,969)              | (2,356)              |
| Prior Year Balance                  | 403,355          | 168,363          | 24,340             | (126,332)          | (283,796)          | (448,193)          | (619,671)          | (798,378)          | (984,467)            | (1,178,092)          |
| <b>Total Funding</b>                | <b>\$580,229</b> | <b>\$342,444</b> | <b>\$198,133</b>   | <b>\$47,159</b>    | <b>(\$110,619)</b> | <b>(\$275,345)</b> | <b>(\$447,166)</b> | <b>(\$626,231)</b> | <b>(\$812,691)</b>   | <b>(\$1,006,704)</b> |
| Maintenance Costs <sup>(2)</sup>    | 311,866          | 318,103          | 324,465            | 330,955            | 337,574            | 344,325            | 351,212            | 358,236            | 365,401              | 372,709              |
| Capital Improvements                | 100,000          | 0                | 0                  | 0                  | 0                  | 0                  | 0                  | 0                  | 0                    | 0                    |
| <b>Total Cost</b>                   | <b>\$411,866</b> | <b>\$318,103</b> | <b>\$324,465</b>   | <b>\$330,955</b>   | <b>\$337,574</b>   | <b>\$344,325</b>   | <b>\$351,212</b>   | <b>\$358,236</b>   | <b>\$365,401</b>     | <b>\$372,709</b>     |
| <b>Ending Balance</b>               | <b>\$168,363</b> | <b>\$24,340</b>  | <b>(\$126,332)</b> | <b>(\$283,796)</b> | <b>(\$448,193)</b> | <b>(\$619,671)</b> | <b>(\$798,378)</b> | <b>(\$984,467)</b> | <b>(\$1,178,092)</b> | <b>(\$1,379,413)</b> |
| Developed Lot Rate <sup>(3)</sup>   | \$464.06         | \$464.06         | \$464.06           | \$464.06           | \$464.06           | \$464.06           | \$464.06           | \$464.06           | \$464.06             | \$464.06             |
| Undeveloped Lot Rate <sup>(4)</sup> | \$139.22         | \$139.22         | \$139.22           | \$139.22           | \$139.22           | \$139.22           | \$139.22           | \$139.22           | \$139.22             | \$139.22             |

Notes: <sup>(1)</sup> Interest is approximately 0.4% of one-half of the previous year ending balance.

<sup>(2)</sup>

2% increase in maintenance cost each year due to inflation.

<sup>(3)</sup>

Zone 2, developed lots

<sup>(4)</sup>

Zone 1, undeveloped lots

**West Covina  
Landscape Maintenance District's No. 4, 6 & 7  
15 Rate History**

| Fiscal Year     | LMD 4                      | LMD 6           | LMD 7           |                 |
|-----------------|----------------------------|-----------------|-----------------|-----------------|
|                 | Per AU Zone <sup>(1)</sup> | Per Unit        | Developed Lot   | Undeveloped Lot |
| <b>2023/24</b>  |                            |                 |                 |                 |
| <b>Proposed</b> | <b>\$464.00</b>            | <b>\$650.00</b> | <b>\$464.06</b> | <b>\$139.22</b> |
| 2022/23         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2021/22         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2020/21         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2019/20         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2018/19         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2017/18         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2016/17         | \$464.00                   | \$650.00        | \$464.06        | \$139.22        |
| 2015/16         | \$464.00                   | \$650.00        | \$454.96        | \$136.49        |
| 2014/15         | \$464.00                   | \$650.00        | \$454.96        | \$136.49        |
| 2013/14         | \$464.00                   | \$650.00        | \$454.96        | \$136.49        |
| 2012/13         | \$464.00                   | \$650.00        | \$446.04        | \$133.81        |
| 2011/12         | \$464.00                   | \$650.00        | \$437.29        | \$131.19        |
| 2010/11         | \$464.00                   | \$650.00        | \$428.72        | \$128.62        |
| 2009/10         | \$464.00                   | \$617.41        | \$389.74        | \$116.92        |

(1) LMD4 has nine (9) separate zones of benefit with varying assessment rates from \$49.16 to \$464.00 per assessment unit. The zone shown in the table is for a single parcel with a duplex and is the highest assessment per parcel.



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT:** WEST COVINA CITYWIDE SEWER SERVICE CHARGE PUBLIC HEARING

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**RECOMMENDATION:**

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-69- A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA APPROVING THE SEWER SERVICE CHARGES TO BE COLLECTED ON THE FISCAL YEAR 2023-24 TAX ROLL**

**BACKGROUND:**

From 1968 to 1978, the City of West Covina funded the costs of sewer maintenance and operation through the Improvement Act of 1911, which provided an ad valorem (according to value) levy used to pay for these costs. With the passage of Proposition 13, the revenues generated from the 1911 Act were reduced considerably which made it necessary to find an alternative method of funding sewer maintenance and operation costs. In Fiscal Year 1978-1979, the City Council established the Citywide Sewer Service Charge pursuant to Section 38902 of the Government Code as that alternative method.

The Sewer Service Charge funds the maintenance and operation of the City's sewer system assuring that lines are clear and flowing properly. This includes routine video inspections, jetting, and cleaning of sewer lines. The fees also fund capital improvements including purchase of sewer equipment and rehabilitation/replacement of sewer mainlines and appurtenances.

The Sewer Service Charge is based on general land use categories: residential and non-residential. A fixed fee is charged for each dwelling unit for residential property and every 667 square feet of floor area for other types of non-residential developments. Properties not connected to the sewer main lines are exempt from the charge.

**DISCUSSION:**

State law requires that a specific procedure be followed to collect the Citywide Sewer Service Charge on the annual property tax bill. The initial step is to adopt a resolution setting a date for a public hearing on the proposed rates and method of collection. The process requires that a public notice be published in a locally circulated newspaper announcing the public hearing. Mailing notices to each property owner is only required when the charges are increased above the current sewer service rate.

Although sewer charges are exempt from voter approval under Proposition 218, if a new or increased sewer charge is to be imposed, the City Council must conduct a protest hearing 45 days after mailed notice to property owners. If more than 50% of the property owners protest the fees, the fees may not be imposed. In addition, the property owners are given an opportunity to voice their concerns on the method of collection. The most efficient and least costly method of collecting the Citywide Sewer Service Charge is to place it on the annual property tax bill. The Citywide Sewer Service Charge will then be collected at the same time and in the same manner as the general property taxes.

The proposed Sewer Service Charge will remain the same as Fiscal Year 2022-23 at \$82.02 per unit.

#### **LEGAL REVIEW:**

The City Attorney's office has reviewed the resolution and approved as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Assessment rate to remain the same as in Fiscal Year 2022-23 at \$82.02
2. Provide alternative direction.

**Prepared by:** Michael Ackerman P.E.

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#### **Fiscal Impact**

##### **FISCAL IMPACT:**

For Fiscal Year 2023-24, the Citywide Sewer Service Charge rates are proposed to remain at \$82.02 per unit per year. Current FY 2022-23 beginning fund balance is \$8,463,595, total funds available is \$12,816,095, which includes \$109,900 from cash balance interest, and \$344,000 projected to received from the pre-existing ad valorem (according to value).

The preliminary operating budget for Fiscal Year 2023-24 is \$2,310,834. This includes an administration and overhead charge of \$212,610. The administration and overhead costs are derived from support services provided by various departments including: City Manager's office, City Attorney's office, City Clerk's office, Finance Department, and Human Resources Department. Support services include, but not limited to payroll, personnel recruitment, insurance claims, audits, budgets, and purchasing.

For Fiscal Year 2023-24, below are the new Capital Improvement Projects scheduled:

| Project | Project 2023-24 Budget |
|---------|------------------------|
|         |                        |

|                          |             |
|--------------------------|-------------|
| Southside CIPP Lining(1) | \$3,500,000 |
|--------------------------|-------------|

|                                     |             |
|-------------------------------------|-------------|
| Southside Sewer Main Replacement(2) | \$2,500,000 |
|-------------------------------------|-------------|

1. CIPP lining on existing sewer lines on residential streets located at south of Shadow Oak Dr and west of Shakespeare Dr
2. Sewer main replacement on existing sewer lines on Shadow Oak Dr and west of

*Shakespeare Dr*

The Preliminary Financial Report for Fiscal Year 2023-24 contains the following components:

1. Budget and Revenue Summary
2. Capital Improvement Project Fund
3. Proposed Assessment Rate
4. Revised Projected Reserve (Fiscal Year 2023-24)
5. Preliminary Sewer Charge Roll

There are no legal requirements or formal guidelines for the amount of reserves.

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**Attachments**

Attachment No. 1 - Resolution No. 2023-69

Attachment No. 2- 15 Year Rate History

Attachment No. 3- Preliminary Financial Report for Fiscal Year 23-24

Attachment No. 4- Sewer Maintenance Capital Improvement Program from 2016 Sewer System Management Plan

Attachment No. 5- 10 Year Fiscal Projection

Attachment No. 6- Sewer Capacity Evaluation (Edited in October 2016)

RESOLUTION NO. 2023-69

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, APPROVING THE SEWER SERVICE CHARGES TO BE COLLECTED ON THE FISCAL YEAR 2023-24 TAX ROLL**

**WHEREAS**, on June 26, 1978, in accordance with Section 38902 of the California Government Code, the City Council adopted Resolution No. 5726, establishing a sewer service charge exclusively for sewer operation, maintenance, and capital costs. The City collects the sewer service charge as part of the property tax roll; and

**WHEREAS**, on April 27, 1987, the City Council adopted Resolution No. 8019, amending Resolution No. 5726 to adjust the schedule of charges so that the fees collected bear a reasonable relationship to the cost of providing the services; and

**WHEREAS**, on June 6, 2017, the City Council adopted Resolution No. 2017-55, adopting a five-year schedule of annual sewer service charges for Fiscal Years 2017-18, 2018-19, 2019-20, 2020-21, and 2021-22; and

**WHEREAS**, the five-year schedule was adopted following proceedings conducted pursuant to Article XIII D, Section 6(a) of the California Constitution, which was added to the California Constitution in 1996 as part of Proposition 218; and

**WHEREAS**, a report has been filed with the City Clerk containing a description of each parcel of real property receiving sewer services and the amount of the charge for each parcel for Fiscal Year 2023-24, computed in conformity with the schedule of charges previously adopted by the City Council (the "Report"); and

**WHEREAS**, the Report is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by reference; and

**WHEREAS**, by Resolution No. 2023-43, adopted on June 20, 2023, the City Council elected to collect the sewer service charges for Fiscal Year 2023-24 on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the City's general taxes; and

**WHEREAS**, Resolution No. 2023-43 also set July 18, 2023, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina as the time and place for a public hearing (the "Hearing") on the Report; and

**WHEREAS**, notice of the Hearing was published as required by law; and

**WHEREAS**, at the Hearing, the City Council heard and considered all objections or protests, if any, to the Report; and

**WHEREAS**, the City Council now desires to cause the collection of the sewer service charges as listed in the Report.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council determines that the charges set forth in the Report are correct and approves each such charge.

**SECTION 2.** The City Clerk is directed to file a copy of the Report with the Los Angeles County Auditor-Controlled pursuant to Section 5473.4 of the California Health and Safety Code.

**SECTION 3.** The City Clerk shall certify to the adoption of this resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

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Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, Lisa Sherrick, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-69 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk

**West Covina  
Citywide Sewer Service Charges  
15 Rate History**

| <b>Fiscal Year</b> | <b>Per Dwelling<br/>Unit/Month</b> | <b>Per Dwelling<br/>Unit/Year</b> |
|--------------------|------------------------------------|-----------------------------------|
| 2023-24            | \$6.84                             | \$82.02                           |
| 2022-23            | \$6.84                             | \$82.02                           |
| 2021-22            | \$6.84                             | \$82.02                           |
| 2020-21            | \$6.51                             | \$78.12                           |
| 2019-20            | \$6.20                             | \$74.40                           |
| 2018-19            | \$5.91                             | \$70.86                           |
| 2017-18            | \$5.62                             | \$67.49                           |
| 2016-17            | \$4.69                             | \$56.24                           |
| 2015-16            | \$4.61                             | \$55.30                           |
| 2014-15            | \$4.59                             | \$55.02                           |
| 2013-14            | \$4.54                             | \$54.48                           |
| 2012-13            | \$4.44                             | \$53.31                           |
| 2011-12            | \$4.36                             | \$52.26                           |
| 2010-11            | \$4.19                             | \$50.25                           |
| 2009-10            | \$3.81                             | \$45.68                           |





# City of West Covina

## Citywide Sewer Service Charge

FISCAL YEAR 2023/2024  
PRELIMINARY FINANCIAL REPORT

Intent Meeting: June 20, 2023  
Public Hearing: July 18, 2023

27368 Via Industria  
Suite 200  
Temecula, CA 92590  
T. 951.587.3500 | 800.755.6864  
F. 951.587.3510 | 888.326.6864

Property Tax Information Line  
T. 866.807.6864

[www.willdan.com](http://www.willdan.com)



## BUDGET AND REVENUE SUMMARY

City of West Covina  
Citywide Sewer Service Charge  
Fiscal Year 2023-24  
Estimated Costs for Landscape Maintenance

|  |                    |                     |
|--|--------------------|---------------------|
| <b>Previous Fiscal Year Fund Balance</b>                       |                    | <b>\$8,463,595</b>  |
| <b>Revenues</b>  |                    |                     |
| Assessment Income (Total Balance to Levy)                      | \$3,860,678        |                     |
| Property Tax Revenue (Ad Valorem)                              | 344,000            |                     |
| Interest   | 109,900            |                     |
| <b>Total Projected Revenue</b>                                 |                    | <b>\$4,314,578</b>  |
| <b>Expenditures</b>  |                    |                     |
| <b>Operating</b>   |                    |                     |
| <b>Maintenance</b>   |                    |                     |
| Personnel Services   | \$1,292,885        |                     |
| Material and Services  | 13,272             |                     |
| Professional Services  | 20,660             |                     |
| Maintenance Contracts  | 357,930            |                     |
| Utilities  | 9,477              |                     |
| Vehicles   | 58,267             |                     |
| Fuel and Oil   | 14,961             |                     |
| Property & Liability Insurance                                 | 2,378              |                     |
| <b>Total Maintenance</b>                                       | <b>\$1,769,831</b> |                     |
| <b>Engineering &amp; Incidental</b>                            |                    |                     |
| Personnel Services   | \$20,134           |                     |
| Materials & Services   | 11,130             |                     |
| Consultant Services  | 21,438             |                     |
| Property & Liability Insurance                                 | 2,378              |                     |
| Administration & Overhead                                      | 113,189            |                     |
| Capital Assests  | 352,600            |                     |
| <b>Total Engineering &amp; Incidental</b>                      | <b>\$520,868</b>   |                     |
| <b>Community Enhancement</b>                                   |                    |                     |
| Personnel Services   | \$20,134           |                     |
| <b>Total Community Enhancement</b>                             | <b>\$20,134</b>    |                     |
| <b>Capital Improvement <sup>(1)</sup></b>                      | <b>\$2,000,000</b> |                     |
| <b>Capital Improvement Projects In Progress <sup>(1)</sup></b> | <b>\$6,634,600</b> |                     |
| <b>Total Operating and Capital Budget</b>                      |                    | <b>\$10,945,434</b> |
| <b>Ending Fund Balance</b>                                     |                    | <b>\$1,832,739</b>  |

<sup>(1)</sup> See Capital Improvement Project Fund Section

## CAPITAL IMPROVEMENT PROJECT FUND

For Fiscal Year 2023/2024, below are the Capital Improvement Projects scheduled:

| Project  | Project 2023/2024 Budget |
|--|--------------------------|
| Sewer Main Replacement - Portions of Glenview Rd, Michelle St, and Azusa Ave | \$2,000,000              |

For Fiscal Year 2023/2024, below are Capital Improvement Projects in progress:

| Project  | Project Budget | FY <sup>1</sup> /2024 Status |
|--|----------------|------------------------------|
| Sewer Main Replacement – on S Glenview Rd between cine and Michelle; Replace Segments on S E Michelle between S Glenview and S Azusa St; Replace Segments on S Azusa between N-E Michelle St and S-E Michelle St.              | \$1,345,200    | In Progress                  |
| Install backup generator with automatic transfer switch at ach City operated lift station  | 64,800         | In Progress                  |
| Sewer Main Replacement –on E Michelle St between 150' W/O S Mullender and S Mullender Ave  | 254,000        | In Progress                  |
| Sewer Main Replacement – Francisquito Ave between S Tonopah Ave and S Sunset Ave   | 825,000        | In Progress                  |
| Sewer Main Replacement – W Orange Ave between Cameron and Toluca   | 390,700        | In Progress                  |
| Sewer Main Replacement – W Durness St to 440 between 440' W of S Trojan Wy S Conlon Ave; Replace Segment on S Conlon Ave between W Durness and W Glenmere St. Replace Segment on Glenmere St between S Orange and S Conlon Ave | 939,100        | In Progress                  |
| Project  | Project Budget | FY 2023/2024 Status          |

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|   |         |             |
|---|---------|-------------|
| Sewer Main Replacement –on A Azusa Rd between 300 SO E Michelle and E Aroma Dr; Aroma Dr between Azusa Ave and S Donna Beth | 804,200 | In Progress |
|---|---------|-------------|

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|   |         |             |
|---|---------|-------------|
| Sewer Main Replacement –Vine St between S Rodilee and S Hilborn; Replace Segment near Greenville Dr between 700 SO Greenville and S Hidden Valley Dr; Replace Segment on Chaparal between end and Sage St | 399,200 | In Progress |
|---|---------|-------------|

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|  |            |             |
|--|------------|-------------|
| Sewer Main Replacement – E Rio Verde Dr Between S Hollenbeck and S Citrus Street | u1,359,800 | In Progress |
|--|------------|-------------|

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|                        |         |             |
|------------------------|---------|-------------|
| Structural Pipe Repair | 152,600 | In Progress |
|------------------------|---------|-------------|

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|                 |         |             |
|-----------------|---------|-------------|
| CCTV Inspection | 100,000 | In Progress |
|-----------------|---------|-------------|

|               |                    |  |
|---------------|--------------------|--|
| <b>Total:</b> | <b>\$6,274,600</b> |  |
|---------------|--------------------|--|

## ASSESSMENT RATE

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For FY <sup>1</sup>/2024, the rate will remain the same as FY 2022/2023 at \$82.02 per unit.

|             |                    |
|-------------|--------------------|
| Residential | 1 DU = 1 unit      |
| Commercial  | 667 sq ft = 1 unit |

## REVISED PROJECTED RESERVE

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| Projected Reserve Fiscal Year 2023/2024               |                           |
|---|---------------------------|
| <b>Fund Balance (as of 6/30/23)</b>                   | <b>\$8,463,595</b>        |
| Projected Revenue for FY 2023/2024                    | 4,314,578                 |
| Appropriations (Operating & Capital) for FY 2023/2024 | <u>(10,945,434)</u>       |
| <b><u>Projected Fund Balance (as of 6/30/24)</u></b>  | <b><u>\$1,832,739</u></b> |

## PRELIMINARY SEWER CHARGE ROLL

The FY 2023/2024 preliminary sewer charge roll is voluminous, has been submitted to the City Clerk, and is hereby included by reference.



| Table 3<br>Sewer Maintenance Capital Improvement Program    |              |              |            |              |              |              |              |              |              |
|---|--------------|--------------|------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Project Description   | FY 2016-17   | FY 2017-18   | FY 2018-19 | FY 2019-20   | FY 2020-21   | FY 2021-22   | FY 2022-23   | FY 2023-24   | FY 2024-25   |
|   | \$ 900,000   | \$ -         | \$ -       | \$ -         | \$ -         | \$ -         | \$ -         | \$ -         | \$ -         |
| Cameron Avenue Sewer Rehabilitation                         |              |              |            |              |              |              |              |              |              |
| Azusa Lift Station Construction                             | 600,000      | -            | -          | -            | -            | -            | -            | -            | -            |
| Closed Circuit TV Inspection                                | 100,000      | 100,000      | 100,000    | 100,000      | 100,000      | 100,000      | 100,000      | 100,000      | 100,000      |
| New Sewer Maintenance Truck and Camera                      | 190,000      | -            | -          | -            | -            | -            | -            | -            | -            |
| Sewer Cured In Place Pipe Lining                            | 152,600      | 152,600      | 152,600    | 152,600      | 152,600      | 152,600      | 152,600      | 152,600      | 152,600      |
| 82-1; Sewer Main Replacement Area 82                        | -            | 1,345,200    | -          | -            | -            | -            | -            | -            | -            |
| POWER; Install Emergency Backup Power at City Lift Stations | -            | 64,800       | -          | -            | -            | -            | -            | 64,800       | 259,200      |
| SCADA; Install SCADA Controls at City Lift Stations         | -            | 56,700       | 56,700     | -            | 56,700       | 56,700       | -            | 56,700       | 56,700       |
| 4-1; Sewer Main Replacement Area 4                          | -            | -            | 286,400    | -            | -            | -            | -            | -            | -            |
| 80-1; Sewer Main Replacement Area 80                        | -            | -            | -          | -            | -            | -            | -            | -            | -            |
| 116-3; Sewer Main Replacement Area                          | -            | -            | 254,000    | -            | -            | -            | -            | -            | -            |
| 62-2; Sewer Main Replacement Area 62                        | -            | -            | -          | 191,800      | -            | -            | -            | -            | -            |
| 116-2; Sewer Main Replacement Area                          | -            | -            | -          | 825,000      | -            | -            | -            | -            | -            |
| 132-1; Sewer Main Replacement Area                          | -            | -            | -          | 390,700      | -            | -            | -            | -            | -            |
| 117-1; Sewer Main Replacement Area                          | -            | -            | -          | -            | 939,100      | -            | -            | -            | -            |
| 82-3; Sewer Main Replacement Area 82                        | -            | -            | -          | -            | -            | 804,200      | -            | -            | -            |
| 82-4; Sewer Main Replacement Area 82                        | -            | -            | -          | -            | -            | 399,200      | -            | -            | -            |
| 62-1; Sewer Main Replacement Area 62                        | -            | -            | -          | -            | -            | -            | 1,359,800    | -            | -            |
| 82-2; Sewer Main Replacement Area 82                        | -            | -            | -          | -            | -            | -            | -            | 1,391,400    | -            |
| 116-1; Sewer Main Replacement Area                          | -            | -            | -          | -            | -            | -            | -            | -            | 666,000      |
| 161-1; Sewer Main Replacement Area                          | -            | -            | -          | -            | -            | -            | -            | -            | 143,900      |
| Total   | \$ 1,942,600 | \$ 1,719,300 | \$ 849,700 | \$ 1,660,100 | \$ 1,248,400 | \$ 1,512,700 | \$ 1,612,400 | \$ 1,765,500 | \$ 1,378,400 |

### Outstanding Debt Service

Based on review of the City's financial documents, as well as discussions with the City, it is our understanding that the City does not have any outstanding sewer related debt. For the purpose of this Analysis, any forecasted future debt is assumed to have a 1.50X debt service coverage requirement. **General Assumptions**

In order to develop the financial and rate projections, certain assumptions were made with regard to elements of the Analysis. A summary of those assumptions is presented below.

#### Growth

Based on discussion with the City, the Utility is mostly built-out. As such, it was assumed that growth in the Utility's customer base, and requisite flows, would be 0.0% per year during the forecast period. Operating Projections

For the purposes of forecasting Operating requirements of the Utility, the following escalation factors are use for the various budget line-items.

- Personnel Services – 5.0%
- Materials & Services – 3.0%
- Capital Assets – 2.0%
- Allocations – 3.0%

Filename: Technical Memo 01-31-2017 V6



**West Covina Citywide Sewer Charges**  
**10 Year Fiscal Projection**

| Percent Increase<br>Fiscal Year   | 0%<br>23-24         | 0%<br>24-25        | 0%<br>25-26        | 0%<br>26-27        | 0%<br>27-28        | 0%<br>28-29        | 0%<br>29-30        | 0%<br>30-31        | 0%<br>31-32          | 0%<br>32-33          |
|-----------------------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|
| <b>Assessment Income</b>          | <b>\$3,860,678</b>  | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b> | <b>\$3,860,678</b>   | <b>\$3,860,678</b>   |
| Interest <sup>(1)</sup>           | 109,900             | 3,665              | 3,322              | 2,835              | 2,200              | 1,412              | 466                | (642)              | (1,918)              | (3,367)              |
| Property Tax Revenue (Ad Valorem) | 344,000             | 344,000            | 344,000            | 344,000            | 344,000            | 344,000            | 344,000            | 344,000            | 344,000              | 344,000              |
| Prior Year Balance                | 8,463,595           | 1,832,739          | 1,660,923          | 1,417,360          | 1,099,762          | 705,775            | 232,975            | (321,138)          | (959,137)            | (1,683,672)          |
| <b>Total Funding</b>              | <b>\$12,778,173</b> | <b>\$6,041,082</b> | <b>\$5,868,923</b> | <b>\$5,624,872</b> | <b>\$5,306,639</b> | <b>\$4,911,865</b> | <b>\$4,438,119</b> | <b>\$3,882,898</b> | <b>\$3,243,623</b>   | <b>\$2,517,638</b>   |
| Maintenance Costs <sup>(2)</sup>  | 2,310,834           | 2,380,159          | 2,451,564          | 2,525,111          | 2,600,864          | 2,678,890          | 2,759,257          | 2,842,034          | 2,927,295            | 3,015,114            |
| Capital Improvements              | 2,000,000           | 2,000,000          | 2,000,000          | 2,000,000          | 2,000,000          | 2,000,000          | 2,000,000          | 2,000,000          | 2,000,000            | 2,000,001            |
| Capital Improvements in Progress  | 6,634,600           |                    |                    |                    |                    |                    |                    |                    |                      |                      |
| <b>Total Cost</b>                 | <b>\$10,945,434</b> | <b>\$4,380,159</b> | <b>\$4,451,564</b> | <b>\$4,525,111</b> | <b>\$4,600,864</b> | <b>\$4,678,890</b> | <b>\$4,759,257</b> | <b>\$4,842,034</b> | <b>\$4,927,295</b>   | <b>\$5,015,115</b>   |
| <b>Ending Balance</b>             | <b>\$1,832,739</b>  | <b>\$1,660,923</b> | <b>\$1,417,360</b> | <b>\$1,099,762</b> | <b>\$705,775</b>   | <b>\$232,975</b>   | <b>(\$321,138)</b> | <b>(\$959,137)</b> | <b>(\$1,683,672)</b> | <b>(\$2,497,477)</b> |
| Cash Flow                         | 1,155,417           | 1,190,080          | 1,225,782          | 1,262,555          | 1,300,432          | 1,339,445          | 1,379,628          | 1,421,017          | 1,463,648            | 1,507,557            |
| Over/Under                        | 677,322             | 470,844            | 191,578            | (162,794)          | (594,657)          | (1,106,470)        | (1,700,766)        | (2,380,154)        | (3,147,320)          | (4,005,034)          |
| <u>Charges per Unit</u>           | <u>\$82.02</u>      | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>     | <u>\$82.02</u>       | <u>\$82.02</u>       |

Notes: <sup>(1)</sup> Interest is 0.4% of one-half of the previous year ending balance.

<sup>(2)</sup> 3% increase in maintenance cost each year due to inflation.

**City of West Covina**  
**SEWER SYSTEM CAPACITY EVALUATION**  
**2008-2009, Edited October 2016**

The City's previous system capacity analysis was completed in 2009. Since there have been no significant capital improvements since then, the hydraulic model was not updated in this SSMP report. The primary purpose of this Appendix is to capture the methodology that was used in developing the 2009 sewer capacity analysis. The primary update of this Appendix is the cost of the recommended Capital Improvement Projects. The updated (2016 dollars) estimate project costs are provided in Appendix 'P'. These estimates reflect the cost to replace select pipe segments at certain locations as determined by operating condition. Appendix 'P' includes a more detailed list of recommended CIP projects that considers both calculated pipe operating condition as well as feasibility of updating adjacent pipe segments of differing capacity thresholds as part of the same project rather than as separate projects. The exhibits of the recommended project locations provided in Appendix 'O-1' have not been updated in this report as the hydraulic model has not changed.

### **Introduction and Summary**

The City owns and operates its local wastewater collection system consisting of approximately 227 miles of gravity flow sewer pipelines and two segments of force main (varying in size from 4-inch to 18-inch pipe) and 5,187 manholes. The existing sewer system discharges to trunk sewers that are owned and operated by the County Sanitation Districts of Los Angeles County and to the adjacent Cities of Baldwin Park and Covina, and some areas of unincorporated county.

The purpose of this evaluation is to identify deficiencies in the existing sewer mainline system, recommend alternatives to eliminate the deficiencies, prioritize the deficient reaches, and provide the City with a basis on which to build a future infrastructure management system.

The 227 miles of local sewer were modeled using HYDRA® 6.4 by PIZER. Of the total length, approximately 19,096 feet of the existing system were identified as being critically capacity deficient (Greater than 85% full). These are grouped as priority-one projects requiring timely resolution. The deficient reaches of sewer mainlines are located within SMZs 4, 62, 80, 82, 116, 117, 132 and 161. Please refer to exhibit maps A, B, & C in this Appendix 'O-1' for the deficient reach locations. The cost to repair the deficient reaches is estimated to be \$8,820,000. Those pipe segments classed as seriously capacity deficient, approximately 30,048 feet of the existing system ( between 64% and 85% full), are grouped as priority-two projects requiring resolution in the near future. The deficient reaches of sewer mainlines are located within SMZs 2, 4, 5, 62, 74, 75, 80, 81, 82, 83, 105, 116, 117, 132, 139, 140, 151, 153 and 161. Please refer to exhibit maps A, B, & C in this Appendix 'O-1' for the deficient reach locations. The cost to repair the deficient reaches is estimated to be \$11,840,000.

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The modeling function was performed utilizing generally accepted sewage generation coefficients in the Los Angeles county region, and land use zoning as shown on a CAD file map identified as: "annZoning CAD Map 04-06" received on December 29, 2008. The zoning map was utilized as representative of the City's current development condition. This map was overlaid on the sewer system map, developed as part of this project, thereby allowing the modeler to apply the sewage generation coefficients for the respective land zoning within each SMZ throughout the City. This method resulted in defining the cumulative sewage generated and carried through the piping within each SMZ and delivered to the receiving system. However, there was no flow monitoring performed to otherwise validate the modeling data result. In months and years ahead, as maintenance inspections are performed, the modeled areas nearing capacity should be closely monitored for signs of exceeding capacity in order to avoid SSOs, and to refine design parameters for replacement.

As future land use changes occur in the General Plan, the model should be updated to reflect consequences of such changes. The model should also be updated to reflect flow monitoring results as well as the construction of new relief facilities, upgrades, and/or the construction of new sewer lines in order to be fully representative of the community sewer system.

### **Study Approach**

The following tasks were performed in the preparation of this Sewer System Capacity Evaluation Report.

1. The City provided copies of existing sewer system as-built construction plans for use in preparing the initial GIS sewer system mapping and attributes base and for the exhibit maps A, B & C of this Appendix 'O-1'.
2. The City provided an electronic CAD file of its land use zoning map for use in creating an overlay map of the parcels and sewer maintenance zones in the city system.
3. Willdan developed a computer model (Pizer Hydra) of the City wastewater collection system utilizing the above data.
4. Analysis of the existing wastewater collection system capacity and determination of any capacity deficiencies (refer to the deficiency criteria section of this report and see the exhibit maps in this Appendix 'O-1').
5. Development of recommendations for system improvements to correct deficiencies.
6. Preparation of cost estimates for the recommended improvements.
7. Preparation of evaluation findings and recommendations to correct identified deficiencies in a Sewer System Capacity Evaluation Report (this Appendix).

### **System Criteria and Alternatives**

In designing or evaluating a wastewater collection system, the engineer must establish certain criteria upon which to base the design. These include such things as available pipe sizes,

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materials, slope, bury or cover, connections, etc. Such criteria are established to ensure that the wastewater collection system can operate effectively under all flow conditions. Each pipe segment must be capable of carrying the peak flows without surcharging the system. Surcharging the system occurs when the pipe is flowing under pressure. However, many of the initial design assumptions are unnecessary in the analysis of a collection system when the pipe already exists and its diameter and slope are fixed.

In the analysis of an existing sewer system, the Hydra program compares the capacity of each pipe in the system with the peak wastewater flow projected for that particular link or reach of pipe. If the existing pipe size is surcharged, the Hydra program automatically increases the pipe diameter to the next largest standard pipe size that will carry the design flow without being surcharged. At a minimum, all pipes should be 8 inches or larger in diameter and the velocity of flow in the pipe should be greater than 2 feet per second (ft/s). This velocity will prevent deposition of solids in the sewer and help to re-suspend any materials that may have already settled in the pipe. The minimum corresponding slopes to maintain 2 ft/s for various pipe sizes are shown in Table 1.

**Table 1**  
**Minimum Pipe Slopes ft/ft**

| Sewer Size | Slope  |
|------------|--------|
| 8"         | 0.0028 |
| 10"        | 0.0021 |
| 12"        | 0.0016 |
| 15"        | 0.0012 |
| 18"        | 0.0010 |

It is important to note that the slopes listed above assume the depth of flow in the pipe is 0.64 percent full. If there is insufficient flow to create this condition, greater slopes than those shown may be required in order to maintain the minimum self cleaning velocity condition.

The design and analysis of gravity sewer pipes is typically based upon the depth to diameter ratio (d/D). Common design criteria for proposed new sewer design is 0.50 (50% full) for 8 to 15-inch diameter pipes and 0.75 (75% full) for 18-inch and larger pipes. The area above the water surface (residual capacity) helps to keep the sewage aerated, reducing the possibility of septic conditions and odors. Existing wastewater systems are typically allowed to flow with less residual capacity because development and redevelopment has occurred or is foreseeable in the near future.

This report establishes the hydraulic design criteria for existing sewer pipes by classifying "over capacity" pipes as any with a d/D greater than 0.64. This d/D ratio was arrived at by taking 75 percent of the depth to diameter ratio of a pipe having maximum stable flow capacity, which is at a d/D of 0.85 (75% of 85% is 64%). The area above a d/D of 0.85 is considered hydraulically unstable. This reduction results in approximately 35 percent of the pipe's full flow capacity being reserved for variations in discharges, periodic peaking of

flow, seasonal variations and minor or temporary obstructions. Again, this residual capacity helps to keep the sewage aerated, reducing the possibility of septic conditions and odors.

The residual capacity allows for the possibility that actual wastewater flows may be slightly higher than anticipated, especially during the hours when instantaneous or intermittent peaks may occur. These peaks are generally observed between the hours of 6:00 a.m. and 8:00 a.m. Monday thru Friday and between the hours of 9:00 a.m. and 11:00 a.m. Saturday and Sunday. Peak flows may also be observed during rainfall events due to inflow and infiltration conditions.

Exhibit maps A, B, & C in Appendix 'O-1' shows the pipes that are capacity deficient per the 0.64 criteria and also shows the pipes that are deficient per the 0.50 criteria. Only the pipes that exceed the 0.64 criteria are recommended for correction projects.

The design capacity of a gravity pipeline is the calculated capacity of the pipeline based on the Manning formula:

$$Q = 1.486 R^{2/3} S^{1/2} / n \quad \text{where, } Q = \text{flow in cubic feet per second}$$

R = hydraulic radius in feet = A / P  
 A = cross-sectional area of the pipe in square feet  
 P = wetted perimeter in feet  
 S = slope of the pipe in feet of rise per foot of length  
 n = Manning's friction factor

Sewer system capacity is established using a Manning's friction factor of 0.013 for vitrified clay pipe.

### Alternatives

The following alternatives were considered in developing the recommended schedule of deficiency correction projects.

1. Construction of a parallel sewer facility to carry the excess sewage flow is an obvious solution to most of the deficiencies; however, this solution is not necessarily the most economical or practical approach. In some instances rerouting of tributary areas or the construction of a single relief sewer line can be planned in such a way that it will relieve several main sewer lines thereby avoiding the construction of parallel or replacement facilities and the related cost.
2. In other instances, replacement of the existing sewer with a larger size may be the preferred alternative. The replacement or upsizing of the line may include open trench installation or pipe bursting (if surrounding condition are conducive), and the use of temporary bypass pumping. The decision as to which correction alternative to construct is typically made just prior to the design phase after careful consideration of all design constraints such as existing utilities and the costs associated with potential

utility relocation to provide additional space for the construction of a replacement sewer line.

The engineer's opinion of budget figures (See Appendix 'P') was prepared based on the cost to remove and replace the existing sewer with a larger size, as this is the most conservative cost approach.

It is suggested the where the depth of flow exceeds the design criteria of 0.64 d/D, but does not exceed the maximum stable flow capacity of 0.85 d/D, that consideration be given to allowing these sewers to flow in a slightly overloaded condition in lieu of building a more costly relief facility. This overloading occurs only during peak flow conditions that are short in duration. However, the City should frequently monitor these sewers in order to under take a future corrective action as the overloading problem becomes worse.

### **Analysis of Existing Sewer System**

The City's sewer system was modeled using Pizer Hydra Ver. 6.4. The Hydra program is designed to provide analysis of both the existing sewer system and the design of any new sewer lines.

After defining (laying out) the existing sewer system, the network was divided into 179 SMZ's or sewer drainage areas, based upon city sewer records, for input into the computer model. The input data consisted of a numerical designation for each manhole and length of sewer pipe between manholes, the slope of the line, and flow line elevation of each manhole.

### **Computation of Wastewater Inflows**

Once the schematic of the sewer system network was established, data was compiled on each SMZ, General Plan land uses (zoning), and related factors that affect the volume of wastewater generated. Next, it was necessary to compute the area of each type of land use; e.g., low-density residential, medium-density residential, high-density residential, commercial, industrial, schools, etc., within each drainage boundary. The unit flow coefficients (see Table 2) were then applied to the computed areas of land use within each SMZ. The unit flow coefficients, when applied to the land use areas, provide peak flow rates for each particular land use category. The wastewater inflows calculated for the various land use categories within the SMZ were then accumulated to provide the calculated peak flow for the entire drainage area. The accumulation of estimated wastewater flow is accomplished totally within the computer program.

**Table 2**  
**Unit Flow Coefficients for Peak Flow Rates**

| Zone | Cu. Ft. per<br>sec. per acre | Gallons per<br>day per acre |
|------|------------------------------|-----------------------------|
| R-1  | 0.004                        | 2585                        |
| R2   | 0.008                        | 5171                        |
| R3   | 0.012                        | 7756                        |

|                    |       |       |
|--------------------|-------|-------|
| R-P,<br>Commercial | 0.015 | 9695  |
| Manufacturing      | 0.021 | 13573 |
| Institutional      | 0.015 | 9695  |

### **Flow Monitoring**

There was no flow monitoring performed under the contract services for preparation of this SSMP. However, flow confirmation work can be undertaken at any time in the future. Typically, as maintenance inspection findings indicate changed pipeline capacity conditions for those pipe segments near capacity as indicated in the modeling evaluation results. Flow monitoring results can be used to verify and/or calibrate the sewer flow modeling work for a SMZ as affected by changes in development or observed manhole inspections of flow conditions. Also, additional future flow monitoring is recommended at near capacity locations, during periods of rain, to verify or deny potential inflow and infiltration problems, and to refine design parameters, especially for the higher density residential zones.

For each site monitored, the flow data should be reviewed and compared to the contributing SMZ area. The peak monitored flow rate must be compared to the design flow rate and the shape of the outflow curve compared to the SMZ modeled result. An expected difference between the monitored flow and the design flow is between 150 to 250 percent. This difference is expected because the design flow rate includes the maximum flow rate expected from each development type which contains both wet weather inflow/infiltration and design peaking safety factors.

### **Summary of Findings and Recommendations**

Within the initial introduction and summary section, both the critically deficient (> 85% full) and seriously deficient (between 64% and 85% full) pipe segments were described and referenced. Before undertaking design and construction or identifying further project priorities, the performance of select flow monitoring is recommended at crucial locations, especially during periods of rain to verify or deny any potential inflow and infiltration problems. Also to confirm the actual in-system flow conditions which can and do vary do to water usage and customer practices in waste disposal. The findings identified in this evaluation and report are for planning guidance in addressing the sewer system capacity conditions. Further pre-design refinement and analysis will be necessary before initiation of a final design of improvements for the facilities is under taken.

In the event of any land use changes to the General Plan, upon which this study was based, the model should be updated to reflect the consequences of such changes. The model should also be updated to reflect the construction of new sewer lines.



## **Recommended Deficiency Correction Projects**

Presented in the engineer's opinion of cost (Appendix 'P') is a remove and replace approach to correct the identified deficient pipe segments. This is usually a conservative approach to costing and should be refined by thorough engineering evaluation and assessment of the specific conditions and replacement options before proceeding with a specific correction project.

The following criteria for defining and prioritizing relief facility need was used:

### Priority 1

Sewers with critical deficiencies of  $d/D > 0.85$ , are recommended for correction first. Sewers meeting these criteria are ranked highest.

### Priority 2

Sewers with critical deficiencies of  $0.64 < d/D < 0.85$  are recommended for correction second. Sewers meeting these criteria are ranked lower.

### Priority 3

Sewers with a  $d/D < 0.64$  are not capacity deficient; therefore, are not ranked here.

## Sewer System Improvements Costs

The unit prices shown in the engineer's opinion of cost (see Appendix 'P') represent the anticipated construction cost only as applicable for mid 2016. Bid prices received on jobs of similar nature in Southern California area were one source of information used to derive the cost figure. In addition, manufacturers, suppliers of material and equipment, and local contractors were consulted on various cost items. An additional 35% of construction cost is added to cover the cost of contingencies, design engineering, contract administration and construction observation.

The engineer's opinion of cost does not include an adjustment for inflation. Construction costs can be expected to fluctuate as corresponding changes occur in the national or local economy. One available indicator of these changes is the Engineering News-Record Construction Cost Index for the Los Angeles metropolitan area. This index is compiled from actual construction cost data for materials and labor and is reported in Engineering News-Record magazine. It is suggested that this index be used to update the unit prices presented in Appendix 'P' and in adjusting the estimate from the date of the initial estimates.

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## **Financing of Improvements**

### General

Funding considerations are often the deciding factor in scoping and implementation of a project. There are, of course, numerous methods or mix of methods, which could be used to finance the implementation of a sewer system capital improvement plan (CIP), and the ongoing operations and maintenance activities. Among these methods are:

1. Pay-as-You-Go Financing (rates, fees and charges based)
2. State Assistance Programs
3. Municipal Securities
4. Improvement Districts
5. Federal Assistance Programs

In the discussion that follows, the above funding options are briefly described and their adaptability to specific circumstances of a sewer system CIP are noted. In evaluating specific funding programs, services of financial and legal experts in such issues are recommended.

### Methods of Financing

#### 1. Pay-as-You-Go Financing:

Development of cash reserves or capital improvement funds, from an agency's revenue base, is often referred to as "pay-as-you-go" funding. This method avoids interest payments on other types of debt financing. Under this form of financing, the initial capital cost of a project must be accumulated in advance of construction, which can cause a delay in project implementation. If delay is not a crucial factor, this is a cost effective method due to the absence of debt financing costs. This method has sometimes been used together with various forms of short-term financing to construct needed sewer infrastructure.

#### 2. State Assistance Programs:

Under the rules and regulations of the Federal Water Pollution Control Act (Clean Water Act or CWA) and the Federal Safe Drinking Water Act (SDWA), the State has enacted the Clean Water State Revolving Fund (CWSRF) and the Drinking Water Revolving Fund (DWSRF), respectively. These programs are funded by Federal grants, State funds and Revenue bonds. The CWSRF Loan Program provides low-interest loan funding for construction of publicly-owned wastewater treatment facilities, sewers, sewer interceptors, water recycling facilities, as well as implementation of non-point source (NPS) projects or programs. There are different types of funding assistance available under these programs.

---

[www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/srf/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/)

The Department of Water Resources administers the State bond law programs for Water supply/Water quality, Water conservation, Flood management and Regional water management. [www.grantsloans.water.ca.gov](http://www.grantsloans.water.ca.gov)

The State Water Resources Control Board administers the State revolving fund loans, Water recycling grants & loans, Small community grants, Agricultural drainage loans, Agricultural drainage management loans, Clean beaches initiative grants, Agricultural water quality grants, Areas of special biological significance (ASBS) grants, Storm water grants, and Santa Monica bay restoration commission grants. [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

The State Department of Public Health administers the DWSRF, Proposition 84 funding for public water systems, and Proposition 50 for the water security, clean drinking water, coastal and beach protection act of 2002 loans. [www.cdph.ca.gov](http://www.cdph.ca.gov)

Various types of infrastructure improvement/construction loans can be arranged through the California Infrastructure and Economic Development Bank (IBank) [www.ibank.ca.gov](http://www.ibank.ca.gov)

Limited amounts of public works grant funds have been available to agencies from the State Office of Economic Development. Use of such grant funds must result in the creation of new, permanent jobs in the private sector. In order to ensure that the funds are ultimately assisting those in most need, projects eligible for consideration must be those in areas designated eligible for HUD Urban Development Action Grants (UDAG), EDA Sudden or Long-term Economic Deterioration, or EDA Designated Special Impact Area.

### 3. Municipal Securities:

Historically, general obligation bonds (GOB's) had been a prevalent method of financing various public works improvements. They are secured by an agency's total assets and payable from ad valorem taxes levied on all taxable properties within the agency's boundary. However, the Jarvis-Gann Amendment (Proposition 13 of 1978) prohibits the levying of ad valorem property taxes beyond pre-existing authorizations and levels (pre-July 1, 1978). Therefore, authorization and issuance of GOB's is not considered feasible under current law.

An option to GOB's is the issuance of a specific type note or bond form, such as a revenue anticipation note (RAN) or a tax anticipation note (TAN) or a certificate of participation (COP) or various combinations of available authorities that can be used to fund public infrastructure needs. These types of municipal securities (Munis) are generally tax-exempt and commonly used to fund public works infrastructure and facilities. Many states also exempt their securities from their own taxes, which makes those securities particularly attractive investments for their own residents.

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TAN's and RAN's are instruments backed by anticipated taxes or revenues respectively. When these types of notes are considered for funding of needed infrastructure, a specified source of tax or revenue stream is identified and pledged for repayment of the debt. For example, with sewer facilities, all or a portion of the sewer service revenue fees/charges could be used as backing for the debt instrument selected. Then other local revenue sources could be considered for ongoing operations and maintenance (O&M) or some acceptable mix and match of funds specified to secure the debt and accomplish the O&M.

COP's are another form of municipal funding instrument available. These generally require the facility improvement being funded to be named as security for the investment with a lease back of the facility by the municipality. In turn, the municipality pledges some revenue stream(s) that would be used to repay the investor held notes.

When Munis are being considered for funding of improvements, consultation with an experienced and qualified financing consultant and bond counsel are a must.

#### 4. Improvement Districts:

In general, special assessment district procedures have been established by statute to provide for financing of construction and/or acquisition of public works improvements, such as sewer systems, and for assessing the cost of such improvements to the benefiting properties. Under all assessment proceedings, the cost of the work is assessed against properties within the benefited area. The assessments are levied in specific amounts against each individual property on the basis of the benefit each parcel receives. The property owner may pay the assessment in cash during the cash collection period of 30 days. But, if any assessments are not paid in cash during that period, bonds are usually issued to represent the unpaid assessments and the benefited properties are assessed on their annual property tax bill over a usual period of 10 to 20 years.

The City of West Covina utilizes Government Code Section 38902 to establish sewer service charges. While an assessment district proceeding may be a reasonable and equitable means for financing sewer system improvements, further evaluation and stakeholder involvement is a usual practice to determine the viability and practicality of utilizing such financing method.

#### 5. Federal Assistance Programs:

There are, and have been, a series of federal grant and loan programs which may be applicable to public infrastructure projects. However, the qualification criteria for such programs vary from time to time and their funding or continuation is subject to congressional appropriations. Therefore, such programs should not be considered as a likely source of funds unless a funding commitment letter has been received.

Historically, federal programs administered by the Economic Development Administration (EDA) provide financial and technical assistance to aid the economic development of areas with high unemployment or low family income levels. Communities must make long-range plans for economic growth in order to be eligible for EDA financial assistance, in the form of grants and loans for public works and

---

development that generates jobs and economic opportunity. Typical public works projects include construction of roads, water and sewer lines, and public facilities. To determine the status requires timely monitoring.

Under the rules and regulations of the Housing and Community Development Act of 1974, the Community Development Block Grant (CDBG) program can fund housing and community development needs. This includes part or all of improvements necessary to upgrade existing sewer facilities. Those qualifying geographic areas within the City that have the greatest overall deficiency in physical infrastructure receive the highest priority according to CDBG criteria. When the sewer system has a defined deficiency, then it is appropriate to use CDBG funds to meet health and safety standards as well as to encourage up-grading of abutting housing and physical environment.

The primary statutory objective of the CDBG program is to develop viable communities by providing decent housing and a suitable living environment and by expanding economic opportunities, principally for persons of low- and moderate-income. Communities receiving CDBG funds through the State may use the funds for many kinds of community development activities including, but not limited to:

- acquisition of property for public purposes;
- construction or reconstruction of streets, water and sewer facilities, neighborhood centers, recreation facilities, and other public works;
- demolition;
- rehabilitation of public and private buildings;
- public services;
- planning activities;
- assistance to nonprofit entities for community development activities; and
- assistance to private, for profit entities to carry out economic development activities (including assistance to micro-enterprises).

[www.hcd.ca.gov/ca/cdbg/about/html](http://www.hcd.ca.gov/ca/cdbg/about/html)

The United State Department of Agriculture Rural Development Program provides communities with population less than 50,000 a variety of direct-guaranteed-loans and /or grants. These include water and wastewater system improvement funding.

[www.rurdev.usa.gov/ca](http://www.rurdev.usa.gov/ca)

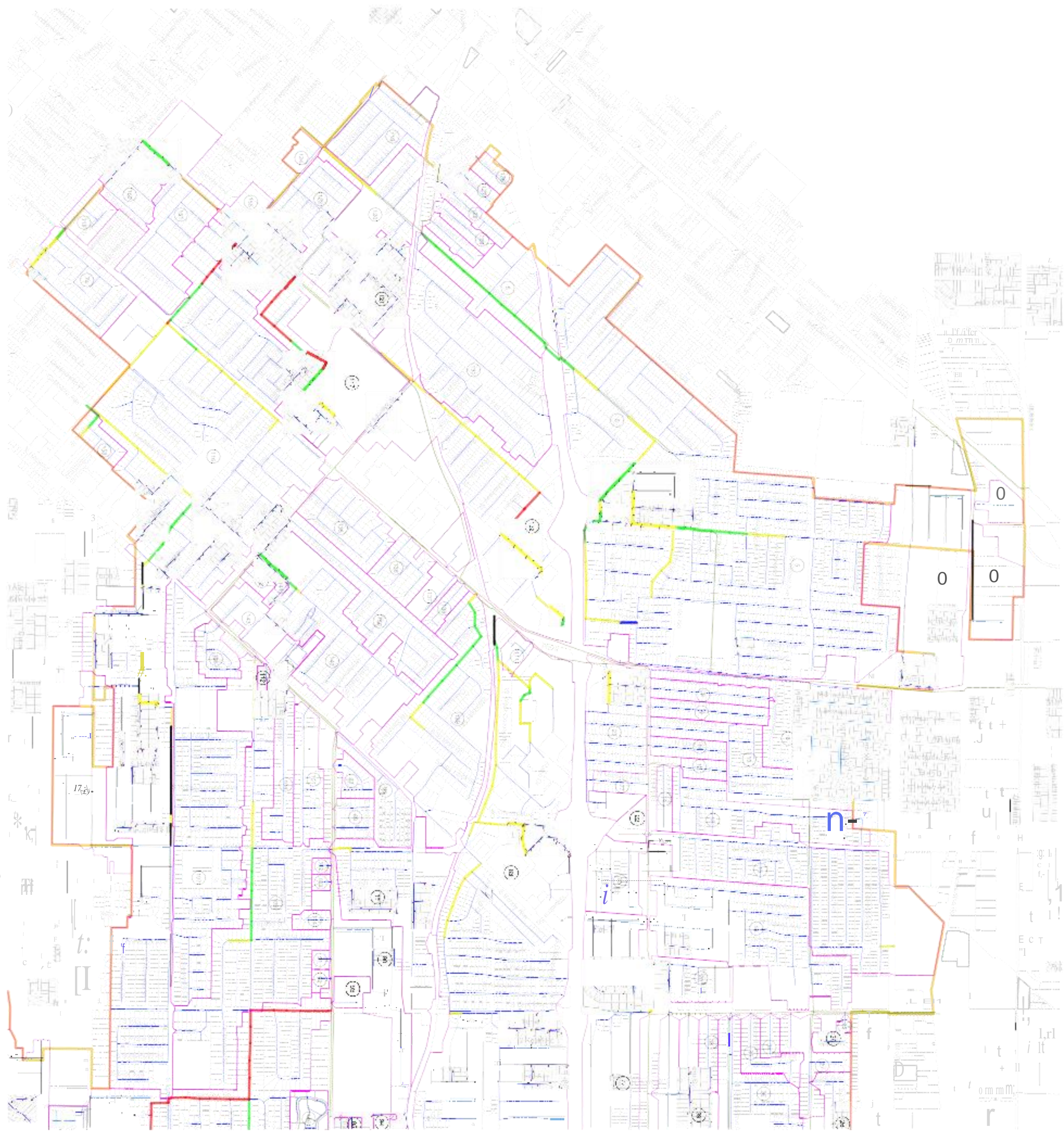
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## **APPENDIX 'O-1'**

### **Sewer System Capacity Analysis Deficient Pipes Exhibits**

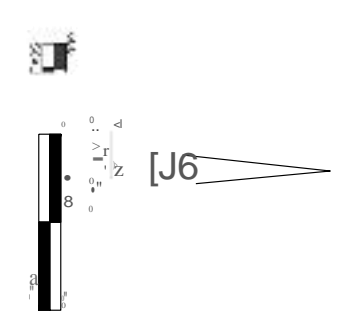






SEE EXHIBIT B

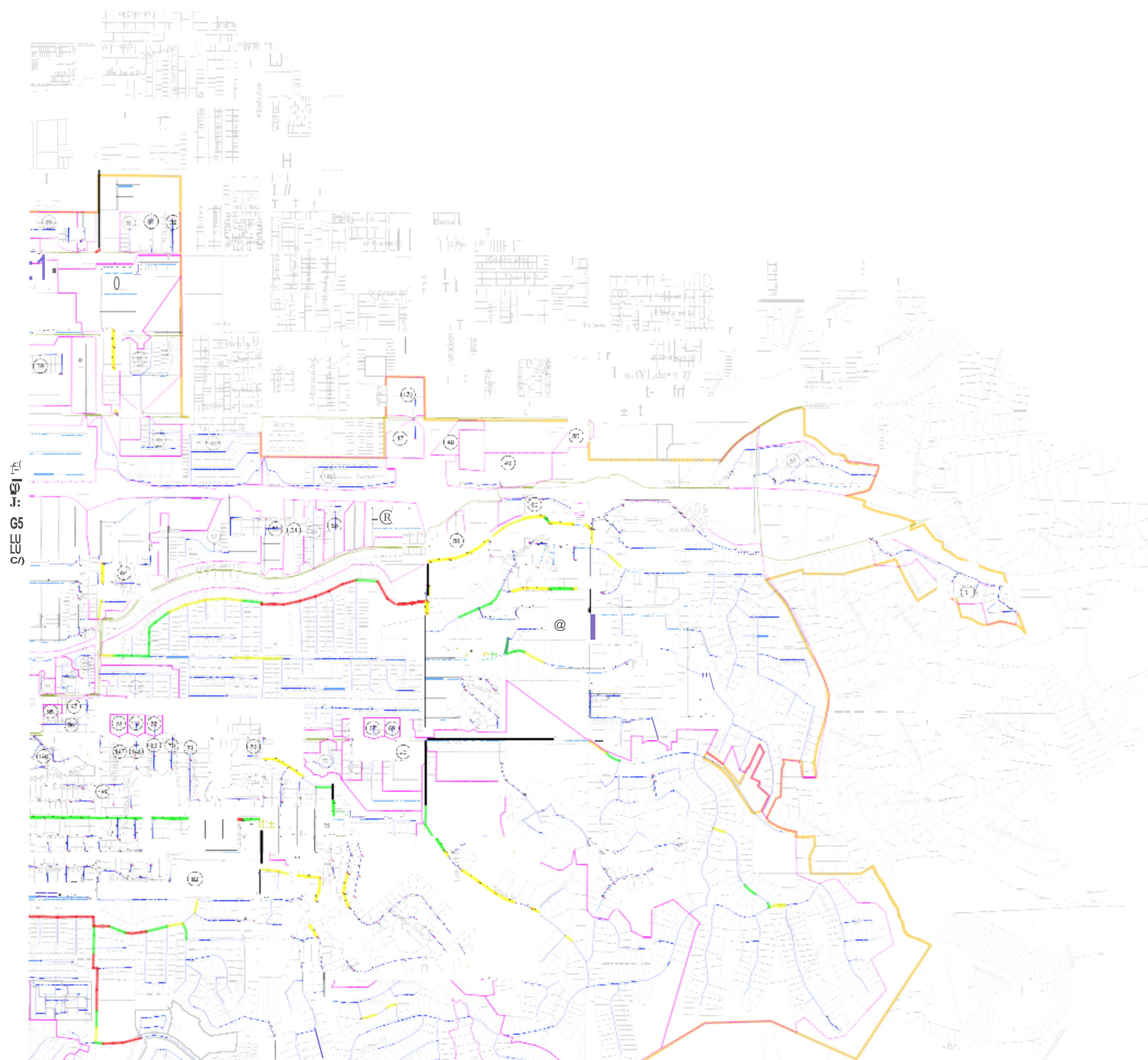
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WILDAN  
Engineering

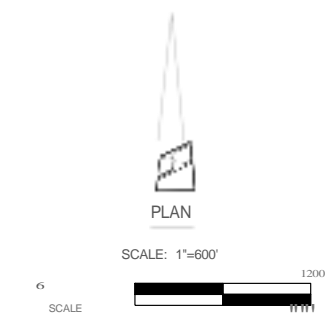
245 E. 1st St.  
Suite 100  
Bozeman, MT 59701  
406.596.1234  
www.wildaneng.com





**LEGEND:**

- EXISTING CSD TRUNK SEWERS
- SANITARY SEWER PIPE
- 0.85 < d/D
- 0.64 < d/D < 0.85
- 0.50 < d/D < 0.64
- CITY BOUNDARY
- SEWER DRAINAGE AREA BORDER
- 1140 SEWER MAINTENANCE ZONE



**APPENDIX:**

**SEWER SYSTEM  
CAPACITY ANALYSIS  
DEFICIENT PIPES  
EXHIBIT B**



2401 E. Kotelio Avenue, Suite 450  
Anaheim, CA 92806  
(714)978-8200 fax (714)978-8299

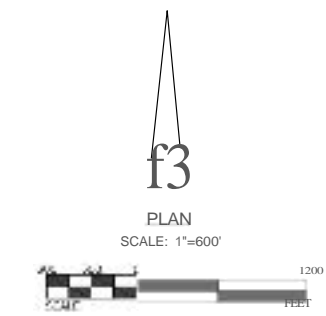


SEE EXHIBIT A

SEE EXHIBIT B

LEGEND:

- EXISTING CSD TRUNK SEWERS
- SANITARY SEWER PIPE
- 0.85 < d/D
- 0.64 < d/D < 0.85
- 0.50 < d/D < 0.64
- CITY BOUNDARY
- SEWER DRAINAGE AREA BORDER
- SEWER MAINTENANCE ZONE



APPEND/XO:

SEWER SYSTEM  
CAPACITY ANALYSIS  
DEFICIENT PIPES  
EXHIBIT C



2401 E. Kotello Avenue, Suite 450  
Anaheim, CA 92806  
(714)978-8200 fox (714)978-8299





## AGENDA STAFF REPORT

City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: WEST COVINA CITYWIDE LIGHTING AND MAINTENANCE DISTRICT PUBLIC HEARING**

---

### RECOMMENDATION:

It is recommended that the City Council adopt the following resolution:

**RESOLUTION NO. 2023-44 — A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT FOR FISCAL YEAR 2023-24**

### BACKGROUND:

The Citywide Lighting and Maintenance District ("Citywide District" or "District") was established in 1976. As the name implies, this District encompasses the entire City of West Covina ("City"). Prior to Fiscal Year 1997-98, the Citywide District funded a variety of public improvements and services which included: street tree maintenance, median maintenance, park maintenance, municipal pool maintenance, area lighting maintenance, traffic signal maintenance, traffic engineering, and street lighting engineering. Since the passage of Proposition 218 in November 1996 and the subsequent property owner-approval of the Citywide District assessment in July 1997, the Citywide District assessment currently funds only those services that have been designated as a "Special Benefit." This includes the maintenance and servicing of most of the streetlights and street trees within the City. The Citywide District funds the operation and maintenance of assessable (special benefit) street trees and street lighting. These funds are used for the operations and maintenance of streetlights, trimming of street trees, and removal and replacement of diseased street trees.

### DISCUSSION:

The Landscape and Lighting Act of 1972 (California Streets and Highways Code section 22500 et seq.) (the "Act") specifies the procedures for annual renewals of maintenance districts. At the regular meeting of June 20, 2023, the City Council adopted Resolution No. 2023-39, preliminarily approving the Engineer's Report for the Citywide District prepared pursuant to the provisions of the Act, declaring its intention to levy and collect the assessment for FY 2023-24, and setting July 18, 2023 as the date for the public hearing on the proposed assessment.

The voter-approved rates for the Citywide District included a provision for not more than a 2% annual

increase based on the Consumer Price Index (CPI). The CPI increase for the one-year period from March 2022 to March 2023 for the Los Angeles-Long Beach-Anaheim areas was 3.65%. Therefore, current rates may increase a maximum of 2.00%. This increase will permit the District to provide the standard level of service in the District.

The assessment rates in the District are based on the Equivalent Dwelling Unit (EDU) method. In this methodology, a single-family residential parcel will equal one EDU and pay an assessment of \$58.85 per year, an increase of \$1.17 per year from Fiscal Year 2022-23.

As outlined above, assessment funds are used for the operation and maintenance of streetlights, trimming of street trees, and removal and replacement of diseased street trees. Increased scope of work for Citywide Lighting and Maintenance District is recommended to include the repair and replacement of light standards, hardscape repair and replacement of off-grade, cracked and broken sidewalks and ADA ramps, tree trimming, maintenance, and/or removal of the street trees on a citywide cycle, and landscape maintenance including trash removal and clearing of the median plants, shrubbery, and irrigation. It is estimated that the budget required for the increased lighting, hardscape, and landscaping scope is approximately double the existing Citywide District budget.

As costs have risen, maintenance has suffered. A full study is needed to ascertain what a proper level of maintenance would cost and explore how to properly set the assessment rate. Such a study will take several months and, if rates are to be increased, would require a vote by the affected property owners. Pending completion of a further analysis, this report recommends that assessment rates be by the property owner-approved CPI increase of 2% for Fiscal Year 2023-24.

The approval of the Engineer's Report by the City Council does not commit the City Council to adopt the proposed assessments for the District. At the public hearing, the City Council is required to consider all comments for and against the proposed assessment. During or after the public hearing, the City Council may order maintaining or reducing the proposed rates and revising expenditures that are funded by the District. The City Council's action only becomes final when the assessments are confirmed by resolution upon completion of the public hearing.

#### **LEGAL REVIEW:**

The City Attorney has reviewed the resolution and approved it as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Increase current assessment rates by 2.00% based on the current escalation formula. This would generate an additional \$39,640 in streetlights and street trees assessment; or
2. Maintain the current assessment rates. Maintaining the rates at their current levels (0% increase) would deplete the reserves at a faster pace and require the General Fund to subsidize the district in future years ; or
3. Provide alternative directions.

**Prepared by:** Michael Ackerman P.E.

---

#### **Fiscal Impact**

#### **FISCAL IMPACT:**

For FY 2023-24, the Engineer's Report for the Citywide Lighting and Maintenance District proposes to use the voter approved adjustment to increase the assessment rates by 2.00% from their current levels, which is \$58.85. This rate would generate an additional \$39,640, in assessments. This is the amount of increase allowed under Proposition 218.

The total projected income from the recommended rates is \$1,942,462. The preliminary operating budget for the district is \$2,241,664.

Since the City of West Covina is not exempt from assessments for this district, the City's total assessment is about \$54,400. The City pays this assessment using General Funds within the non-departmental operating budget.

There are no legal requirements or formal guidelines for the amount of reserves in an assessment district.

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### **Attachments**

Attachment No. 1 - Resolution No. 2023-44

Attachment No. 2-15 Year History Rate

Attachment No. 3- Engineers Report

Attachment No. 4-10 Year Fiscal Projection

**CITY COUNCIL GOALS & OBJECTIVES:** A Well-Planned Community  
Enhance City Image and Effectiveness

**RESOLUTION NO. 2023-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT FOR THE CITYWIDE LIGHTING AND MAINTENANCE DISTRICT FOR FISCAL YEAR 2023-24**

**WHEREAS**, the City's Citywide Lighting and Maintenance District (the "District") has been established pursuant to the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Section 22500 et seq.) (the "Act") to fund the maintenance and servicing of certain public street lighting and street trees in the City; and

**WHEREAS**, in connection with the District, the City annually levies an assessment against real property; and

**WHEREAS**, by its Resolution No. 2023-38, adopted June 20, 2023, the City Council directed Willdan Financial, as assessment engineer (the "Engineer"), to prepare and file a report regarding the District; and

**WHEREAS**, said report, entitled "City of West Covina, Citywide Lighting & Maintenance District, Fiscal Year 2023/2024 Engineer's Report" (the "Report") is on file and available for public inspection in the Office of the City Clerk and is incorporated herein by reference; and

**WHEREAS**, by its Resolution No. 2023-39, adopted June 20, 2023, the City Council preliminarily approved the Report, declared its intention to levy and collect assessments within the District for Fiscal Year 2023-24, and set a public hearing for July 18, 2023, at 7:00 p.m. in the City Council Chambers located at 1444 West Garvey Avenue South in the City of West Covina, to take testimony on the issue of whether or not the assessments should be approved (the "Public Hearing"); and

**WHEREAS**, notice of the Public Hearing was published as required by law; and

**WHEREAS**, at the appointed time and place, the City Council held the Public Hearing and all interested persons were given the opportunity to hear and be heard on the matter of the assessments; and

**WHEREAS**, the City Council, having considered all oral statements and written protests made or filed by any interested person, if any, desires to levy the assessments for Fiscal Year 2023-24 as set forth in the Report.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council determines that a majority protest has not been filed against the assessments set forth in the Report.

**SECTION 2.** The City Council confirms, without changes, the diagram and assessment for the District for Fiscal Year 2023-24 as set forth in the Report.

**SECTION 3.** The adoption of this Resolution constitutes the levy of the assessment for Fiscal Year 2023-24.

**SECTION 4.** The levy and collection of the assessment is statutorily exempt from California Environmental Quality Act ("CEQA") pursuant to Section 15273 of the CEQA Guidelines, in that the proceeds of the assessments are to be used as for operating expenses and equipment and supplies.

**SECTION 5.** The City Clerk is directed to file the diagram and assessment, or a certified copy thereof, with the Los Angeles County Auditor-Controller. The assessments shall be collected at the same time and in the same manner as County taxes are collected, and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments.

**SECTION 6.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

---

Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

---

Thomas P. Duarte  
City Attorney

---

Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, Assistant City Clerk of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-44 was duly adopted by the City Council of the City of West Covina, California, at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Lisa Sherrick  
Assistant City Clerk

**West Covina**  
**Citywide Lighting and Maintenance District**  
**15 Rate History**  
**For a Typical Single-Family Residential Property**

| <b>Fiscal Year</b> | <b>Assessment</b> |
|--------------------|-------------------|
| <b>2023-24</b>     | <b>\$58.85</b>    |
| <b>Proposed</b>    |                   |
| 2022-23            | \$57.68           |
| 2021-22            | \$56.54           |
| 2020-21            | \$55.45           |
| 2019-20            | \$53.34           |
| 2018-19            | \$52.29           |
| 2017-18            | \$52.29           |
| 2016-17            | \$51.28           |
| 2015-16            | \$50.41           |
| 2014-15            | \$50.15           |
| 2013-14            | \$49.66           |
| 2012-13            | \$48.69           |
| 2011-12            | \$47.73           |
| 2010-11            | \$46.81           |
| 2009-10            | \$45.94           |
| 2008-09            | \$45.89           |



# City of West Covina

## Citywide Lighting & Maintenance District

### FISCAL YEAR 2023/2024 ENGINEER'S REPORT

Intent Meeting: June 20, 2023

Public Hearing: July 18 2023

27368 Via Industria  
Suite 200

Temecula, CA 92590

T. 951.587.3500 | 800.755.6864

F. 951.587.3510 | 888.326.6864

Property Tax Information Line

T.866.807.6864

[www.willdan.com](http://www.willdan.com)





# ENGINEER'S REPORT AFFIDAVIT

## Citywide Lighting and Maintenance District

### City of West Covina County of Los Angeles, State of California

This Report describes the District including the improvements, budgets, parcels and assessments to be levied for Fiscal Year 2023/2024 as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the Los Angeles County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 22nd day of June, 2023.

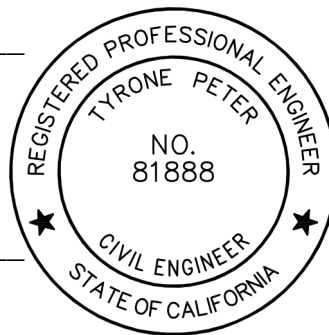
Willdan Financial Services  
Assessment Engineer  
On Behalf of the City of West Covina

By: Chonney Gano

Chonney Gano, Project Manager  
District Administration Services

By: Tyrone Peter

Tyrone Peter  
PE # C 81888



# TABLE OF CONTENTS

|  |           |
|--|-----------|
| <b>OVERVIEW.....</b>   | <b>1</b>  |
| <b>PROPOSITION 218 COMPLIANCE .....</b>                                    | <b>3</b>  |
| <b>I. PLANS AND SPECIFICATIONS.....</b>                                    | <b>4</b>  |
| A. DESCRIPTION OF WORK.....  | 4         |
| B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT .....                           | 5         |
| C. DESCRIPTION OF IMPROVEMENTS AND SERVICES .....                          | 6         |
| <b>II. METHOD OF APPORTIONMENT .....</b>                                   | <b>7</b>  |
| A. PROPOSITION 218 BENEFIT ANALYSIS.....                                   | 7         |
| B. BENEFIT ANALYSIS .....  | 8         |
| C. ASSESSMENT METHODOLOGY .....  | 9         |
| D. ASSESSMENT RANGE FORMULA .....  | 16        |
| <b>III. ESTIMATE OF COSTS.....</b>   | <b>17</b> |
| A. CAPITAL IMPROVEMENT PROJECT FUND.....                                   | 17        |
| B. PROPOSED INCREASE SCOPE OF WORK AND SUMMARY OF OPERATING<br>COSTS ..... | 18        |
| C. PROPOSED INCREASE SCOPE OF WORK AND SUMMARY OF TOTAL<br>COSTS .....     | 19        |
| <b>IV. BOUNDARY MAP.....</b>   | <b>21</b> |
| <b>V. ASSESSMENT ROLL.....</b>   | <b>22</b> |

## OVERVIEW

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The City of West Covina ("City"), annually levies and collects assessments in order to provide and maintain facilities, improvements and services within the Citywide Lighting and Maintenance District ("District"). The District was established in 1976 pursuant to the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code* ("1972 Act"). Prior to Fiscal Year ("FY") 1997-98 the District funded a variety of public improvements and services which included: street tree maintenance, median maintenance, park maintenance, municipal pool maintenance, area lighting maintenance, traffic signal maintenance, traffic engineering, and street lighting engineering. Since the passage of Proposition 218 ("Proposition") in November 1996 and the subsequent property owner approval in July 1997, the District assessment currently funds only those services that have been designated as a "Special Benefit", which is the maintenance of most of the street lights and street trees within the City. These funds are used for the operations and maintenance of streetlights, trimming of street trees, and removal and replacement of diseased street trees.

The Engineer's Report ("Report") has been prepared pursuant to Chapter 1, Article 4 and Chapter 3 of the 1972 Act, and presented to the City Council for their consideration and approval of the proposed improvements and services to be provided within the District and the levy and collection of annual assessments for FY 2023/2024.

This Report describes the District, the improvements and the proposed assessments to be levied against properties in connection with the benefits the properties will receive from the maintenance and servicing of the District improvements for FY 2023/2024. The annual assessments to be levied on properties within the District provide a funding source for the continued operation and maintenance of local landscape improvements installed in connection with the development of properties within the District. Each fiscal year, the City establishes the District's assessments based on an estimate of the costs to maintain, operate and service the landscape improvements and based upon available revenues including fund balances, City contributions and assessment limits. The costs of the improvements and the proposed annual assessments budgeted and assessed against properties within the District may include: the estimated expenditures for regular annual maintenance and repairs; incidental expenditures related to the operation and administration of the District; deficits or surpluses from prior years; revenues from other sources; and the collection of adequate funds for operational reserves or periodic expenditures including installments collected for long-term improvement projects. Each parcel is assessed proportionately for only those improvements, services and expenses for which the parcel will receive special benefit.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number ("APN") by the Los Angeles County ("County") Assessor's Office. The County Auditor/Controller uses Assessor's Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

At a noticed annual Public Hearing, the City Council will accept all public comments and written protests regarding the District and the annual levy of assessments. Upon conclusion of the Public Hearing, the City Council will consider all public comments and review the Report. The City Council may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments the Council will, by Resolution, order the improvements to be made and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments as approved will be submitted to the County Auditor/Controller to be included on the property tax roll for each parcel.

While the budgets outlined in this Report reflect the estimated costs necessary to fully and adequately provide for the maintenance and operation of the improvements within the District, many of these estimated costs and associated services cannot be funded by the current assessment revenues and contributions from the City. To fully fund the improvements, it may be necessary to increase assessment revenues by a percentage greater than the currently approved inflationary adjustment, which is no greater than the percentage increase of the Los Angeles-Long Beach-Anaheim Consumer Price Index ("CPI") as published by the Department of Labor's Bureau of Labor Statistics or 2% whichever is less. (As of January 2018, the Los Angeles-Riverside-Orange County Consumer Price Index region name changed to Los-Angeles-Long Beach-Anaheim Consumer Price Index). This will require the support of the property owners for new or increased assessments through a ballot proceeding conducted under the provisions of the California Constitution Article XIID.

In FY 2017-18, the City conducted a property owner protest ballot proceeding for a proposed Maximum Assessment increase of 12%. Based on the results of the protest ballot, the City Council declined to adopt the new Maximum Assessment increase.

As required by the 1972 Act, this Engineer's Report describes the improvements to be operated, maintained and serviced by the District, an estimated budget for the District improvements, and the proposed assessments to be levied upon each assessable lot or parcel within the District for FY 2023/2024.

This Report consists of five (5) parts:

## **Part I**

**Plans and Specifications:** A general description of the District and the improvements for which parcels are assessed. The proposed assessments as outlined in this Report are based on the improvements that provide a special benefit to the properties within the District. The plans and specifications contained in this Report generally describe the nature, location and extent of the improvements.

## **Part II**

**Method of Apportionment:** A description of how the proportionate amount of the assessments is to be charged in proportion to the benefits received by each lot or parcel within the boundaries of the District.

### Part III

**Estimate of Costs:** An estimate of the annual costs to properly operate, maintain, and service the landscape improvements and appurtenant facilities. This budget includes an estimate of the maintenance costs and incidental expenses including, but not limited to: labor, materials, equipment and administration expenses as well as the collection of appropriate funding necessary to properly support the improvements. Not all services and costs identified in these budgets can be supported by the current assessment revenues and City contributions, and as such, City staff shall make the determination of which services and activities shall be provided based on available revenues.

### Part IV

**Boundary Map:** A diagram showing the boundaries of the District is provided in this Report and includes all parcels determined to receive special benefits from the improvements. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the District are shown on the Los Angeles County Assessor's Parcel Maps and shall include any subsequent lot line adjustments or parcel changes therein. Reference is hereby made to the Los Angeles County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the District. A diagram showing the overall boundaries of the District is on file with the City Clerk and the Office of the City Engineer, and by reference is made part of this Report.

### Part V

**Assessment Roll:** A listing of the assessment amount associated with each parcel within the District. The assessments presented herein are unchanged from the previous fiscal year.

## ***PROPOSITION 218 COMPLIANCE***

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On November 5, 1996, California voters approved Proposition 218. This Proposition amended the California Constitution and was the latest in a series of initiatives reducing the revenue-raising discretion of California local governments. The provisions of the Proposition, now California Constitution Articles XIII C and XIII D, can be summarized in four general areas:

1. Strengthens the general and special tax provisions of Proposition 13 and Proposition 62.
2. Extends the initiative process to all local taxes, assessments, fees, and charges.
3. Adds substantive and procedural requirements to assessments.

4. Adds substantive and procedural requirements to property-related fees and charges.

Proposition 218 required that beginning July 1, 1997, all new and existing assessments (with some exceptions) must conform to new substantive and procedural requirements. However, certain assessments are exempted from these requirements until they are increased.

Generally, these exemptions include:

- (a) Assessments used exclusively to fund sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (b) Assessments imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (c) Assessments used exclusively for bond repayments, the cessation of which would violate the Contract Impairment Clause of the U.S. Constitution.
- (d) Assessments previously approved by a majority of voters.

The assessments for the District were approved in a mailed ballot election in July 1997 in accordance with the Article XIID substantive and procedural requirements. Any subsequent increases in the assessments above those initially approved by the mailed election will be subject to the procedures and approval process of Section 4 of Article XIID of the California Constitution.

## ***I. PLANS AND SPECIFICATIONS***

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### **A. DESCRIPTION OF WORK**

The existing facilities to be maintained and serviced include street lighting facilities and street trees.

The District will fund the costs in connection with the district maintenance and servicing including, but not limited to, personnel, electrical energy, water, materials, contracting services, and other expenses necessary for the satisfactory operation of these facilities. The facilities are described as follows:

#### Landscaping and Appurtenant Facilities

Facilities include but are not limited to: trees, irrigation system, hardscape, fixtures, sidewalk maintenance resulting from landscape growth and appurtenant facilities, in public right-of-way, parkways, and dedicated easements within the boundaries of the District.

#### Lighting and Appurtenant Facilities

Facilities include but are not limited to: poles, fixtures, bulbs, conduits, conductors, equipment including guys, anchors, posts and pedestals, metering

devices and appurtenant facilities as required to provide lighting in the public right-of-way and dedicated easements within the boundaries of the District.

The public lighting system shall be maintained to provide adequate illumination. Electricity for streetlights shall be furnished by the Southern California Edison Company, and it shall be adequate for the intended purpose. Rates for power shall be those authorized by the California Public Utilities Commission.

“Maintenance” means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the landscaping, public lighting facilities and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping, public lighting facilities or appurtenant facilities; providing for the life, growth, health, and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, and treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste.

“Servicing” means the furnishing of water for the irrigation of landscaping and the maintenance of any of the public lighting facilities and furnishing of electrical energy for the public lighting facilities or for the lighting or operation of landscaping or appurtenant facilities.

## **B. IMPROVEMENTS AUTHORIZED BY THE 1972 ACT**

As applicable or may be applicable to this proposed District, the 1972 Act defines improvements to mean one or any combination of the following:

The installation or planting of landscaping.

The installation or construction of statuary, fountains, and other ornamental structures and facilities.

The installation or construction of public lighting facilities.

The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

The maintenance or servicing, or both, of any of the foregoing.

The acquisition of any existing improvement otherwise authorized pursuant to this section.

Incidental expenses associated with the improvements including, but not limited to:

The cost of preparation of the report, including plans, specifications, estimates, diagram, and assessment;

The costs of printing, advertising, and the publishing, posting and mailing of notices;

Compensation payable to the County for collection of assessments;

Compensation of any engineer or attorney employed to render services;

Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;

Any expenses incidental to the issuance of bonds or notes pursuant to Section 22662.5.

Costs associated with any elections held for the approval of a new or increased assessment.

The 1972 Act defines "Maintain" or "maintenance" to mean furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including:

Repair, removal, or replacement of all or any part of any improvement.

Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

The removal of trimmings, rubbish, debris, and other solid waste.

The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

### **C. DESCRIPTION OF IMPROVEMENTS AND SERVICES**

The following outlines the various improvements associated with the properties and developments throughout the District. The detailed plans and specifications of the District improvements are on file in the office of the City Public Works Department and by reference are made part of this Report.

There are currently no ongoing Capital Improvement Projects:



## **II. METHOD OF APPORTIONMENT**

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### **A. PROPOSITION 218 BENEFIT ANALYSIS**

The costs of the proposed improvements have been identified and allocated to properties within the District based on special benefit. The improvements provided by this District and for which properties are assessed are local public landscape improvements and related amenities that were installed in connection with the development of the properties or would otherwise be required for the development of properties within each respective Zone of the District. The assessments and method of apportionment is based on the premise that these improvements would otherwise not have been required without the development of those parcels within the District.

Article XIID Section 2(d) defines District as follows:

*"District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service";*

Article XIID Section 2(i) defines Special Benefit as follows:

*"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit."*

Article XIID Section 4(a) defines proportional special benefit assessments as follows:

*"An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel." The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements which include the construction, maintenance, and servicing of public lights, landscaping and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value".*

*"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."*

Pursuant to Section 22574 of the 1972 Act permits the designation of zones of benefits within any individual assessment district if "by reason of variation in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements." Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

In addition, Proposition 218 the "Right to Vote on Taxes Act" which was approved on the November 1996 Statewide Ballot, requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that

parcel. Prop. 218 provides that only special benefits are assessable and the City must separate the general benefits from the special benefits.

The formula used for calculating assessments in this District reflects the composition of the parcels, and the improvements and services provided in order to fairly apportion the costs based on estimated benefit to each parcel.

## **B. BENEFIT ANALYSIS**

The assessment is proposed to be levied to defray the cost of the operation, servicing, and maintenance of street trees and street lighting and appurtenant facilities, including but not limited to, personnel, electrical energy, utilities such as water, materials, contracting services, and other items necessary for the satisfactory operation of these services.

### **Street Lighting Benefit:**

Proper maintenance and operation of the street lighting system benefits in proximity adjacent to the lights by providing security, safety and community character, and vitality. The amount of benefit received will vary with the different land use on the property. There are three (3) categories from which the total special benefit of a parcel is derived:

1. **Security and Safety Benefit.** The prevention of crime, the alleviation of the fear of crime, and the prevention of traffic accidents in a community.
2. **Community Character and Vitality Benefit.** The promotion of social interaction, promotion of business and industry, and the contribution to a positive night time visual image for the community.
3. **Lighting Intensity Benefit.** As the lighting levels increase, so do the benefits associated with the lighting. Lighting Standards usually require approximately twice the level of lighting in commercial/industrial areas than in residential areas.

Parcels, which are located on streets with streetlights, receive a special lighting benefit. Parcels which are located on private streets receive a substantially reduced benefit from local lighting, parcel which do not have any local streetlights receive no benefit from street lighting.

Lighting at the street intersection, which is defined as safety lighting, is considered to be the minimum lighting requirement for vehicular safety; therefore, safety lighting represents the general benefit portion of street lighting. Additionally, lights, which are on arterials of the City, which do not have parcels fronting on them, are considered a general benefit. Those general benefit portions of the City's lighting budget will not be assessed.

**Benefit Zones.** Most parcels within the City front on streets with streetlights and therefore receive a direct lighting benefit. However, there are some areas in the City, which have a higher level of lighting and these have been designated as additional Benefit Zones.

Zone A. The Civic Center and Plaza at West Covina areas receive a higher level of street lighting.

Zone B. The properties along Glendora Avenue from Walnut Creek Parkway to the I-10 Freeway receive a higher level of street lighting than Zone A.

Those parcels which also have public lighting in adjacent alleyways receive an equal amount of benefit for the alley lights as for the streetlights, therefore, these parcels are assessed two times the benefit of the basic local lighting. The parcels that front streets without streetlights do not receive a local lighting benefit and therefore are not assessed.

### **Street Trees:**

Trees, landscaping, hardscaping and appurtenant facilities, if well maintained, provide beautification, shade and enhancement of the desirability of the surroundings.

The City maintains street trees throughout the City. The trees are located within the public right-of-way and provide aesthetically pleasing environment, shade, beautification, and according to some authorities' air purification and sound attenuation. These positive attributes increase the desirability of properties located on streets that have trees on them.

More importantly, proper maintenance of these facilities, especially routine trimming of street trees and removal/replacement of deceased trees, is essential to the safety of the users of adjacent properties.

Parcels that are located on streets which do not have trees do not benefit and are not assessed. Street trees on arterials of the City that do not have parcels fronting on them are considered a general benefit. There are approximately seven hundred and eighty-four (784) such trees out of approximately twenty-seven thousand forty-eight (27,048) street trees in the City, or 2.90%. Therefore, 2.90% of the City street tree budget will be funded through the City's General Fund account.

## **C. ASSESSMENT METHODOLOGY**

The methods of apportionment utilized for the District calculates the receipt of special benefit from the respective improvements based on the actual or proposed land use of the parcels. The special benefit received by each lot or parcel is equated to the overall land use of the parcel based on the parcel's actual land use or proposed planned development and is reliant upon the special benefit received from the improvements planned or existing within the District.

To identify and determine the special benefit to be received by each parcel, it is necessary to consider the entire scope of the improvements. The costs associated with the improvements shall be fairly distributed among the parcels based upon the special benefit received by each parcel. Additionally, in compliance with Section 4 of Article XIID, each parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred to that parcel. The benefit formula used to determine the assessment obligation is therefore based upon both the improvements that benefit the parcels of the District as well as the proposed land use of each property as compared to other parcels that benefit from those specific improvements.

### **Equivalent Dwelling Units:**

Since the assessments will be levied against parcels of property as shown on the tax rolls, the final charges must be assigned by Assessor's Parcel Number. If assessments were to be spread just by parcel, not considering land use or parcel size, a single-family parcel would be paying the same as a fifty (50) unit apartment parcel or a large commercial establishment in a similar zone and this would not be equitable and would not satisfy the Prop. 218 requirements.

The single-family residential parcel has been selected as the basic unit for calculation of assessment since it represents 80% of the parcels in the City. Therefore, the single-family residential parcel is defined as an Equivalent Dwelling Unit ("EDU"). A methodology has been developed to calculate the EDUs for other residential land uses and for non-residential parcels. Every land-use is converted to EDUs: parcels containing apartments are converted to EDUs based on the number of dwelling units on each parcel of land; commercial and industrial parcels are converted based on the lot size of each parcel of land.

The EDU method is usually seen as more appropriate and equitable for landscaping and lighting districts, as the benefit to each parcel from the improvements being maintained extends beyond the front of their property. Therefore, assessments are apportioned as a function of land-use type and whether a property is developed or not. This may be more clearly shown by taking an example of condominiums. Under the current method of assessment, the frontage along the whole condominium complex is measured, and then is divided by the number of units within the complex. This spreads a relatively small assessment to each of the condominiums, which is not commensurate with the benefit each one of them receives.

### **EDU Application:**

**Single-Family Residential** - The single-family residential parcel has been selected as the basic unit for calculation of the benefit assessment. The basic unit shall be called an Equivalent Dwelling Unit (EDU). Parcels zoned for single-family residential uses are assessed **1 EDU**.

**Multi-Family Residential** - Multiple residential (including condominiums) land use equivalencies are determined based on the number of dwelling units on each parcel. Due to population density and size of structure relative to the typical single-family residence, each dwelling unit defined as multi-family residential, including condominiums, would be **0.75 EDU**. Benefits to a multi-family residential property do not increase proportionately as the number of units increase. Therefore, the population per unit decreases as the residential land use density increases and there is a corresponding reduction in benefit to a parcel. Also, as the number of dwelling units increase, the average value per rental unit decreases. Therefore, there is a reduced benefit to a parcel as the number of dwelling units increase. By decreasing the equivalency as the number of units increase, a reasonable benefit assessment is achieved. Therefore, the equivalency is reduced to **0.5 EDU** per dwelling unit, for five (5) through fifteen (15) dwelling units (as parcels with 5 to 15 units are considered "high medium density" as opposed to the "low density" of duplexes, triplexes and fourplexes), and the equivalency is reduced to **0.25 EDU** per dwelling unit for more than 15 units, which are considered to be "high density". Fifteen units are established as the limit of the "high medium density" category as State law (California Title 25, Section 42) requires that apartment complexes with 16 or more dwelling units have a manager located on the premises, which is an indication of "high density".

**Mobile Homes** - Mobile home parks, and mobile homes located within mobile home parks, are converted to EDUs based on the population density and size of structure relative to a single-family residence. Therefore, mobile home parks and mobile homes located within mobile home parks would be assessed **0.5 EDU** per mobile home. No decrease would be applied to this factor, as mobile homes are all separate dwellings with no common walls.

**Non-Residential** - In converting improved non-residential properties to EDUs, the factor used is the City of West Covina's average density for single-family residential areas, which are five (5) dwelling units per acre. All properties developed for non-residential uses are therefore assigned **5 EDUs** per acre for the first five (5) acres. It is our experience, based upon a review of large non-residential parcels, that the utilization of that portion of non-residential property greater than 5 acres more closely resembles that of vacant land as it is typically undeveloped. Therefore, after the first 5 acres, each additional acre will be charged 25% of 5 EDUs which results in **1.25 EDUs** per acre, similar to vacant land as described below.

### **Vacant Property:**

Vacant property is described, as parcels with no improved structures. These properties receive benefits based on their land, as this is the basis of their value. Based on the opinions of professional appraisers, appraising current market property values for real estate in Southern California, the land value portion of the property typically ranges from 20 to 30 percent of the property's total value. Additionally, the utilization of vacant property is significantly less than improved property, and vacant

property has a traffic generation rate of 0. Therefore, it is recommended that vacant property be assessed at the rate of 25 percent of improved property.

**Vacant Residential** - Parcels defined as residential parcels, which do not have structures on the parcels, are assessed 25% of the parcel with a single-family dwelling thereon. The parcel will be assessed **0.25 EDU** per parcel.

**Vacant Non-Residential** - Parcels defined as parcels which are not residential parcels and which do not have structures on the parcel area assessed based upon the acreage of the parcel. The parcels will be assessed at the rate of 25% of the developed non-residential properties, or **1.25 EDU** per acre or any portion thereof, with a minimum of **0.25 EDU** per parcel and up to a maximum of **5 acres (6.25 EDUs)** per parcel, as parcels over five (5) acres may be considered as open space, and no longer receive any benefit.

**Public Property** - Article XIID of the California Constitution requires that all benefiting public properties be assessed for their fair share of the benefit. Public property, which is developed and used for residential or business purposes will be assessed the same as private property with the same use. Schools will be assessed as Commercial/Industrial uses. Parks will be assessed as vacant property.

**Exempt** - Excepted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements, and right-of-way, public greenbelts, parkways and that portion of property that is not developed and used for business purposes similar to private commercial, industrial and institutional activities. Also, excepted from assessments would be utility right-of-way, common areas (such as in condominium complexes), landlocked parcels and small parcels vacated by the City as these parcels have little or no value and therefore do not benefit from the improvements.



The land use classification for each parcel has been based on the Los Angeles County Assessor's Roll.

#### LAND USE CODES AND EQUIVALENT DWELLING UNITS

| Land Use Codes  |                                     | Total EDU                              |                             |
|---|-------------------------------------|--|-----------------------------|
| Single-Family Residential (SFR)                                     |                                     | 1.0 per unit                           |                             |
| Condominiums  |                                     | 0.75 per unit                          |                             |
| Multi-Family Residential  | 0.75 per unit for the first 4 units | 0.5 per unit over 4 and up to 15 units | 0.25 per unit over 15 units |
| Mobile Home Parks   |                                     | 0.5 per DU                             |                             |
| Commercial/Industrial and Other Non-Residential (including Schools) | 5.0 per acre for the first 5 acres  | 1.25 per acre over 5 acres             |                             |
| Vacant SFR  |                                     | 0.25 per parcel                        |                             |
| Vacant (25% of Non-Residence EDUs) (includes Parks)                 |                                     | 1.25 per acre (5 acre maximum)         |                             |

#### Benefit Factors:

There are varying levels of benefit to property from the operation and maintenance of street lighting and street trees based on the different types of property use. Because the benefit to the property varies depending on the type of land use of the property, a Benefit Factor is applied to the EDU formula for each property for each type of improvement to obtain Benefit Units for each Property.

$$(\text{Equivalent Dwelling Unit}) \times (\text{Benefit Factor}) = \text{Benefit Units}$$

The following table outlines the Benefit Factors for street lighting:

#### STREET LIGHTING BENEFIT FACTORS

|                                | Residential | Commercial/Industrial |
|--------------------------------|-------------|-----------------------|
| Security & Safety              | 1           | 1                     |
| Community Character & Vitality | 1           | 1                     |
| Lighting Intensity             | 1           | 2                     |
| <b>Total</b>                   | <b>3</b>    | <b>4</b>              |

Schools will receive a residential benefit factor, as they tend to be in residential areas and benefit similarly to residential property. Parks are assessed as vacant land and receive a non-residential benefit factor.

## Benefit Units:

The budget for basic lighting is \$1,159,639. The proposed applied basic lighting assessment rate is estimated at \$13.44 per BU, which includes the costs of basic lighting and associated capital improvements and contribution to reserves totaling \$1,391,666. Accordingly, a single-family residential parcel's assessment would equal 3 BU x \$13.44/BU = \$40.32. The Following table provides a preliminary summary of Street Lighting Benefit Units (BU's) for the City.

| STREET LIGHTING BENEFIT UNITS |               |               |                 |                  |                |                   |
|-------------------------------|---------------|---------------|-----------------|------------------|----------------|-------------------|
| Land Use                      | Parcels       | Dwellings     | Acres           | EDU's            | Benefit Factor | Benefit Units     |
| Single Family Residential     | 20,734        | 20,734        |                 | 20,734.00        | 3              | 62,202.00         |
| Condominium                   | 3,603         | 3,603         |                 | 2,702.25         | 3              | 8,106.75          |
| Multi-Family Residential      | 494           | 8,106         |                 | 3,087.50         | 3              | 9,262.50          |
| Mobile Home Parks             | 2             | 265           |                 | 132.50           | 3              | 397.50            |
| Commercial                    | 690           |               | 1326.20         | 4,177.02         | 4              | 16,708.10         |
| Vacant SFR                    | 150           |               | 61.85           | 37.50            | 3              | 112.50            |
| Vacant Non-SFR <sup>(1)</sup> | 337           |               | 1,025.92        | 1,689.32         | 4              | 6,757.26          |
| <b>Totals</b>                 | <b>26,010</b> | <b>32,708</b> | <b>2,413.96</b> | <b>32,560.09</b> |                | <b>103,546.61</b> |

<sup>(1)</sup> Government properties are assessed as Vacant Non-SFR land use.

Note: Zones A & B have different benefit factors. See following tables.

## Lighting Benefit Zone A:

The budget for Zone A lighting is \$53,773. The proposed applied preliminary basic lighting assessment rate is estimated at \$40.85 per BU, which includes the costs of Zone A lighting and associated capital improvements, and contribution to reserves totaling \$70,820. The following table shows the preliminary summary of the BUs in Zone A.

| ZONE A BENEFIT UNITS |           |               |               |                |                 |
|----------------------|-----------|---------------|---------------|----------------|-----------------|
| Land Use             | Parcels   | Acreage       | EDU's         | Benefit Factor | Benefit Units   |
| Commercial           | 43        | 69.94         | 280.72        | 4              | 1,122.89        |
| Vacant Non-SFR       | 17        | 50.58         | 152.69        | 4              | 610.76          |
| <b>Totals</b>        | <b>60</b> | <b>120.52</b> | <b>433.41</b> |                | <b>1,733.65</b> |



**Lighting Benefit Zone B:**

The budget for Zone B lighting is \$17,423 and is additional to the budget for Zone A. The proposed applied preliminary basic lighting assessment rate is estimated at \$23.80 per BU plus \$40.85 per BU for Zone A, for a total applied assessment rate of \$64.65 per BU, which includes the costs lighting and associated capital improvements, and contribution to reserves totaling \$8,750. The following table shows the preliminary summary of the BUs in Zone B.

**ZONE B BENEFIT UNITS**

| Land Use                     | Parcels   | Acreage     | EDU's        | Benefit Factor | Benefit Units |
|------------------------------|-----------|-------------|--------------|----------------|---------------|
| Commercial                   | 24        | 6.15        | 30.74        | 4              | 122.95        |
| Vacant Non-SFR               | 3         | 2.48        | 3.10         | 4              | 12.39         |
| <b>Totals <sup>(1)</sup></b> | <b>27</b> | <b>8.63</b> | <b>33.84</b> |                | <b>135.34</b> |

<sup>(1)</sup> Totals may not foot due to rounding.

No additional factors have been assigned for street trees; therefore, the Benefit Unit factors are the same as the EDU factors for each land use.

### **Street Tree Benefit:**

The total budget for Street Trees is \$390,674. The proposed applied preliminary assessment rate is estimated at \$18.53 per BU, which includes the costs of street tree maintenance and associated capital improvements, and contribution to reserves totaling \$460,965. A single-family residential parcel's assessment would be equal to 1 BU x \$18.53/BU = \$18.53. The following table provides a preliminary summary of Street Tree Benefit Units (BUs) for the City.

| <b>STREET TREE BENEFIT UNITS</b> |                |                  |                 |                  |                       |                      |
|----------------------------------|----------------|------------------|-----------------|------------------|-----------------------|----------------------|
| <b>Land Use</b>                  | <b>Parcels</b> | <b>Dwellings</b> | <b>Acres</b>    | <b>EDU's</b>     | <b>Benefit Factor</b> | <b>Benefit Units</b> |
| Single Family Residential        | 15,646         | 15,646           |                 | 15,646.00        | 1                     | 15,646.00            |
| Condominium                      | 3,497          | 3,497            |                 | 2,622.75         | 1                     | 2,622.75             |
| Multi-Family Residential         | 417            | 5,350            |                 | 2,136.50         | 1                     | 2,136.50             |
| Mobile Home Parks                | 1              | 157              |                 | 78.50            | 1                     | 78.50                |
| Commercial                       | 432            |                  | 1,032.91        | 2,989.89         | 1                     | 2,989.89             |
| Vacant SFR                       | 115            |                  | 44.45           | 28.75            | 1                     | 28.75                |
| Vacant Non-SFR (including Parks) | 291            |                  | 851.66          | 1,374.30         | 1                     | 1,374.30             |
| <b>Totals</b>                    | <b>20,399</b>  | <b>24,650</b>    | <b>1,929.02</b> | <b>24,876.68</b> |                       | <b>24,876.68</b>     |

<sup>(1)</sup> Government properties are assessed as Vacant Non-SFR land use.

### **Assessment Rate Summary:**

The following table summarizes the Applied and Maximum Assessment rates for parcels in each of the zones of benefits:

| <b>ASSESSMENT RATE SUMMARY</b> |                                      |                                      |
|--------------------------------|--------------------------------------|--------------------------------------|
| <b>Benefit Category</b>        | <b>Applied Rate Per Benefit Unit</b> | <b>Maximum Rate Per Benefit Unit</b> |
| Basic Local Lighting           | \$13.44                              | \$13.4405                            |
| Light Zone A                   | \$40.85                              | \$40.8510                            |
| Light Zone B                   | \$64.65                              | \$64.6532                            |
| Street Tree Benefit            | \$18.53                              | \$18.5386                            |

\*Note: City will apply the Applied Rate per benefit unit.

## **D. ASSESSMENT RANGE FORMULA**

Any new or increased assessment requires certain noticing and meeting requirements by law. Prior to the passage of Proposition 218 (California Constitution Articles XIII C and XIII D), legislative changes in the Brown Act defined a "new or increased assessment" to exclude certain conditions. These conditions included "any assessment that does not exceed an assessment formula or range of assessments previously adopted by the agency or approved by the voters in the area where the assessment is imposed." This definition and conditions were later confirmed through Senate Bill 919 (the Proposition 218 implementing legislation).

The purpose of establishing an assessment range formula is to provide for reasonable increases and inflationary adjustment to annual assessments without requiring costly

noticing and mailing procedures, which could add to the District costs and assessments. As part of the District formation, balloting of property owners is required pursuant to the Article XIID Section 4. The property owner ballots include an Assessment to be approved, as well as the approval of an assessment range formula.

The Maximum Assessment is equal to the initial Assessment approved by property owners adjusted annually by the percentage increase of the Local Consumer Price Index ("CPI") for Los Angeles-Long Beach-Anaheim for All Urban Consumers from March to March up to 2%. As of January 2018, the Los Angeles-Riverside-Orange County Consumer Price Index region name changed to Los-Angeles-Long Beach-Anaheim Consumer Price Index. Each Fiscal Year, the Maximum Assessment will be recalculated, and a new Maximum Assessment established. For Fiscal Year 2023/2024, CPI increased 3.65%, therefore percentage increase is 2%.

The Maximum Assessment is adjusted annually and is calculated independent of the annual budgets and proposed assessments established for each Zone of the District. Any proposed annual assessment (rate per EBU) less than or equal to this Maximum Assessment (for each Zone) is not considered an increased assessment, even if the proposed assessment is much greater than the assessment applied in the prior Fiscal Year.

### ***III. ESTIMATE OF COSTS***

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The total estimate of costs for maintenance of the proposed improvements for FY 2023/2024, as defined under Section 22569 of the 1972 Act, are those as hereinafter set forth. Said cost estimates include the total District costs for constructing or installing any proposed improvements and for maintenance and servicing the existing improvements including incidental expenses; the amount of any surplus or deficit in the maintenance fund to be carried over from the previous year; any annual installments to be collected over more than a single year; as well as the amount of any contributions to be made from any other sources.

#### **A. CAPITAL IMPROVEMENT PROJECT FUND**

For FY 2023/2024, there are no planned capital improvements.

## B. PROPOSED INCREASE SCOPE OF WORK AND SUMMARY OF OPERATING COSTS

| Citywide Lighting and Maintenance District<br>Fiscal Year 2023-24<br>Estimated Operating Costs |                             |                            |
|--|-----------------------------|----------------------------|
|  | <u>Existing Maintenance</u> | <u>Optimal Maintenance</u> |
| <b>Direct Maintenance</b>  |                             |                            |
| <b>Personnel Services</b>  |                             |                            |
| Full Time Salaries & Benefits  | \$63,462                    | \$126,925                  |
| Overtime   | 231                         | 462                        |
| <b>Subtotal</b>  | <u>\$63,694</u>             | <u>\$127,387</u>           |
| <b>Maintenance and Services</b>  |                             |                            |
| Maintenance Contracts  | \$22,452                    | \$44,904                   |
| Utilities  | 1,179,650                   | 2,359,300                  |
| Supplies, Vehicle Maintenance, and Gas   | 33,365                      | 66,729                     |
| Property & Liability Insurance   | 50,257                      | 100,514                    |
| <b>Subtotal</b>  | <u>\$1,285,723</u>          | <u>\$2,571,447</u>         |
| <b>Total Direct Maintenance</b>  | \$1,349,417                 | \$2,698,834                |
| <b>Engineering &amp; Incidentals</b>   |                             |                            |
| <b>Personnel Services</b>  |                             |                            |
| Full Time Salaries & Benefits  | \$25,380                    | \$50,761                   |
| <b>Subtotal</b>  | <u>\$25,380</u>             | <u>\$50,761</u>            |
| <b>Maintenance and Services</b>  |                             |                            |
| Consultant Services  | \$287                       | \$574                      |
| Service Contracts  | 437,598                     | 875,196                    |
| Supplies, Vehicle Maintenance, and Gas   | 1,218                       | 2,436                      |
| Equipment Outlay   | 350,000                     |                            |
| Administration and Overhead  | 77,764                      | 155,527                    |
| <b>Subtotal</b>  | <u>\$866,867</u>            | <u>\$1,033,733</u>         |
| <b>Total Engineering &amp; Incidentals</b>   | \$892,247                   | \$1,084,494                |
| <b>Total Operating Budget</b>  | <b>\$2,241,664</b>          | <b>\$3,783,328</b>         |

Note: The variance is the amount needed to support the recommended increased scope of work for Citywide Lighting and Maintenance District. The recommended scope of work includes the repair and replacement of light standards, hardscape repair and replacement of off-grade, cracked and broken sidewalks and ADA ramps, tree trimming, maintenance, and/or removal of the street trees on a citywide cycle, and landscape maintenance including trash removal and clearing of the median plants, shrubbery, and irrigation

Note: Adjustments for budget to equal assessment amount.

\*Totals may not foot due to rounding.

### **C. PROPOSED INCREASE SCOPE OF WORK AND SUMMARY OF TOTAL COSTS**

The City's budget for the operation and services costs detail the estimated costs and fund balances for FY 2023/2024 as available at the time of preparation of this Report. The 1972 Act provides that the total cost can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the district proceedings.

The 1972 Act requires that a special fund be set-up for the revenue and expenditures of the district. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1<sup>st</sup> must be carried over to the next fiscal year.

Also located in the budget is the proposed increase in scope of maintenance work at optimal levels. Increased scope of work for Citywide Lighting and Maintenance District is recommended to include the repair and replacement of light standards, hardscape repair and replacement of off-grade, cracked and broken sidewalks and ADA ramps, tree trimming, maintenance, and/or removal of the street trees on a citywide cycle, and landscape maintenance including trash removal and clearing of the median plants, shrubbery, and irrigation. It is estimated that the budget required for the increased lighting, hardscape, and landscaping scope is approximately double the existing LMD budgets.

As costs have risen, maintenance has suffered. A full study of what a proper level of maintenance would cost is needed to ascertain what a proper level of maintenance would cost and explore how to properly set the assessment rate. Such a study will take several months and, if rates are to be increased, would require a vote by the affected property owners.

Pending completion of a further analysis, this report recommends that assessment rates be maintained at their current levels for Fiscal Year 2023/2024.

| City of West Covina<br>Citywide Lighting and Maintenance District<br>Fiscal Year 2023-24<br>Estimated Operating Costs |                             |                    |                            |
|---|-----------------------------|--------------------|----------------------------|
|   | <u>Existing Maintenance</u> |                    | <u>Optimal Maintenance</u> |
| <b>Previous Fiscal Year Fund Balance</b>  |                             | <b>\$699,612</b>   | <b>\$699,612</b>           |
| <b>Revenues</b>   |                             |                    |                            |
| Assessment Income (Total Balance to Levy)   | \$1,942,462                 |                    | \$1,942,462                |
| Interest  | 8,140                       |                    | 8,140                      |
| <b>Total Projected Revenue</b>  |                             | <b>\$1,950,602</b> | <b>\$1,950,602</b>         |
| <b>Expenditures</b>   |                             |                    |                            |
| <b>Direct Costs</b>   |                             |                    |                            |
| <b>Lighting</b>   |                             |                    |                            |
| Direct Lighting   | \$1,779,794                 |                    | \$3,559,589                |
| Zone A  | 53,773                      |                    | 107,546                    |
| Zone B  | 17,423                      |                    | 34,846                     |
| <b>Subtotal</b>   | <b>\$1,850,990</b>          |                    | <b>\$3,701,981</b>         |
| <b>Street Lights</b>  |                             |                    |                            |
| Direct Street Trees   | \$390,674                   |                    | \$781,348                  |
| <b>Subtotal</b>   | <b>\$390,674</b>            |                    | <b>\$781,348</b>           |
| <b>Total Operating Budget</b>   |                             |                    |                            |
| <b>Capital Improvement <sup>(1)</sup></b>   | <b>\$0</b>                  |                    | <b>\$0</b>                 |
| <b>Total Operating and Capital Budget</b>   |                             | <b>\$2,241,664</b> | <b>\$4,483,329</b>         |
| <b>Ending Fund Balance</b>  |                             | <b>\$408,550</b>   | <b>(\$1,833,115)</b>       |

<sup>(1)</sup> See Capital Project Fund Section III. A.

Note: The variance is the amount needed to support the recommended increased scope of work for Citywide Lighting and Maintenance District. The recommended scope of work includes the repair and replacement of light standards, hardscape repair and replacement of off-grade, cracked and broken sidewalks and ADA ramps, tree trimming, maintenance, and/or removal of the street trees on a citywide cycle, and landscape maintenance including trash removal and clearing of the median plants, shrubbery, and irrigation

Note: Adjustments for budget to equal assessment amount.

\*Totals may not foot due to rounding

#### ***IV. BOUNDARY MAP***

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A diagram showing the exterior boundaries of the District, boundaries of any zone within the District and the lines and dimension of each lot or parcel of land within the district is on file in the Office of the City Engineer.

## ***V. ASSESSMENT ROLL***

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Parcel identification for each lot or parcel within the District shall be the parcel as shown on the Los Angeles County Secured Roll for the year in which this Report is prepared and reflective of the Assessor's Parcel Maps. A listing of the proposed lots and parcels to be assessed within this District along with the assessment amounts shall be submitted to the City Clerk, under a separate cover, and by reference is made part of this Report.



**West Covina Citywide Lighting and Maintenance District**  
**10 Year Existing Plus 2% Projected Fiscal Projection**

| Percent Increase                          | 2%                 | 0%                 | 0%                 | 0%                 | 0%                   | 0%                   | 0%                   | 0%                   |
|---|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|----------------------|----------------------|
| Fiscal Year                               | 23-24              | 24-25              | 25-26              | 26-27              | 27-28                | 28-29                | 29-30                | 30-31                |
| <b>Assessment Income</b>                  | <b>\$1,942,462</b> | <b>\$1,942,462</b> | <b>\$1,942,462</b> | <b>\$1,942,462</b> | <b>\$1,942,462</b>   | <b>\$1,942,462</b>   | <b>\$1,942,462</b>   | <b>\$1,942,462</b>   |
| Interest (1)                              | 8,140              | 817                | 175                | (513)              | (1,248)              | (2,031)              | (2,862)              | (3,742)              |
| <b>Total Revenues</b>                     | <b>\$1,950,602</b> | <b>\$1,943,279</b> | <b>\$1,942,637</b> | <b>\$1,941,949</b> | <b>\$1,941,214</b>   | <b>\$1,940,431</b>   | <b>\$1,939,600</b>   | <b>\$1,938,720</b>   |
| Prior Year Balance                        | 699,612            | 408,550            | 87,748             | (256,337)          | (623,976)            | (1,015,447)          | (1,431,028)          | (1,871,000)          |
| <b>Total Funding</b>                      | <b>\$2,650,214</b> | <b>\$2,351,829</b> | <b>\$2,030,385</b> | <b>\$1,685,613</b> | <b>\$1,317,238</b>   | <b>\$924,984</b>     | <b>\$508,572</b>     | <b>\$67,720</b>      |
| Maintenance Costs (2)                     | 2,241,664          | 2,264,081          | 2,286,722          | 2,309,589          | 2,332,685            | 2,356,012            | 2,379,572            | 2,403,368            |
| <b>Total Cost</b>                         | <b>\$2,241,664</b> | <b>\$2,264,081</b> | <b>\$2,286,722</b> | <b>\$2,309,589</b> | <b>\$2,332,685</b>   | <b>\$2,356,012</b>   | <b>\$2,379,572</b>   | <b>\$2,403,368</b>   |
| <b>Ending Balance</b>                     | <b>\$408,550</b>   | <b>\$87,748</b>    | <b>(\$256,337)</b> | <b>(\$623,976)</b> | <b>(\$1,015,447)</b> | <b>(\$1,431,028)</b> | <b>(\$1,871,000)</b> | <b>(\$2,335,647)</b> |
| Typical Assessment for SFR <sup>(3)</sup> | \$58.85            | \$58.85            | \$58.85            | \$58.85            | \$58.85              | \$58.85              | \$58.85              | \$58.85              |

Notes: (1) Interest is 0.4% of one-half of the previous year ending balance.

(2) 1% increase in maintenance cost each year due to inflation.

(3) Previously approved maximum highest rate of \$57.64, may not be increased further without vote.



## AGENDA STAFF REPORT

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City of West Covina | Office of the City Manager

**DATE:** July 18, 2023

**TO:** Mayor and City Council

**FROM:** Paulina Morales  
Acting City Manager

**SUBJECT: PUBLIC HEARING TO CONSIDER WEST COVINA AUTO PLAZA  
BUSINESS IMPROVEMENT DISTRICT FISCAL YEAR 2023-2024 ANNUAL REPORT  
AND ASSESSMENT**

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### RECOMMENDATION:

It is recommended that the City Council conduct the public hearing and then adopt the following resolution:

**RESOLUTION NO. 2023-47 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023-2024**

### BACKGROUND:

The Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Section 36500 et seq.) (PBIA Law) establishes the framework for Business Improvement Districts (BID). The State wanted to make it possible for groups of businesses to band together and invest in their commercial neighborhoods for the purposes of revitalization, stability, and growth. On June 1, 1993, the City Council adopted Ordinance No. 1923, which established the West Covina Auto Plaza Business Improvement District (Auto Plaza BID). The City created this BID at the request of the businesses located in the area. Each year, the City Council holds a noticed public hearing before deciding to renew the BID for another year.

The assessment revenue is collected from businesses located within the Auto Plaza BID and is used to pay for the capital costs, operation and maintenance of a LED reader board sign located in the West Covina Auto Plaza, adjacent to the I-10 freeway, and for the operation and maintenance of the Auto Plaza entry monument sign and landscaping located at the southeast corner of Azusa Avenue and Garvey Avenue South. Assessment revenue is also used for landscaping maintenance along the I-10 freeway immediately facing and parallel to the Auto Plaza dealerships.

On April 19, 1994, the City Council appointed an Advisory Board consisting of the owners (and/or their representatives) of the auto dealerships located at the Auto Plaza. The function of the Advisory

Board is to make recommendations to the City Council on the expenditure of revenues derived from the levy of assessments, on the classification of businesses, and on the method and basis of levying the assessments. Pursuant to the PBIA Law, for each fiscal year that assessments will be levied, the Advisory Board is required to cause a report to be prepared containing the following: (1) any proposed changes in the boundaries of the BID or in any benefit zones within the area, (2) the improvements and activities to be provided for that fiscal year, (3) an estimate of the cost of providing the improvements and the activities for that fiscal year, (4) the method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year, (5) the amount of any surplus or deficit revenues to be carried over from a previous fiscal year, and (6) the amount of any contributions to be made from sources other than assessments levied.

The purpose of this item is to request that the City Council conduct the required public hearing and then adopt the resolution to confirm the Advisory Board's annual report as originally filed and levy the assessment for FY 2023-24.

#### **DISCUSSION:**

On June 7, 2023, the Auto Plaza BID Advisory Board held its annual meeting and approved the Annual Report. The Annual Report was filed with the City Clerk as required by the PBIA Law. The Annual Report is included as Attachment No. 2 to this report.

At the June 20, 2023, City Council meeting, the City Council approved the Annual Report and adopted Resolution 2023-46, declaring the intention to levy the annual assessment and setting the public hearing for July 18, 2023, at 7:00 p.m. in the City Council Chambers.

Staff is recommending that the City levy an assessment of \$16,524.00 per dealership site for FY 2023-24 (the same as last year). The assessment will be placed on the tax rolls by the County of Los Angeles Department of Auditor-Controller.

At the conclusion of the hearing, the City Council may order changes in the proposed assessment, the proposed improvements to be funded, and/or the proposed boundaries of the BID. If the Council determines to levy the assessment as proposed, it may adopt the attached resolution (Attachment No. 1), which confirms the Annual Report (Attachment No. 2) and levies the assessment for FY 2023-24. Adoption of the resolution places direct assessments on the auto dealers of the West Covina Auto Plaza BID. The BID boundaries are included as Exhibit A to the resolution.

#### **LEGAL REVIEW:**

The City Attorney's Office has reviewed the resolution and approved it as to form.

#### **OPTIONS:**

The City Council has the following options:

1. Approve staff's recommendation; or
2. Provide alternative direction.

**Prepared by:** Gerardo Rojas, Economic Development Project Coordinator

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### **Fiscal Impact**

#### **FISCAL IMPACT:**

The Annual Report includes a total budget of \$123,826.40, with an assessment of \$16,524.00 per dealership site. The gross estimated annual cost for operating expenditures including programming, maintenance, electricity, and insurance for the readerboard sign, landscaping, landscape maintenance, taxes and preparation costs, is \$68,496.14. The annual loan repayment is \$55,330.26, totaling \$123,826.40 in annual expenditures.

The Advisory Board voted to assess themselves \$16,524.00 (the same as last year), which would generate \$115,668.00 for FY 2022-23. As the annual expenditures are \$123,826.40, the assessments will not cover the total annual expenditures, with revenue less expenditures of negative \$8,158.40. An assessment of \$16,524.00 for each of the seven (7) dealership sites in the Auto Plaza BID will be placed on the tax rolls by the County of Los Angeles Department of Auditor-Controller.

The General Fund advanced cash for the replacement of the reader board sign at the Auto Plaza. Thus, the Auto Plaza Improvement District is estimated to begin the year with a deficit of \$30,851. This will be reduced as the fund pays back the advance from the General Fund.

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### **Attachments**

Attachment No. 1 - Resolution No. 2023-47

Attachment No. 2 - West Covina Auto Plaza Annual Report 2023-2024

**CITY COUNCIL GOALS & OBJECTIVES:** Maintain Good Intergovernmental Relations  
Expand Economic Development Opportunities

**RESOLUTION NO. 2023-47**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA, CONFIRMING THE ANNUAL REPORT FILED BY THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD AND LEVYING AN ANNUAL ASSESSMENT FOR THE WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT FOR FISCAL YEAR 2023-2024**

**WHEREAS**, in adopting the Parking and Business Improvement Area Law of 1989 (California Streets & Highways Code sections 36500 et seq.), the California Legislature authorized cities to levy assessments on businesses in order to promote economic revitalization and tourism, create jobs, attract new businesses and prevent erosion of business districts; and

**WHEREAS**, on June 1, 1993, the City Council adopted Ordinance No. 1923, which established the West Covina Auto Plaza Business Improvement District ("District") for purposes of levying an assessment within the District to fund the construction, operation and maintenance of an electronic readerboard to be located adjacent to the I-10 freeway and benefit the West Covina Auto Plaza dealerships to be assessed. The District was established with one hundred percent (100%) property owner consent; and

**WHEREAS**, on April 19, 1994, the City Council appointed the owners and/or their representatives of the auto dealerships located in the West Covina Auto Plaza as the advisory board of the District as required by California Streets and Highways Code section 36530 ("Advisory Board"); and

**WHEREAS**, on June 16, 2015, the Advisory Board modified the benefits zones within the District, increasing the number of benefit zones from six (6) dealership sites to seven (7) dealership sites. The boundaries and benefit zones of the District are set forth in Exhibit A, attached hereto and incorporated herein; and

**WHEREAS**, the Advisory Board has caused the annual report for Fiscal Year 2023-2024 required by California Streets and Highways Code section 36533 to be prepared and filed with the City Clerk; and

**WHEREAS**, the City Council has approved said annual report; and

**WHEREAS**, the City Council proposes to levy and collect an assessment within the District for Fiscal Year 2023-2024; and

**WHEREAS**, on June 20, 2023, the City Council adopted Resolution No. 2023-46, a resolution of intention to levy the assessment within the District for FY 2023-2024 and

setting the date for a public hearing for July 18, 2023, in accordance with the requirements of California Streets and Highways Code section 36534; and

**WHEREAS**, the City Council has conducted a public hearing as required by California Streets and Highways Code section 36535; and

**WHEREAS**, the City Council now desires to confirm the annual report as filed by the Advisory Board and adopt this Resolution to levy the assessment for the 2023-2024 Fiscal Year.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST COVINA, CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1. Annual Report.** The City Council hereby confirms the annual report on the District as originally filed by the Advisory Board in accordance with California Streets and Highways Code section 36535. The report shall be kept on file in the City Clerk's Office.

**SECTION 2. Assessment.** An annual assessment for the District for Fiscal Year 2023-2024 shall be levied pursuant to California Streets and Highways Code sections 36500 et seq. The boundaries of the District are set forth in Exhibit A. The amount of the annual assessment is \$16,524.00. Pursuant to California Streets and Highways Code section 36531, new businesses commenced after the effective date of the resolution levying the assessment will be exempt from the levy of the assessment for Fiscal Year 2023-2024.

**SECTION 3. Types of Activities to Be Funded.** The assessment revenue collected through the levy of the annual assessment will be used for financing the operation and maintenance of an LED readerboard sign located in the West Covina Auto Plaza adjacent to the San Bernardino Interstate 10 Freeway as well as financing of the operation and maintenance costs for the entry monument to the Auto Plaza, which includes the sign and landscaping located at the southwest corner of Azusa Avenue and Garvey Avenue South.

**SECTION 4. Method and Basis of Levy.** The method and basis of levying the assessment will be pursuant to Ordinance No. 1923, which was adopted by the City Council on June 1, 1993.

**SECTION 5. Certification; Effective Date.** The City Clerk shall certify to the adoption of this Resolution and shall enter the same in the book of original resolutions and it shall become effective immediately.

**APPROVED AND ADOPTED** this 18th day of July, 2023.

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Rosario Diaz  
Mayor

**APPROVED AS TO FORM**

**ATTEST**

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Thomas P. Duarte  
City Attorney

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Lisa Sherrick  
Assistant City Clerk

I, LISA SHERRICK, ASSISTANT CITY CLERK of the City of West Covina, California, do hereby certify that the foregoing Resolution No. 2023-47 was duly adopted by the City Council of the City of West Covina at a regular meeting thereof held on the 18th day of July, 2023, by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Lisa Sherrick  
Assistant City Clerk

**EXHIBIT A**

**WEST COVINA AUTO PLAZA BUSINESS IMPROVEMENT DISTRICT BOUNDARIES**



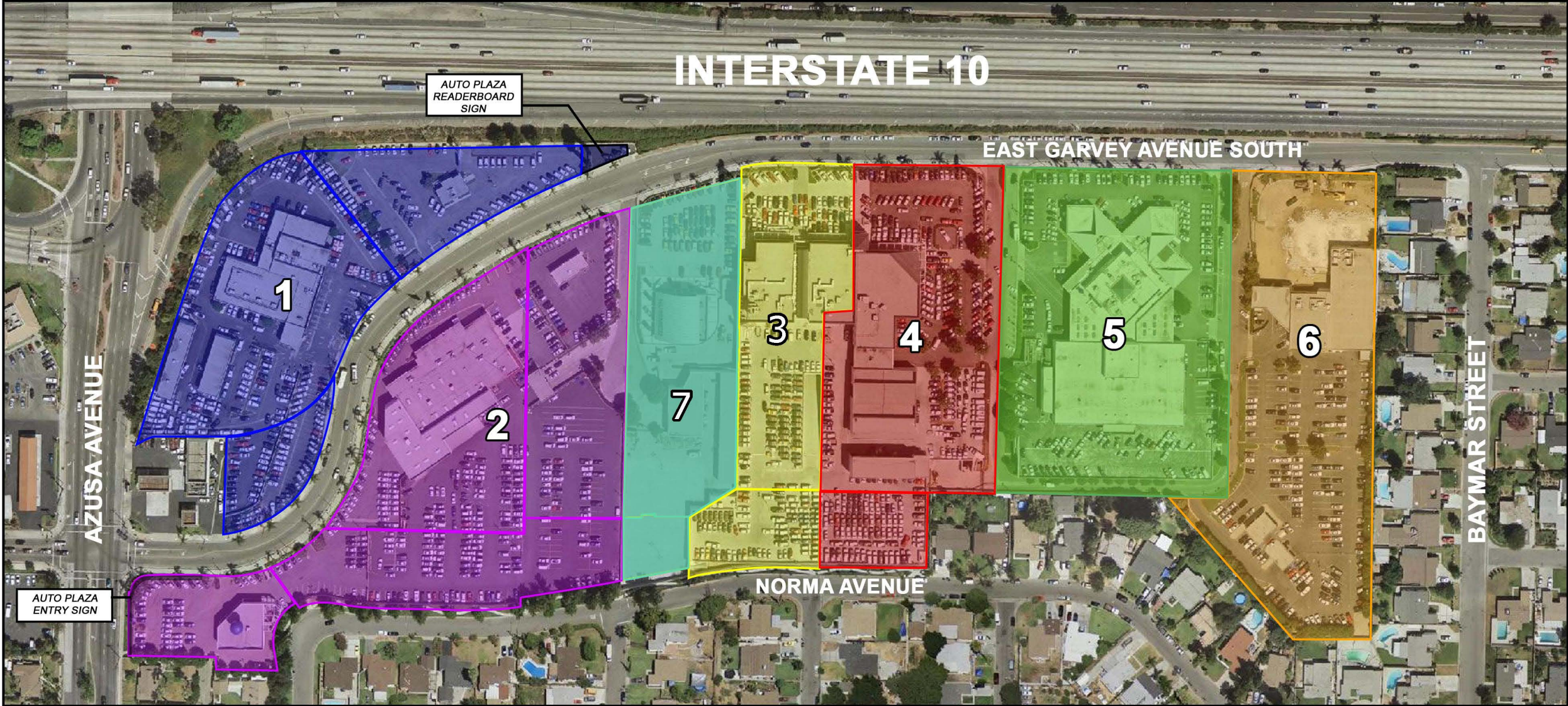


EXHIBIT A



IMAGE NOT TO SCALE

**WEST COVINA AUTO PLAZA**  
**BUSINESS IMPROVEMENT DISTRICT BOUNDARIES**  
New Proposed Benefit Zones

|   | DEALERSHIPS                           | APN                                | LOT SIZE   |
|---|---------------------------------------|------------------------------------|------------|
| 1 | Envision Toyota of West Covina        | 8478-007-025, 30, 31               | 4.17 acres |
| 2 | Norm Reeves Honda Super Store         | 8478-007-028, 34, 38, 8478-008-015 | 5.52 acres |
| 3 | Former Clippinger Chevrolet           | 8474-004-047, 048                  | 2.27 acres |
| 4 | Performance Ford                      | 8478-004-046, 49                   | 3.42 acres |
| 5 | Envision Mercedes Benz of West Covina | 8478-004-042                       | 4.16 acres |
| 6 | Envision Audi of West Covina          | 8478-004-026                       | 3.72 acres |
| 7 | Former DriveTime                      | 8474-007-039, 040                  | 2.23 acres |



**WEST COVINA AUTO PLAZA  
BUSINESS IMPROVEMENT DISTRICT  
ANNUAL REPORT  
FOR  
FISCAL YEAR 2023-2024**

**1. Any proposed changes in the boundaries of the business improvement district area.**

None.

**2. The improvements and activities to be provided for Fiscal Year 2023-2024.**

Financing the operation and maintenance of an LED readerboard sign located in the West Covina Auto Plaza adjacent to the San Bernardino Interstate 10 Freeway as well as financing of the operation and maintenance costs for the entry monument to the Auto Plaza, which includes the sign and landscaping located at the southwest corner of Azusa Avenue and Garvey Avenue South. Financing also includes landscape maintenance along Interstate 10 Freeway immediately facing and parallel to the Auto Plaza Dealerships.

**3. Estimate of the cost of providing the improvements and the activities for Fiscal Year 2023-2024.**

Gross estimated annual cost for operating expenditures including programming, maintenance, electricity, and insurance for the readerboard sign, landscaping, landscape maintenance, taxes and preparation costs, amongst other costs is \$68,496.14. The principal loan amount is \$55,330.26 (paid in two installments), totaling \$123,826.40 in annual expenditures. The Advisory Board voted to assess themselves \$16,524.00 (the same as last year) which would generate \$115,668.00 for FY 2023-2024. As the annual expenditures are \$123,826.40, the assessment will not cover the total annual expenditures with a deficit of \$8,158.40. The Advisory Board elected to utilize a portion of the fund balance of \$79,185.80 to cover the deficit of \$8,158.40 and to cover the six (6) month operating reserve (\$34,248.07). An assessment of \$16,524.00 for each of the seven (7) dealership sites in the business improvement district will be placed on the tax rolls by the County of Los Angeles Department of Auditor-Controller.

**4. Method and basis of levying the assessment for Fiscal Year 2023-2024.**

The method and basis of levying the assessment will be pursuant to Ordinance No. 1923, which was adopted by the City Council on June 1, 1993.

**5. Amount of any surplus or deficit revenues to be carried over from Fiscal Year 2023-2024.**

FY 2023-2024 is anticipated to have a deficit of \$8,158.40. The Advisory Board elected to use a portion of the fund balance to cover the deficit. The anticipated fund balance starting for FY 2023-2024 is \$79,185.80. This includes the six (6) month operating reserve of \$34,248.07.

**6. Amount of any contributions to be made from sources other than the assessments levied.**

None.



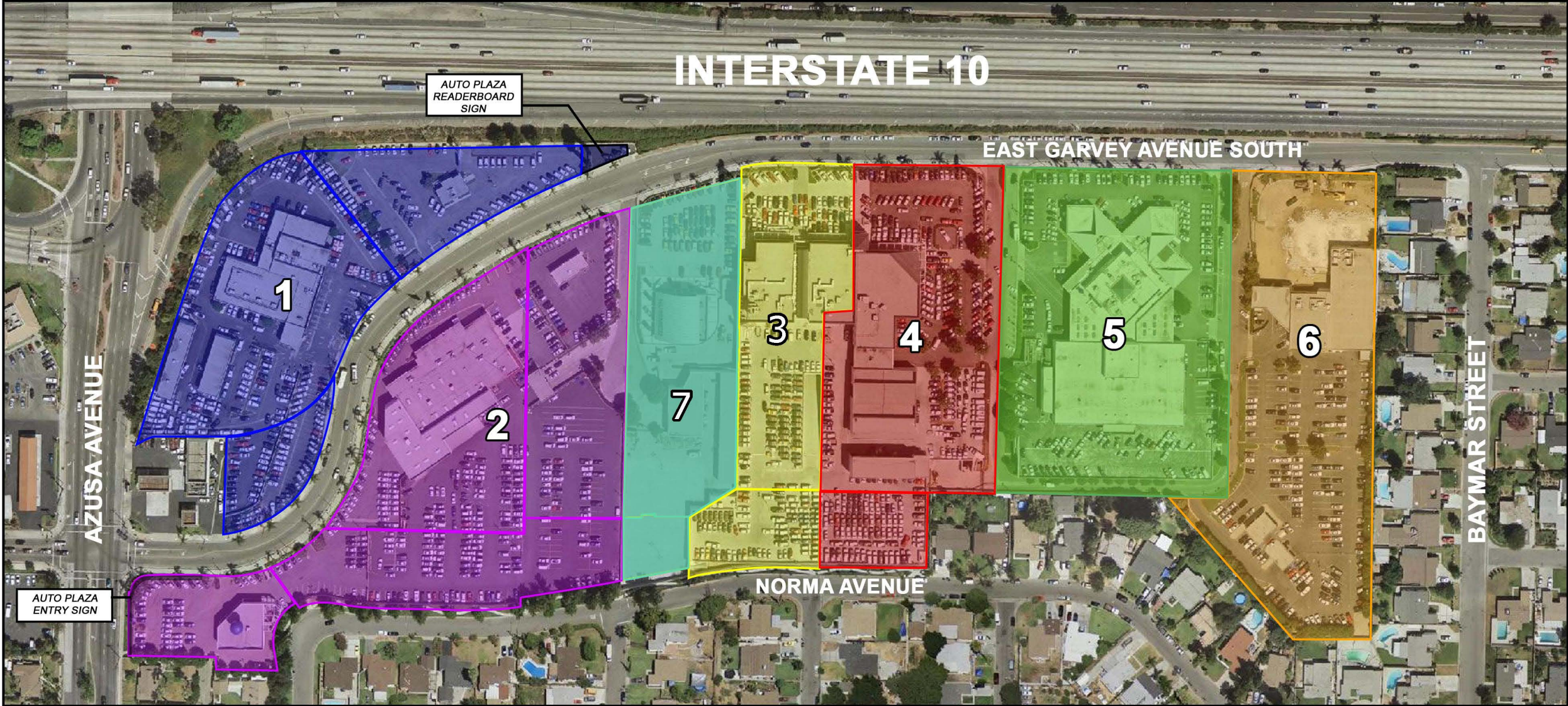


IMAGE NOT TO SCALE

**WEST COVINA AUTO PLAZA**  
**BUSINESS IMPROVEMENT DISTRICT BOUNDARIES**  
New Proposed Benefit Zones

|   | DEALERSHIPS                           | APN                                | LOT SIZE   |
|---|---------------------------------------|------------------------------------|------------|
| 1 | Envision Toyota of West Covina        | 8478-007-025, 30, 31               | 4.17 acres |
| 2 | Norm Reeves Honda Super Store         | 8478-007-028, 34, 38, 8478-008-015 | 5.52 acres |
| 3 | Former Clippinger Chevrolet           | 8474-004-047, 048                  | 2.27 acres |
| 4 | Performance Ford                      | 8478-004-046, 49                   | 3.42 acres |
| 5 | Envision Mercedes Benz of West Covina | 8478-004-042                       | 4.16 acres |
| 6 | Envision Audi of West Covina          | 8478-004-026                       | 3.72 acres |
| 7 | Former DriveTime                      | 8474-007-039, 040                  | 2.23 acres |



|  | FY 2017-2018                      | FY 2018-2019                      | FY 2019-2020                      | FY 2020-2021                      | FY 2021-2022                      | 2022-2023 (92% of Year Complete) |                |          |               | FY 2023-2024                |
|--|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|----------------------------------|----------------|----------|---------------|-----------------------------|
|  | Assessment Among 7 Benefits Zones | Assessment Among 7 Benefits Zones | Assessment Among 7 Benefits Zones | Assessment Among 7 Benefits Zones | Assessment Among 7 Benefits Zones | Adopted Budget                   | As of 06/01/23 | % Budget | Projected     | Keeping Assessment the Same |
| Fund Balance                               |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Beginning Balance as of July 1             | \$ 128,044.05                     | \$ 129,556.55                     | \$ 139,325.77                     | \$ 156,508.36                     | \$ 106,062.70                     | \$ 75,796.80                     | \$ 74,516.80   |          | \$ 79,185.80  | \$ 79,185.80                |
| TOTAL Revenues                             |                                   |                                   |                                   | \$ 115,668.00                     | \$ 115,668.00                     | \$ 115,870.00                    | \$ 108,468.78  | 94%      | \$ 115,870.00 | \$ 115,668.00               |
| TOTAL Expenditures                         |                                   |                                   |                                   | \$ 122,326.39                     | \$ 124,326.39                     | \$ 124,910.07                    | \$ 41,873.67   | 34%      | \$ 112,063.91 | \$ 123,826.40               |
| OPERATING                                  |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Operating Revenues                         |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Revenues from Assessments                  | 66,072.17                         | 65,077.34                         | \$ 65,077.34                      | \$ 63,544.39                      | \$ 62,496.71                      | \$ 115,600.00                    | \$ 107,605.87  | 93%      | \$ 61,629.97  | \$ 60,337.74                |
| Interest Income / Other                    | -                                 | -                                 | \$ -                              | \$ -                              | \$ -                              | \$ 270.00                        | \$ 862.91      |          | \$ 862.91     | \$ -                        |
| Total Operating Revenues                   | 66,072.17                         | 65,077.34                         | \$ 65,077.34                      | \$ 63,544.39                      | \$ 62,496.71                      | \$ 115,870.00                    | \$ 108,468.78  | 94%      | \$ 62,492.88  | \$ 60,337.74                |
| Operating Expenditures                     |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Professional Services (EMI-Programming*)   | 4,500.00                          | 4,500.00                          | \$ 4,560.00                       | \$ 4,560.00                       | \$ 4,560.00                       | \$ 4,851.84                      | \$ 4,125.00    | 85%      | \$ 4,500.00   | \$ 4,800.00                 |
| Accounting                                 | 6,180.00                          | 5,182.68                          | \$ 6,000.00                       | \$ 10,000.00                      | \$ 10,000.00                      | \$ 10,000.00                     | \$ 7,522.00    | 75%      | \$ 7,522.00   | \$ 8,500.00                 |
| Insurance                                  | 10,300.00                         | 10,054.00                         | \$ 10,500.00                      | \$ 10,500.00                      | \$ 10,500.00                      | \$ 10,500.00                     | \$ 7,011.00    | 67%      | \$ 7,011.00   | \$ 10,500.00                |
| Project Improvements                       | 5,000.00                          | 3,290.00                          | \$ 5,000.00                       | \$ 5,000.00                       | \$ 7,000.00                       | \$ 7,000.00                      | -              | 0%       | \$ -          | \$ 5,000.00                 |
| Other Services                             | 1,000.00                          | 1,000.00                          | \$ 1,000.00                       | \$ 1,000.00                       | \$ 1,000.00                       | \$ 1,000.00                      | \$ 2,258.25    | 226%     | \$ 2,258.25   | \$ 3,500.00                 |
| Other Contractual Services                 |                                   |                                   |                                   |                                   | \$ 28,500.00                      | \$ 28,500.00                     | \$ 16,791.25   |          | \$ 16,791.25  | \$ 27,500.00                |
| Electricity                                | 10,800.00                         | 14,261.45                         | \$ 12,500.00                      | \$ 12,500.00                      | \$ 12,500.00                      | \$ 12,500.00                     | \$ 11,002.42   | 88%      | \$ 12,386.27  | \$ 12,500.00                |
| Telephone                                  | 720.00                            | 720.00                            | \$ 800.00                         | \$ 800.00                         | \$ 800.00                         | \$ 800.00                        | \$ 660.00      | 83%      | \$ 720.00     | \$ 800.00                   |
| Equipment M & R (EMI-Maintenance)          | 10,140.00                         | 10,140.00                         | \$ 10,440.00                      | \$ 10,440.00                      | \$ 10,440.00                      | \$ 10,731.84                     | \$ 9,295.00    | 87%      | \$ 10,140.00  | \$ 10,700.00                |
| Admin and Overhead                         | 8,000.00                          | -                                 | \$ 8,500.00                       | \$ 8,500.00                       | \$ 8,500.00                       | \$ 8,500.00                      | -              | 0%       | \$ 8,500.00   | \$ 8,500.00                 |
| Interest Expense (Sign Repayment)          | 9,433.00                          | 8,936.64                          | \$ 7,929.83                       | \$ 6,902.78                       | \$ 5,855.10                       | \$ 4,786.36                      | \$ -           | 0%       | \$ 4,786.36   | \$ 3,696.14                 |
| Total Operating Expenditures               | 66,073.00                         | 58,084.77                         | \$ 67,229.83                      | \$ 70,202.78                      | \$ 71,155.10                      | \$ 70,670.04                     | \$ 41,873.67   |          | \$ 57,823.88  | \$ 68,496.14                |
| Operating Reserve                          |                                   |                                   | 33,614.92                         | 35,101.39                         | 35,577.55                         | 35,335.02                        | \$ 35,335.02   |          | 28,911.94     | \$ 34,248.07                |
| Operating Surplus / (Deficit)              | (0.83)                            | 6,992.57                          | \$ (2,152.49)                     | \$ (6,658.39)                     | \$ (8,658.39)                     | \$ 45,199.96                     | \$ 66,595.11   |          | 4,669.00      | \$ (8,158.40)               |
| NON-OPERATING (Sign Loan)                  |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Non-Operating Revenues                     |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Sign Loan                                  | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                             |                |          | \$ -          | \$ -                        |
| Revenues from Assessments (Sign Repayment) | 49,593.83                         | 50,089.76                         | \$ 51,096.57                      | \$ 52,123.61                      | \$ 53,171.29                      | \$ 54,240.03                     | \$ -           |          | \$ 54,240.03  | \$ 55,330.26                |
| Total Non-Operating Revenues               | 49,593.83                         | 50,089.76                         | \$ 51,096.57                      | \$ 52,123.61                      | \$ 53,171.29                      | \$ 54,240.03                     |                |          | \$ 54,240.03  | \$ 55,330.26                |
| Non-Operating Expenditures                 |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Sign Purchase                              | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                             |                |          | \$ -          | \$ -                        |
| Sign Loan Repayment                        | 49,593.83                         | 50,089.76                         | \$ 51,096.57                      | \$ 52,123.61                      | \$ 53,171.29                      | \$ 54,240.03                     | \$ -           |          | \$ 54,240.03  | \$ 55,330.26                |
| Total Non-Operating Expenditures           | 49,593.83                         | 50,089.76                         | \$ 51,096.57                      | \$ 52,123.61                      | \$ 53,171.29                      | \$ 54,240.03                     |                |          | \$ 54,240.03  | \$ 55,330.26                |
| Non-Operating Surplus / (Deficit)          | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                              | \$ -                             |                |          | \$ -          | \$ -                        |
| RESERVES                                   |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               |                             |
| Fund Balance                               | 117,654.15                        | 124,646.72                        | \$ 137,173.28                     | \$ 149,849.97                     | \$ 97,404.31                      | \$ 70,783.34                     | \$ 141,111.91  |          | \$ 79,185.80  | 71,027.40                   |
| Fund Balance Minus Operating Reserve       |                                   |                                   |                                   |                                   |                                   |                                  |                |          |               | 36,779.33                   |
| Loan Balance                               | (434,371.54)                      | (383,780.88)                      | \$ (332,173.35)                   | \$ (279,528.50)                   | \$ (226,357.21)                   | \$ (172,117.18)                  |                |          | (172,117.18)  | (116,786.92)                |
| ASSESSMENT PER DEALER (7)***               | \$ 20,943.59                      | \$ 16,524.00                      | \$ 16,524.00                      | \$ 16,524.00                      | \$ 16,524.00                      | \$ 16,524.00                     |                |          |               | \$ 16,524.00                |