



## **Remote Access to City of Hesperia Council Meeting:**

In accordance with new community guidelines from the Center for Disease Control to avoid gatherings of more than 10 persons, the City of Hesperia will allow for remote participation at the upcoming City Council meeting on Tuesday, March 17, 2020. The public will not be permitted to attend the meeting within the council chambers, but may, within the new community gathering guidelines, view the meeting on the lobby monitor and submit written comments to be read by staff.

As always, the public may view the City Council meetings live on the City of Hesperia's website at [www.cityofhesperia.us](http://www.cityofhesperia.us).

## **Remote Public Comment:**

During the upcoming City Council meeting public comment will be accepted via email. If you would like to comment remotely, please follow the protocols below:

- Send comments via email to [publiccomment@cityofhesperia.us](mailto:publiccomment@cityofhesperia.us)

- Identify the item you wish to comment on in your email's subject line.
- Emailed comments on each Consent Calendar/New Business/ Public Hearing item will be accepted after the start of the meeting and up to the when the Mayor announces that public comment for that item is closed.
- Each emailed comment will be read aloud by a member of staff for up to three minutes.

Emails received by [publiccomment@cityofhesperia.us](mailto:publiccomment@cityofhesperia.us) outside of the comment period outlined above will not be included in the record.

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**HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HOUSING AUTHORITY  
COMMUNITY DEVELOPMENT COMMISSION  
WATER DISTRICT  
FIRE PROTECTION DISTRICT – SPECIAL MEETING  
AGENDA**

*Regular Joint Meetings*  
*1<sup>st</sup> and 3<sup>rd</sup> Tuesday*

**Date: March 17, 2020**  
**REGULAR MEETING**

**Time: 5:30 P.M.** (Closed Session)  
**6:30 P.M.** (Regular Meeting)

**CITY COUNCIL MEMBERS**

Larry Bird, Mayor

Cameron Gregg, Mayor Pro Tem

Brigit Bennington, Council Member

William J. Holland, Council Member

Rebekah Swanson, Council Member

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Nils Bentsen, City Manager

Eric L. Dunn, City Attorney



*City of Hesperia*

Council Chambers  
9700 Seventh Avenue  
Hesperia, CA 92345

City Clerk's Office: (760) 947-1007

**Agendas and Staff Reports are  
available on the City Website**

[www.cityofhesperia.us](http://www.cityofhesperia.us)

Documents produced by the City and distributed less than 72 hours prior to the meeting, regarding items on the agendas, will be made available in the City Clerk's Office located at 9700 Seventh Avenue during normal business hours.

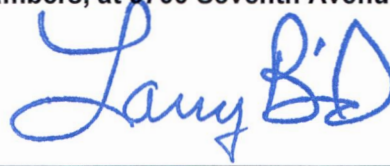


**NOTE:** In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (760) 947-1007 or (760) 947-1056. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.



**NOTICE AND CALL OF SPECIAL MEETING  
HESPERIA FIRE PROTECTION DISTRICT**

NOTICE IS HEREBY GIVEN that a special meeting of Hesperia Fire Protection District will be held on Tuesday, March 17, 2020, at 6:30 p.m. in the City Council Chambers, at 9700 Seventh Avenue, Hesperia, CA 92345.



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Larry Bird, Chair

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**REGULAR MEETING AGENDA  
HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HESPERIA HOUSING AUTHORITY  
HESPERIA COMMUNITY DEVELOPMENT COMMISSION  
HESPERIA WATER DISTRICT  
HESPERIA FIRE DISTRICT - Special Meeting**

**As a courtesy, please silence your cell phones and other electronic devices while the meeting is in session. Thank you.**

*Prior to action of the Council, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar.*

*Individuals wishing to speak during General Public Comments or on a particular numbered item must submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.*

*In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.*

**CLOSED SESSION - 5:30 PM**

**Roll Call**

*Mayor Larry Bird  
Mayor Pro Tem Cameron Gregg  
Council Member Brigit Bennington  
Council Member William J. Holland  
Council Member Rebekah Swanson*

Conference with Legal Counsel - Potential Litigation:  
Government Code Section 54956.9(d)2

1. Two (2) cases

Conference with Legal Counsel – Existing Litigation  
Government Code Section 54956.9(d)1

1. James De Aguilera vs City of Hesperia, Case No. CIVDS 2006858
2. Victor Valley Wastewater Reclamation Authority v. City of Hesperia (Claim for Damages)
3. Silverwood Aviation, Inc. et al. v City of Hesperia et al. Case No. 5:20-CV-00185

**CALL TO ORDER - 6:30 PM**

- A. Invocation
- B. Pledge of Allegiance to the Flag
- C. Roll Call

*Mayor Larry Bird  
Mayor Pro Tem Cameron Gregg  
Council Member Brigit Bennington  
Council Member William J. Holland  
Council Member Rebekah Swanson*

- D. Agenda Revisions and Announcements by City Clerk
- E. Closed Session Reports by City Attorney

**ANNOUNCEMENTS/PRESENTATIONS**

- 1. Presentation to the Sultana High School Wrestling Team
- 2. Community Events Calendar

**JOINT CONSENT CALENDAR**

- 1. Page 9 Consideration of the Draft Minutes from the Joint Special Meeting held Tuesday, March 3, 2020 and the Regular Meeting held Tuesday, March 3, 2020

**Recommended Action:**

It is recommended that the City Council approve the Draft Minutes from the Joint Special Meeting held Tuesday, March 3, 2020 and the Regular Meeting held Tuesday, March 3, 2020.

**Staff Person:** City Clerk Melinda Sayre

**Attachments:** [Draft CC Min 2020-03-03 Special Meeting](#)

[Draft CC Min 2020-03-03](#)

- 2. Page 15 Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

**Recommended Action:**

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

**Staff Person:** Director of Finance Casey Brooksher

**Attachments:**    [SR Warrant Run 3-17-2020](#)  
                              [Attachment 1 - Warrant Run](#)

3.        Page 17        Treasurer's Cash Report for the unaudited period ended January 31, 2020

**Recommended Action:**

It is recommended that the Council/Board accept the Treasurer's Cash Report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

**Staff Person:**    Director of Finance Casey Brooksher

**Attachments:**    [SR Treasurer's Report 3-17-2020](#)  
                              [Attachments 1 - Treasurer's Report](#)

4.        Page 25        Audited Financial Statements for Fiscal Year Ended June 30, 2019

**Recommended Action:**

It is recommended that the City Council, Community Development Commission, Hesperia Housing Authority Board, Hesperia Water District Board, and Hesperia Fire Protection District Board receive and file the audited Financial Statements for the Fiscal Year Ended June 30, 2019.

**Staff Person:**    Director of Finance Casey Brooksher

**Attachments:**    [SR Audited Financial Statement 3-17-2020](#)  
                              [Attachments 1-5 available in the City Clerk's Office](#)

5.        Page 29        Policy for Flood Control

**Recommended Action:**

It is recommended that the City Council adopt Resolution No. 2020-11 establishing a policy for flood control by 1) rescinding Resolution No. 89-16 and Resolution No. 93-18; 2) adopting drainage management guidelines; and 3) adopting the San Bernardino County Hydrology Manual and Los Angeles County Flood Control District Hydraulic Design Manual.

**Staff Person:**    Assistant City Manager Michael Blay

**Attachments:**    [SR Flood Control Policy 3-17-2020](#)  
                              [Resolution 2020-11](#)  
                              [Attachment 2 - Exhibit A Drainage Management Design Guidelines](#)

6.        Page 43        Amend Project Funding Agreement with San Bernardino County Transportation Authority for the Ranchero Road Widening Project, C.O. 7094 & C.O. 7139

**Recommended Action:**

It is recommended that the City Council approve Amendment No. 1 to the Project Funding Agreement (PFA) No. 17-1001692 between San Bernardino County Transportation Authority (SBCTA) and the City for construction of the Ranchero Road Widening Project, C.O. 7094 & C.O. 7139; and authorize the

Mayor to execute the Amendment.

**Staff Person:** Assistant City Manager Michael Blay

**Attachments:** [SR Project Funding Agreement SBCTA 3-17-2020](#)  
[Attachment 1- Amendment No. 1 SBCTA](#)

7. Page 53 Amendment to Cooperative Agreement with County of San Bernardino for the Ranchero Road Corridor Widening Project, C.O. 7094

**Recommended Action:**

It is recommended that the City Council 1) adopt Resolution No. 2020-12 approving Amendment No. 1 to Cooperative Agreement No. 11-424 (Agreement) between the City and the County of San Bernardino (County) for design and environmental compliance for the Ranchero Road Corridor Widening Project, C.O. 7094 and 2) authorize the City Manager to execute the amendment to the Agreement.

**Staff Person:** Assistant City Manager Michael Blay

**Attachments:** [SR Cooperative Agreement with San Bernardino County 3-17-2020](#)  
[Resolution 2020-12](#)  
[Attachment 2 - Exhibit A](#)

8. Page 67 Award a Professional Services Agreement for Engineering Design Services for a Traffic Signal at Main Street & Sultana Street/Timberlane Avenue, C.O. No. 7159

**Recommended Action:**

It is recommended that the City Council award a Professional Services Agreement (PSA) to David Evans & Associates for engineering design services, in the amount of \$301,169; approve an additional 10% contingency in the amount of \$30,117, for a total not-to-exceed amount of \$331,286; and authorize the City Manager to execute said agreement.

**Staff Person:** Assistant City Manager Michael Blay

**Attachments:** [SR Award PSA for HSIP Traffic Signal 3-17-2020](#)

9. Page 69 Memorandum of Understanding between the City of Hesperia and the County of San Bernardino Transitional Assistance Department (TAD) for Unsubsidized Work Experience and Community Service Training

**Recommended Action:**

It is recommended that the City Council adopt Resolution No.2020-09 and the Board of Directors of the Hesperia Water District adopt Resolution No. HWD 2020-05, approving a Memorandum of Understanding with the County of San Bernardino Transitional Assistance Department (TAD) for Unsubsidized Work Experience and Community Service Training Program.

**Staff Person:** Assistant to the City Manager Rachel Molina

**Attachments:** [SR Transitional Assistance Department MOU 3-17-2020](#)  
[Attachment 1- Memorandum of Understanding](#)  
[Resolution 2020-09](#)  
[Resolution HWD 2020-05](#)

10. Page 89 Amendment to Agreement with RA Cohan Commercial Real Estate Services

**Recommended Action:**

It is recommended that City Council and Commissioners of the Hesperia Community Development Commission (HCDC) approve and authorize an amendment for an additional \$12,000 to Agreement 2017-18-053 with RA Cohan Commercial Real Estate Services (RA Cohan), for a total not-to-exceed contract of \$62,000.

**Staff Person:** Economic Development Manager Rod Yahnke

**Attachments:** [SR RA Cohan Real Estate Services Contract 3-17-2020](#)

11. Page 91 Hesperia Veterinary Services Contract

**Recommended Action:**

It is recommended that the City Council authorize the City Manager to enter into a five-year agreement with Dr. Joseph Velasco, DVM in an amount not-to-exceed \$710,000 to provide on-site veterinary services.

**Staff Person:** Assistant City Manager Michael Blay and Animal Services Manager Donald Riser

**Attachments:** [SR Hesperia Veterinary Services Contract 3-17-2020](#)

## **PUBLIC HEARING**

*Individuals wishing to comment on public hearing items must submit a speaker slip to the City Clerk with the numbered agenda item noted. Speaker slips should be turned in prior to an agenda item being taken up. Comments will be limited to five minutes for Public Hearing items.*

### **WAIVE READING OF ORDINANCES**

*Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.*

12. Page 93 Amendments to Title 1, Chapter 1.12, Title 8, Chapter 8.30, and Title 15, Chapter 15.06 of the Hesperia Municipal Code

**Recommended Action:**

It is recommended that the City Council introduce and place on first reading Ordinance No. 2020-03: amending Title 1, Chapter 1.12, Title 8, Chapter 8.30 and Title 15, Chapter 15.06 of the Hesperia Municipal Code.

**Staff Person:** Assistant City Manager Michael Blay and Management Analyst Tina Souza

**Attachments:** [SR National Pollutant Discharge Elimination System 3-17-2020](#)  
[Ordinance 2020-03](#)  
[Attachment 2 - Exhibit A Chapter 8.30](#)  
[Attachment 3 - Chapter 8.30 Revisions](#)  
[Attachment 4 - Exhibit B Chapter 1.12 Track Revisions](#)  
[Attachment 5 - Exhibit C Chapter 15.06 Track Revisions](#)

13. Page 143 Amend Administrative Bail Schedule

**Recommended Action:**

It is recommended that the City Council adopt Resolution No. 2020-14, amending Resolution No. 2018-74, amending the City-Wide Administrative Bail Schedule.

**Staff Person:** Assistant City Manager Michael Blay

**Attachments:** [SR Amend City Bail Schedule 3-17-2020](#)  
[Resolution 2020-14](#)  
[Attachment 2 - Exhibit A Bail Schedule Revisions](#)

14. Page 149 Joint Resolution Amending the City-Wide Fee Schedule

**Recommended Action:**

It is recommended that the Council and respective Boards adopt Joint Resolution No. 2020-13, Resolution No. HWD 2020-08, Resolution No. HHA 2020-03, Resolution No. HCDC 2020-02, amending Joint Resolution No. 2018-21, Resolution No. HWD 2018-07, Resolution No. HHA 2018-04, and Resolution No. HCDC 2018-04 amending the City-Wide fee schedule.

**Staff Person:** Assistant City Manager Michael Blay and Administrative Analyst Tina Bulgarelli

**Attachments:** [SR Amend City Fee Schedule 3-17-2020](#)  
[Joint Resolution 2020-13](#)  
[Attachment 2 - Exhibit A](#)

## **NEW BUSINESS**

15. Page 159 Appeal of Revocation of Business License No. RB-43234

**Recommended Action:**

It is recommended that the Council hear evidence and render a decision in the appeal of the revocation of Business License No. RB-43234.

**Staff Person:** Assistant City Manager Michael Blay and Administrative Analyst Tina Bulgarelli

**Attachments:** [SR Appeal of Revocation of Business License 3-17-2020](#)  
[Attachment 1 - City Revocation Letter](#)  
[Attachment 2 - Appeal Packet from Business Owner](#)



**GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)**

*Individuals wishing to speak during General Public Comments or on a particular numbered item are requested to submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the joint agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.*

*In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.*

**COUNCIL COMMITTEE REPORTS AND COMMENTS**

*The Council may report on their activities as appointed representatives of the City on various Boards and Committees and/or may make comments of general interest or report on their activities as a representative of the City.*

**CITY MANAGER/CITY ATTORNEY/STAFF REPORTS**

*The City Manager, City Attorney or staff may make announcements or reports concerning items of interest to the Council and the public.*

**ADJOURNMENT**

*I, Melinda Sayre, City Clerk of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, March 12, 2020 at 5:30 p.m. pursuant to California Government Code §54954.2.*

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Melinda Sayre,  
City Clerk

*Documents produced by the City and distributed less than 72 hours prior to the meeting regarding items on the agenda will be made available in the City Clerk's Office during normal business hours.*

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# City of Hesperia

## Meeting Minutes - Draft

### City Council Planning Commission

City Council Chambers  
9700 Seventh Ave.  
Hesperia CA, 92345

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Tuesday, March 3, 2020

3:30 PM

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**SPECIAL MEETING  
HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HESPERIA HOUSING AUTHORITY  
HESPERIA COMMUNITY DEVELOPMENT COMMISSION  
HESPERIA WATER DISTRICT  
HESPERIA PLANNING COMMISSION**

#### **CALL TO ORDER - 3:37 PM**

- A. Invocation by Council Member Swanson
- B. Pledge of Allegiance to the Flag
- C. Roll Call

**City Council Present:** 5 - Mayor Bird, Mayor Pro Tem Gregg, Council Member Bennington, Council Member William J. Holland and Council Member Swanson

**Planning Commission Present:** 5 - Chair Leis, Vice Chair Caldwell, Commissioner Steeno, Commissioner Abreo and Commissioner Burke

- D. Agenda Revisions and Announcements by City Clerk – None

*Eric Dunn, City Attorney discussed changes to current development law in California.  
Casey Brooksher, Director of Finance discussed the impact of sales tax and property tax within the City.*

#### **ITEMS FOR DISCUSSION**

- 1. Land Use and Licensing  
**Sponsors:** Principal Planner Chris Borchert

*No action taken.*

#### **PUBLIC COMMENTS**

*Mark Shenouda commented on the change of business demographics and the sale of alcohol.  
Bob Nelson commented on development within the City.  
Sandra Agraz declined to speak.  
William Scarbrough commented on the change of business demographics.  
Patrick McNulty commented on an upcoming development he has within the City.  
Tom Steeno commented on alcohol sales at convenience stores and the visual look of Main Street businesses.*

## **ADJOURNMENT**

*5:30 pm.*

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*Melinda Sayre,  
City Clerk*



# City of Hesperia

## Meeting Minutes - Draft

### City Council

City Council Chambers  
9700 Seventh Ave.  
Hesperia CA, 92345

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Tuesday, March 3, 2020

6:30 PM

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**HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HESPERIA HOUSING AUTHORITY  
HESPERIA COMMUNITY DEVELOPMENT COMMISSION  
HESPERIA WATER DISTRICT**

#### **CLOSED SESSION - 5:30 PM**

##### **Roll Call**

**Present:** 5 - Mayor Bird, Mayor Pro Tem Gregg, Council Member Bennington, Council Member William J. Holland and Council Member Swanson

##### Conference with Legal Counsel - Potential Litigation: Government Code Section 54956.9(d)2

1. One (1) case

##### Conference with Legal Counsel – Existing Litigation Government Code Section 54956.9(d)1

1. Jeremiah Brosowske v City of Hesperia Case No. CIVDS1926015
2. Victor Valley Wastewater Reclamation Authority v. City of Hesperia (Claim for Damages)

##### Conference with Real Property Negotiators – Property Negotiations Government Code Section – 54956.8

1. Hesperia Housing Authority and Bristol Development  
Location: APN 0405-062-72 & 73  
Under Negotiation: Price and Terms

##### Conference with Labor Negotiator Government Code Section 54957.6

1. Negotiations between the City of Hesperia and the Teamsters Local 1932 with the City's Negotiator. (Staff person: Michael Blay, Assistant City Manager)

#### **CALL TO ORDER - 6:30 PM**

- A. Invocation Darrell Nickolaisen of Church of Jesus Chris of Latter-day Saints**
- B. Pledge of Allegiance to the Flag**
- C. Roll Call**

**Present:** 5 - Mayor Bird, Mayor Pro Tem Gregg, Council Member Bennington, Council Member William J. Holland and Council Member Swanson

- D. **Agenda Revisions and Announcements by City Clerk** - Item 6 was pulled from the agenda by staff.
- E. **Closed Session Reports by City Attorney** - Potential litigation item on the agenda was regarding the recall petition of Council Member Holland. The Council voted unanimously to forward the petition to the Superior Court in order to obtain authorization for the District Attorney to review the signatures on the petition.

## **ANNOUNCEMENTS/PRESENTATIONS**

1. Presentation to Richard Sullivan for the Hesperia Animal Shelter Landscaping Project
2. Recognition of Finance Division for the GFOA FY 2019-20 Distinguished Budget Presentation Award
3. Community Events Calendar - Thank you to everyone that participated in Meet & Clean on Saturday; The Hesperia Recreation and Park District is hosting the annual Pirate Renaissance Fair on March 21-22 at Hesperia Lake Park; the 2020 Census is fast approaching. Everyone living in the United States is required by law to be counted, for more information visit [www.2020census.gov](http://www.2020census.gov).

## **JOINT CONSENT CALENDAR**

**A motion was made by Bennington, seconded by Swanson, that this item be approved. The motion carried by the following vote:**

**Aye:** 5 - Bird, Gregg, Bennington, Holland and Swanson

**Nay:** 0

1. Consideration of the Draft Minutes from the Regular Meeting held Tuesday, February 4, 2020 and Tuesday, February 18, 2020

### **Recommended Action:**

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, February 4, 2020 and Tuesday, February 18, 2020.

**Sponsors:** City Clerk Melinda Sayre

2. Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

### **Recommended Action:**

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Hesperia Water District.

**Sponsors:** Director of Finance Casey Brooksher

3. Consideration of Contract for CFD Formation Services

### **Recommended Action:**

It is recommended that the City Council authorize the City Manager to amend the existing agreement with NBS Government Finance Group (NBS) for an additional \$36,630 related to the Golf Course Community Facilities District (CFD) feasibility, outreach, and formation services, for a total not-to-exceed contract of \$86,630 for City-wide district administration services.

**Sponsors:** Director of Finance Casey Brooksher

4. Revised Combined Compensation Schedules

### **Recommended Action:**

It is recommended that the City Council adopt Resolution No. 2020-08 and the Board of Directors of the Hesperia Water District adopt Resolution HWD 2020-04, approving the City's Fiscal Year (FY) 2019-20 revised Combined Compensation Schedule effective February 19, 2020 for the addition of new positions.

**Sponsors:** Director of Finance Casey Brooksher and Assistant to the City Manager Rachel Molina

5. Parcel Map No. 20019

**Recommended Action:**

It is recommended that the City Council adopt Resolution No. 2020-005 approving Parcel Map No. 20019 to create two parcels from 4.8 gross acres located on the east side of Opal Avenue, 300 feet south of Mesquite Street (Applicant: Mas Tierra; APN: 0405-371-37).

**Sponsors:** Assistant City Manager Michael Blay

**GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)**

*Yolanda Butler commented on services for the blind community.*

*Bob Nelson commented on the City Council Procedures Manual.*

*Jason Brown commented on false social media reports about a reduction in Police services within the City.*

*Daniel Krist commented on various community issues.*

*Sam Humeid commented on cannabis.*

*David Browner commented on community safety.*

*Ron Duran commented on community safety.*

**NEW BUSINESS**

*Item 6 was pulled from the agenda by staff.*

~~6. Appeal of Revocation of Business License No. RB-43234~~

~~— **Recommended Action:**~~

~~— It is recommended that the Council hear evidence and render a decision in the appeal of the revocation of Business License No. RB-43234.~~

~~— **Sponsors:** Assistant City Manager Michael Blay and Administrative Analyst Tina Bulgarelli~~

7. Review of Fines for Littering and Illegal Fireworks

**Recommended Action:**

It is recommended that the City Council review the fines for littering and illegal fireworks currently levied in Hesperia for those cited in violation of the law.

**Sponsors:** Assistant to the City Manager Rachel Molina

*The following individuals commented on item 7:*

*Kelly Gregg, Jeri Pike, Ramona Allen, a woman who did not submit a speaker slip spoke.*

**A motion was made by Holland, seconded by Gregg, that a resolution for illegal dumping and fireworks be brought forward to include maximum allowable administrative fines, and a separate resolution to set the maximum allowable criminal fines, and develop an incentive program for reporting illegal activity. The motion carried by the following vote:**

**Aye:** 5 - Bird, Gregg, Bennington, Holland and Swanson

**Nay:** 0

## **COUNCIL COMMITTEE REPORTS AND COMMENTS**

*Council Member Swanson commented on attended SBCTA Desert Mountain Division meeting, volunteering for Citizens on Patrol, attendance at San Bernardino County Special Districts meeting, and school sports.*

*Council Member Holland commented on Citizens on Patrol program, Hesperia school sports, and suggested that a per District town hall meeting be held quarterly.*

*Council Member Bennington commented on attendance at the COP Volunteer Banquet, Tri-Agency meeting, VVC Foundation event, CCAC meeting, League of CA Cities Desert Mountain Division meeting, Oak Hills High School WASC meeting, Read Across America event, commented on school sports achievements and the next Meet and Clean event.*

*Mayor Pro Tem Gregg commented on attendance at the COP Volunteer Banquet, VVC Foundation event, Tri-Agency meeting, and requested staff bring forward an item to discuss a firework show for the July 4<sup>th</sup> holiday.*

*Mayor Bird commented on school sports achievements, attendance at upcoming VVWRA special meeting, the COP Volunteer Banquet, Read Across America event, and VVC Foundation event.*

## **CITY MANAGER/CITY ATTORNEY/STAFF REPORTS**

*None*

## **ADJOURNMENT**

*8:17 p.m.*

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*Melinda Sayre,  
City Clerk*



# City of Hesperia STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members  
City Council, as Successor Agency to the Hesperia Community Redevelopment Agency  
Chair and Commissioners, Hesperia Housing Authority  
Chair and Commissioners, Community Development Commission  
Chair and Board Members, Hesperia Water District

**FROM:** Nils Bentsen, City Manager

**BY:** Casey Brooksher, Director of Finance  
Anne Duke, Deputy Finance Director  
Keith Cheong, Financial Analyst

**SUBJECT:** Warrant Run Report (City – Successor Agency – Housing Authority – Community Development Commission – Water)

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## RECOMMENDED ACTION

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

## BACKGROUND

The Warrant Run totals represented below are for the period February 08, 2020 through February 21, 2020.

<u>Agency/District</u>	<u>Accounts Payable</u>	<u>Payroll</u>	<u>Wires</u>	<u>Totals</u>
City of Hesperia	\$960,207.19	\$247,575.96	\$0.00	\$1,207,783.15
Successor Agency	2,213,532.52	0.00	0.00	2,213,532.52
Housing Authority	6.00	163.91	0.00	169.91
Community Development Commission	1,551.34	4,644.15	0.00	6,195.49
Water	191,280.26	99,086.97	0.00	290,367.23
<b>Totals</b>	<b>\$3,366,577.31</b>	<b>\$351,470.99</b>	<b>\$0.00</b>	<b>\$3,718,048.30</b>

\* Includes debt service payments made via Automated Clearing House (ACH) electronic deposit of funds.

## ATTACHMENT(S)

1. Warrant Runs

*City of Hesperia*  
**WARRANT RUNS**  
**02/08/2020 - 02/21/2020**

		W/E		W/E		WARRANT		YEAR-TO		PRIOR FY YTD			
FUND #		2/14/2020		2/21/2020		TOTALS		DATE		DATE			
								TOTALS *		TOTALS			
Accounts Payable													
100	GENERAL	\$	42,905.11	\$	71,454.34	\$	114,359.45	\$	-	\$	15,023,356.04	\$	14,158,908.63
200	HESPERIA FIRE DISTRICT	\$	-	\$	-	\$	-	\$	-	\$	1,267.00	\$	355,797.81
204	MEASURE I - RENEWAL	\$	-	\$	-	\$	-	\$	-	\$	215,075.45	\$	260,011.40
205	GAS TAX	\$	-	\$	-	\$	-	\$	-	\$	-	\$	4,795.00
207	LOCAL TRANSPORT-SB 325	\$	-	\$	-	\$	-	\$	-	\$	278,063.84	\$	205,736.43
209	GAS TAX-RMRA	\$	-	\$	-	\$	-	\$	-	\$	1,505,716.16	\$	24,895.99
210	HFPD (PERS)	\$	-	\$	-	\$	-	\$	-	\$	874,510.00	\$	-
251	CDBG	\$	18.49	\$	-	\$	18.49	\$	-	\$	820,188.20	\$	165,950.94
254	AB2766 - TRANSIT	\$	-	\$	-	\$	-	\$	-	\$	477,331.07	\$	27,600.00
256	ENVIRONMENTAL PROGRAMS GRANT	\$	1,996.78	\$	19.00	\$	2,015.78	\$	-	\$	15,245.86	\$	23,615.95
257	NEIGHBORHOOD STABILIZATION PROG	\$	-	\$	16.05	\$	16.05	\$	-	\$	52,793.54	\$	15,443.19
260	DISASTER PREPARED GRANT	\$	-	\$	-	\$	-	\$	-	\$	1,318.08	\$	5,098.43
263	STREETS MAINTENANCE	\$	7,014.24	\$	33,346.88	\$	40,361.12	\$	-	\$	1,226,896.37	\$	1,334,517.93
300	DEV. IMPACT FEES - STREET	\$	11,367.17	\$	-	\$	11,367.17	\$	-	\$	2,347,918.09	\$	148,750.30
301	DEV. IMPACT FEES - STORM DRAIN	\$	-	\$	139.87	\$	139.87	\$	-	\$	230,959.25	\$	23,800.00
402	WATER RIGHTS ACQUISITION	\$	-	\$	-	\$	-	\$	-	\$	1,021,140.04	\$	1,030,554.10
403	2013 REFUNDING LEASE REV BONDS	\$	-	\$	-	\$	-	\$	-	\$	563,794.37	\$	559,827.92
501	CFD 91-3 BELGATE	\$	-	\$	-	\$	-	\$	-	\$	837,793.25	\$	-
502	FIRE STATION BUILDING	\$	-	\$	-	\$	-	\$	-	\$	-	\$	6,790,888.41
504	CITY WIDE STREETS - CIP	\$	-	\$	-	\$	-	\$	-	\$	229,332.72	\$	22,567.23
509	CITY FACILITIES CIP	\$	-	\$	-	\$	-	\$	-	\$	39,189.17	\$	490,278.95
800	EMPLOYEE BENEFITS	\$	222,412.20	\$	122,802.73	\$	345,214.93	\$	-	\$	5,040,950.83	\$	4,612,563.89
801	TRUST/AGENCY	\$	189,944.28	\$	254,545.05	\$	444,489.33	\$	-	\$	1,078,950.04	\$	1,616,426.94
802	AD 91-1 AGENCY	\$	-	\$	-	\$	-	\$	-	\$	-	\$	367.50
804	TRUST-INTEREST BEARING	\$	-	\$	-	\$	-	\$	-	\$	-	\$	67.50
807	CFD 2005-1	\$	-	\$	2,225.00	\$	2,225.00	\$	-	\$	27,419.50	\$	814,490.72
808	HFPD (TRANSITION)	\$	-	\$	-	\$	-	\$	-	\$	1,668,935.57	\$	39.00
CITY		\$	475,658.27	\$	484,548.92	\$	960,207.19	\$	-	\$	33,578,144.44	\$	32,692,994.16
160	REDEVELOP OBLIG RETIREMENT - PA1	\$	-	\$	-	\$	-	\$	-	\$	-	\$	5,306,154.96
161	REDEVELOP OBLIG RETIREMENT - PA2	\$	-	\$	-	\$	-	\$	-	\$	-	\$	426,569.15
162	REDEVELOP OBLIG RETIREMENT-HOUSING	\$	-	\$	-	\$	-	\$	-	\$	-	\$	2,476,736.59
163	REDEVELOP OBLIG RETIREMENT-2018	\$	-	\$	2,213,532.52	\$	2,213,532.52	\$	-	\$	9,965,682.90	\$	1,870,776.99
173	SUCCESSOR AGENCY ADMINISTRATION	\$	-	\$	-	\$	-	\$	-	\$	-	\$	4,005.00
SUCCESSOR AGENCY		\$	-	\$	2,213,532.52	\$	2,213,532.52	\$	-	\$	9,965,682.90	\$	10,084,242.69
370	HOUSING AUTHORITY	\$	6.00	\$	-	\$	6.00	\$	-	\$	66,259.17	\$	120,896.00
HOUSING AUTHORITY		\$	6.00	\$	-	\$	6.00	\$	-	\$	66,259.17	\$	120,896.00
170	COMMUNITY DEVELOPMENT COMMISSION	\$	1,500.00	\$	51.34	\$	1,551.34	\$	-	\$	160,725.81	\$	188,045.77
COMMUNITY DEVELOPMENT COMMISSION		\$	1,500.00	\$	51.34	\$	1,551.34	\$	-	\$	160,725.81	\$	188,045.77
700	WATER OPERATING	\$	27,222.90	\$	78,170.76	\$	105,393.66	\$	-	\$	4,177,890.80	\$	5,148,149.59
701	WATER CAPITAL	\$	64,831.54	\$	16,155.50	\$	80,987.04	\$	-	\$	2,090,770.19	\$	4,237,510.82
710	SEWER OPERATING	\$	2,853.05	\$	1,606.51	\$	4,459.56	\$	-	\$	1,950,265.47	\$	2,883,091.50
711	SEWER CAPITAL	\$	-	\$	440.00	\$	440.00	\$	-	\$	63,879.60	\$	68,230.70
WATER		\$	94,907.49	\$	96,372.77	\$	191,280.26	\$	-	\$	8,282,806.06	\$	12,336,982.61
ACCOUNTS PAYABLE TOTAL		\$	572,071.76	\$	2,794,505.55	\$	3,366,577.31	\$	-	\$	52,053,618.38	\$	55,423,161.23
REG. PAYROLL													
City		\$	-	\$	247,575.96	\$	247,575.96	\$	-	\$	4,077,371.78	\$	4,053,033.14
Housing Authority		\$	-	\$	163.91	\$	163.91	\$	-	\$	4,468.74	\$	36,892.69
Community Development Commission		\$	-	\$	4,644.15	\$	4,644.15	\$	-	\$	112,703.18	\$	70,040.71
Water		\$	-	\$	99,086.97	\$	99,086.97	\$	-	\$	1,738,915.80	\$	1,688,047.50
PAYROLL TOTAL		\$	-	\$	351,470.99	\$	351,470.99	\$	-	\$	5,933,459.50	\$	5,848,014.04

\* The year to date totals for this Warrant Report are for the 2019-20 fiscal year starting July 1, 2019.

# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members  
City Council, as Successor Agency to the Hesperia Community Redevelopment Agency  
Chair and Commissioners, Hesperia Housing Authority  
Chair and Commissioners, Community Development Commission  
Chair and Board Members, Hesperia Water District

**FROM:** Nils Bentsen, City Manager

**BY:** Casey Brooksher, Director of Finance  
Anne Duke, Deputy Finance Director  
Keith Cheong, Financial Analyst

**SUBJECT:** Treasurer's Cash Report for the unaudited period ended January 31, 2020

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### RECOMMENDED ACTION

It is recommended that the Council/Board accept the Treasurer's Cash Report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

### BACKGROUND

This report is presented to the City Council pursuant to Government Code Section 53646 (b) setting forth the City's investment portfolio.

### ISSUES/ANALYSIS

The Treasurer's Cash Reports are presented on the following pages for each agency.

### FISCAL IMPACT

These reports reflect unaudited cash balances as of January 31, 2020.

### ALTERNATIVE(S)

Provide alternative direction to staff.

### ATTACHMENT(S)

1. City of Hesperia Investment Report
2. Successor Agency to the Hesperia Community Redevelopment Agency Investment Report
3. Hesperia Housing Authority Investment Report
4. Community Development Commission Investment Report
5. Hesperia Water District Investment Report

**CITY OF HESPERIA**

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<b><u>FUND</u></b>	<b><u>VALUE</u></b>
General Fund (100 & 800)	\$ 8,857,518.97
Fire District Fund (200)	18,177.19
HFPD (PERS) (210)	428,515.23
AB27666 - Transit (254)	(453,652.69)
AB3229 Supplemental Law (255)	144,618.54
AD No. 91-1 (802)	367,784.04
Beverage Recycling Grant (256)	153,654.51
CFD 2005-1 (807)	1,396,435.51
HFPD Transition (808)	67,547.93
City Wide-Capital Projects (504)	(244,927.77)
Community Dev Block Grant (251, 252, & 253)	515,524.48
Development Impact Fund (300-304)	9,268,762.83
Development Impact Fund 2018 (306-312)	2,892,805.35
Disaster (260)	43,612.47
Gas Tax Fund (205)	7,078.43
Gas Tax - RMRA (209)	1,081,656.66
Gas Tax Swap (206)	140,444.59
Local Transportation SB325 (207)	1,586,338.42
Measure I - Renewal (204)	5,409,528.86
Neighborhood Stabilization Prog (257)	2,353,881.90
Public Works Street Maint (263)	1,049,430.72
Trust Fund (801, 803-806, & 815)	2,238,526.81
2012 Water Rights Acquisition (402)	(1,008,652.49)
2013 Refunding Lease Rev Bonds (403)	(63,595.86)
<b>TOTAL CITY FUNDS</b>	<b><u>\$ 36,251,014.63</u></b>

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

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<b><u>FUND</u></b>	<b><u>VALUE</u></b>
RORF Retention - (163)	<b><u>\$ 5,027,649.90</u></b>

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**HESPERIA HOUSING AUTHORITY**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
Hesperia Housing Authority Fund (370)	\$ 3,551,453.29
VVEDA Housing Authority (371)	1,797,859.79
<b>TOTAL HOUSING AUTHORITY FUNDS</b>	<b><u><u>\$ 5,349,313.08</u></u></b>

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**COMMUNITY DEVELOPMENT COMMISSION**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
Community Development Commission Fund (170)	<b><u><u>\$ (1,179,901.90)</u></u></b>

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**WATER**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
Water Operating (700)	\$ 6,147,447.97
Water Capital (701)	(13,244,640.69)
Water Capital Rehab and Replace (703)	1,411,010.52
Water Contamination Mitigation (704)	1,405,430.44
Sewer Operating (710)	11,170,629.18
Sewer Capital (711)	4,391,052.87
Sewer Capital Rehab and Replace (713)	796,071.61
<b>TOTAL WATER FUNDS</b>	<b><u><u>\$ 12,077,001.90</u></u></b>

*City of Hesperia*  
**Investment Report**  
**Unaudited**  
January 31, 2020

ATTACHMENT 1

<u>Type of Investment</u>	<u>Institution/ Fiscal Agent</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Account Description</u>
<b>Investments under the direction of the City:</b>								
Local Agency Investment Funds	State of Calif.	1.967%	31-Jan-20	Demand	\$ 30,158,224.08	30,158,224.08	30,158,224.08	
Money Market	Bank of the West	1.250%	31-Jan-20	Demand	4,741,239.95	4,741,239.95	4,741,239.95	
Local Bank Checking Accounts	Citizens Bus Bank/US Bank	n/a	31-Jan-20	Demand	1,351,550.60	1,351,550.60	1,351,550.60	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 36,251,014.63</b>	<b>\$ 36,251,014.63</b>	<b>\$ 36,251,014.63</b>	

**Investments under the direction of fiscal agents:**

2012 Lease Revenue Bonds	Union	1.470%	31-Jan-20	Demand	315.31	315.31	315.31	2012 - Water Rights Revenue Fund
2012 Lease Revenue Bonds	Union	1.470%	31-Jan-20	Demand	1,462,999.25	1,462,999.25	1,462,999.25	2012 - Water Rights Reserve Fund
2012 Lease Revenue Bonds	Union	0.000%	31-Jan-20	Demand	0.31	0.31	0.31	2012 - Water Rights Surplus Revenue Fund
2013 Refunding Lease Revenue Bonds	Union	1.470%	31-Jan-20	Demand	556.16	556.16	556.16	2005 Civic Plaza - Revenue Fund
2013 Refunding Lease Revenue Bonds	Union	1.470%	31-Jan-20	Demand	1,158,354.93	1,158,354.93	1,158,354.93	2005 Civic Plaza - Reserve Fund
2013 Refunding Lease Revenue Bonds	Union	0.000%	31-Jan-20	Demand	0.31	0.31	0.31	2005 Civic Plaza - Surplus Rev Fund
2014 CFD 2005-1 Refunding	Union	1.470%	31-Jan-20	Demand	281.19	281.19	281.19	2014 CFD 05-1 - Special Tax Fund
2014 CFD 2005-1 Refunding	Union	1.480%	31-Jan-20	Demand	93.46	93.46	93.46	2014 CFD 05-1 - Bond Fund
2014 CFD 2005-1 Refunding	Union	1.470%	31-Jan-20	Demand	1,441,589.07	1,441,589.07	1,441,589.07	2014 CFD 05-1 - Reserve Fund
2014 CFD 2005-1 Refunding	Union	1.470%	31-Jan-20	Demand	23,800.82	23,800.82	23,800.82	2014 CFD 05-1 Administrative Expense Bonds
Deposits - Workers' Comp	PERMA	n/a	31-Jan-20	n/a	1,266,513.80	1,266,513.80	1,266,513.80	GL 1352
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 5,354,504.61</b>	<b>5,354,504.61</b>	<b>5,354,504.61</b>	

Please Note: All market value data is provided courtesy of the City's fiscal agents,  
Union Bank of California & Bank of New York (BNY) Trust Company.

***I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.***

\* Note: 2005 Certificates of Participation began in May 2005 for the financing of the Civic Plaza.

  
Virginia Villasenor, Senior Accountant

**Investment Report****Unaudited**  
**January 31, 2020**

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Account Description</u>
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**Investments under the direction of the City:**

Local Agency Investment Funds	State of Calif.	1.967%	31-Jan-20	Demand	\$ 4,182,641.34	\$ 4,182,641.34	4,182,641.34	
Money Market	Bank of the West	1.250%	31-Jan-20	Demand	657,562.14	657,562.14	657,562.14	
Local Bank Checking Accounts	Citizens Bus Bank/US Bank	n/a	31-Jan-20	Demand	187,446.42	187,446.42	187,446.42	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 5,027,649.90</b>	<b>\$ 5,027,649.90</b>	<b>\$ 5,027,649.90</b>	


**Investments under the direction of fiscal agents:**

2018 Refunding Bonds	Union	0.000%	31-Jan-20	Demand	1.00	1.00	1.00	2018A & 2018B - Debt Service Account
2018 Refunding Bonds	Union	1.510%	31-Jan-20	Demand	4,858.12	4,858.12	4,858.12	2018A & 2018B - Interest Account
2018 Refunding Bonds	Union	0.000%	31-Jan-20	Demand	1.00	1.00	1.00	2018A & 2018B - Reserve Account
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 4,860.12</b>	<b>\$ 4,860.12</b>	<b>\$ 4,860.12</b>	

Please Note: All market value data is provided courtesy of the City's fiscal agent  
Union Bank of California.

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

\* Note: The 2005 and 2007 Series Bonds were refinanced to 2018 Series Bonds in November 2018.

  
Virginia Villasenor, Senior Accountant



**Investment Report****Unaudited**January 31, 2020

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>
<b>Investments under the direction of the City:</b>							
Local Agency Investment Funds	State of California	1.967%	31-Jan-20	Demand	\$ 4,450,241.85	4,450,241.85	4,450,241.85
Money Market	Bank of the West	1.250%	31-Jan-20	Demand	699,632.19	699,632.19	699,632.19
Local Bank Checking Accounts	Citizens Bus Bank/US Bank	n/a	31-Jan-20	Demand	199,439.04	199,439.04	199,439.04
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 5,349,313.08</b>	<b>\$ 5,349,313.08</b>	<b>\$ 5,349,313.08</b>

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
Virginia Villasenor, Senior Accountant



**Investment Report****Unaudited**January 31, 2020

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>
<b>Investments under the direction of the City:</b>							
Local Agency Investment Funds	State of California	1.967%	31-Jan-20	Demand	\$ (981,593.10)	(981,593.10)	(981,593.10)
Money Market	Bank of the West	1.250%	31-Jan-20	Demand	(154,318.39)	(154,318.39)	(154,318.39)
Local Bank Checking Accounts	Citizens Bus Bank/US Bank	n/a	31-Jan-20	Demand	(43,990.41)	(43,990.41)	(43,990.41)
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ (1,179,901.90)</b>	<b>\$ (1,179,901.90)</b>	<b>\$ (1,179,901.90)</b>

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
Virginia Villasenor, Senior Accountant

**Investment Report****Unaudited**January 31, 2020

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Account Description</u>
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**Investments under the direction of the City:**


Local Agency Investment Funds	State of California	1.967%	31-Jan-20	Demand	\$ 10,047,192.70	10,047,192.70	10,047,192.70	
Money Market	Bank of the West	1.250%	31-Jan-20	Demand	1,579,541.00	1,579,541.00	1,579,541.00	
Local Bank Checking Accounts	Citizens Bus Bank/US Bank	n/a	31-Jan-20	Demand	450,268.20	450,268.20	450,268.20	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 12,077,001.90</b>	<b>\$ 12,077,001.90</b>	<b>\$ 12,077,001.90</b>	

**Investments under the direction of fiscal agents:**

First American Treas - Money Market	US Bank	0.000%	31-Jan-20	Demand	9,170.74	9,170.74	9,170.74	98 A - 95453340
First American Treas - Money Market	US Bank	0.000%	31-Jan-20	Demand	32.09	33.09	32.09	98 A - 95453341
98 A Dep w/Trustee - Collateral	Bank of America	2.400%	31-Jan-20	Demand	1,880,000.00	1,880,000.00	1,880,000.00	GL 1319
Deposits - Workers' Comp	PERMA	n/a	31-Jan-20	n/a	650,626.91	650,626.91	650,626.91	GL 1352
Deposits w/Other Agencies	Various	n/a	31-Jan-20	n/a	0.00	0.00	0.00	GL 1350
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 2,539,829.74</b>	<b>\$ 2,539,830.74</b>	<b>\$ 2,539,829.74</b>	

Please Note: All market value data is provided courtesy of the City's fiscal agents  
Bank of New York (BNY) Trust Company and US Bank.

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
Virginia Villaseñor, Senior Accountant

# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members  
Chair and Commission, Community Development Commission  
Chair and Board Members, Hesperia Housing Authority  
Chair and Board Members, Hesperia Water District  
Chair and Board Members, Hesperia Fire Protection District

**FROM:** Nils Bentsen, City Manager

**BY:** Casey Brooksher, Director of Finance  
Anne M. Duke, Deputy Finance Director  
George Pirsko, Senior Financial Analyst

**SUBJECT:** Audited Financial Statements for Fiscal Year Ended June 30, 2019

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### RECOMMENDED ACTION

It is recommended that the City Council, Community Development Commission, Hesperia Housing Authority Board, Hesperia Water District Board, and Hesperia Fire Protection District Board receive and file the audited Financial Statements for the Fiscal Year Ended June 30, 2019.

### BACKGROUND

City governments that receive Federal funding in excess of \$750,000 in a fiscal year are required by Federal law (Office of Management and Budget [OMB] Circular A-133) to be audited. In addition, the bond documents for the City's debt require annual audits of the City's financial transactions.

### ISSUES/ANALYSIS

The City's independent auditor, White Nelson Diehl Evans LLP (WNDE) performed the audit for Fiscal Year 2018-19.

The documents that comprise the Financial Statements, commonly referred to as the Audit for the City, are as follows:

- City of Hesperia–Comprehensive Annual Financial Report (CAFR) – June 30, 2019
- Community Development Commission–Component Unit Financial Statements–June 30, 2019
- Hesperia Housing Authority–Component Unit Financial Statements – June 30, 2019
- Hesperia Water District–Component Unit Financial Statements – June 30, 2019
- Hesperia Fire Protection District–Component Unit Financial Statements – June 30, 2019

The Hesperia Housing Authority Component Unit Financial Statement was distributed on December 17, 2019 in compliance with State requirements. The Comprehensive Annual Financial Report (CAFR) was distributed on January 13, 2020, and the remaining Component Unit Financial Statements were provided to the Council on March 10, 2020. Public copies of all

the above-referenced documents are available in the City Clerk's Office and have been posted on the City's website. During Fiscal Year 2018-19, the City of Hesperia expended less than \$750,000 of Federal grant moneys. Therefore, a single audit was not required for the fiscal year.

Daphnie Munoz from White Nelson Diehl Evans will be present, along with staff, to answer any questions regarding the results of the audit for Fiscal Year 2018-19.

As a matter of information, the City was awarded the Certificate of Achievement for Outstanding Financial Reporting for Fiscal Year 2017-18 by the Government Finance Officers' Association (GFOA). That was the seventeenth consecutive year the City has earned this prestigious award.

## **FISCAL IMPACT**

None.

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS**

The reports listed below were previously submitted to the Council (#1 on January 13, 2020, #2, #4, and #5 on March 10, 2020, and #3 on December 17, 2019). Public copies are available in the City Clerk's Office and have been posted on the City's website:

1. June 30, 2019 Comprehensive Annual Financial Report (CAFR).
2. June 30, 2019 Component Unit Financial Statements for the Community Development Commission
3. June 30, 2019 Component Unit Financial Statements for the Hesperia Housing Authority
4. June 30, 2019 Component Unit Financial Statements for the Hesperia Water District
5. June 30, 2019 Component Unit Financial Statements for the Hesperia Fire Protection District

ATTACHMENT AVAILABLE FOR REVIEW IN THE CITY CLERK'S OFFICE

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay, Assistant City Manager  
Bethany Hudson, Engineering Technician  
Tina Souza, Senior Management Analyst

**SUBJECT:** Policy for Flood Control

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### RECOMMENDED ACTION

It is recommended that the City Council adopt Resolution No. 2020-11 establishing a policy for flood control by 1) rescinding Resolution No. 89-16 and Resolution No. 93-18; 2) adopting drainage management guidelines; and 3) adopting the San Bernardino County Hydrology Manual and Los Angeles County Flood Control District Hydraulic Design Manual.

### BACKGROUND

The City adopted Resolution 89-16 establishing a policy for the prevention of flood damage. Resolution 93-18 later adopted drainage management design guidelines, the San Bernardino County Hydrology Manual and Los Angeles County Flood Control District Hydraulic Design Manual as guidance for the design of flood control facilities throughout the City.

After review of the resolutions by City staff and the consulting firm providing review of the City's Stormwater Management Program, it is recommended that Resolution No. 89-16 and Resolution No. 93-18 be rescinded and new Resolution 2020-11 be adopted to update to more accurately reflect City practices.

### ISSUES/ANALYSIS

The existing resolutions related to flood control in the City were adopted in 1989 and 1993. The City's flood control practices have been in place for roughly 30 years. Although many aspects of the policy remain the same, updates are required to include more current information as well as provide clearer guidance as to the City's existing requirements.

Staff has prepared Resolution 2020-11 to update the established flood control policy and combines the two previously adopted resolutions. The City will continue to utilize the County of San Bernardino Hydrology Manual and the Los Angeles County Flood Control District Hydraulic Design Manual as guidance documents for City and private flood control facilities. The drainage management guidelines have been slightly modified to ensure that design for new developments, re-development and City capital improvement projects comply with the flood control requirements.

### **FISCAL IMPACT**

Development of the resolution required staff time; however, there is no other fiscal impact associated with approval of the recommended action.

### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

### **ATTACHMENT(S)**

1. Resolution 2020-11
2. Exhibit A Drainage Management Design Guidelines



**RESOLUTION NO. 2020-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING DRAINAGE MANAGEMENT DESIGN GUIDELINES FOR THE CITY OF HESPERIA, THE SAN BERNARDINO COUNTY HYDROLOGY MANUAL, AND THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT HYDRAULICS MANUAL.**

**WHEREAS**, the San Bernardino County Flood Control District has adopted a hydrology manual for drainage design; and

**WHEREAS**, the Los Angeles County Flood Control District has adopted a hydraulic design manual for design of flood control facilities; and

**WHEREAS**, the City of Hesperia has realized the need for specific design criteria related to drainage management, and has established drainage management design guidelines.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

- Section 1. The City Council hereby specifically finds that all of the facts set forth in this Resolution are true and correct.
- Section 2. The City Council does hereby adopt the following:
- A. Drainage Management Design Guidelines attached hereto as Exhibit "A".
  - B. The San Bernardino County Hydrology Manual, latest edition.
  - C. The Los Angeles County Hydraulic Design Manual, latest edition.
- Section 3. That City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March, 2020.

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Larry Bird, Mayor

ATTEST:

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Melinda Sayre  
City Clerk

## **Exhibit “A”**

### **DRAINAGE MANAGEMENT DESIGN GUIDELINES**

<u>SECTION</u>	<u>DESCRIPTION</u>
I	INTRODUCTION
II	HYDROLOGIC DESIGN STANDARDS AND PROCEDURES
III	HYDRAULIC DESIGN STANDARDS AND PROCEDURES
IV	DETENTION FACILITIES

## **Exhibit “A”**

### **I. INTRODUCTION**

It is the intent of these standards to provide guidelines and criteria for the design and construction of flood control and drainage facilities within the City of Hesperia (City). These standards shall apply to all new land development projects, re-development projects, and new street construction and widening projects. These standards shall also apply to restoration work performed by City workers when determined by the City Engineer to be necessary for public safety and welfare, or to be cost effective protection of public and private property.

The criteria contained in this policy discussion shall be required for the design of all flood control facilities to attenuate and/or safely convey storm waters through a given project while maintaining a high standard of living for residents and maintaining the integrity of the high desert environment.

**II. HYDRAULIC DESIGN STANDARDS AND PROCEDURES**

The Hydrologic Design of all flood control and drainage facilities shall be in accordance with the San Bernardino County Flood Control District Hydrology Manual, latest edition.

All hydrologic design in areas of special flood hazard, areas of flood related erosion hazards and areas of mudslide or mudflow hazards identified by the Federal Emergency Management Agency shall be in accordance with the City Municipal Code, Title 8, Chapter 8.28, relating to flood hazard protections.

The following facilities shall be designed for rainfall resulting from a 100-year, 24-hour storm event.

- A. All major and secondary facilities located within the City as described in the Hesperia Master Plan of Drainage and the Victorville Master Plan of Drainage as prepared by the San Bernardino County Flood Control District.
- B. All other open channels, closed conduits, detention basins and debris basins which are proposed to be constructed in, or intercept flow from natural flow path except where supplemental usage of the street is allowed.
- C. Culverts under master planned roadways identified on the City General Plan Circulation Element, secondary arterial and greater. Also culverts under at least one roadway providing access to an isolated development.
- D. Natural flow path analysis for the purpose of determining the elevations of habitable structures. The lowest finish floor elevation of all habitable structures shall be a minimum of two feet above the maximum water level determined by using criteria San Bernardino County Standard S.P. 100.

Roadway facilities shall be designed based on the following storm event criteria.

- A. The peak runoff from a 100-year storm will be contained within the street right-of-way.
- B. The peak runoff from a 10-year storm will be contained at or below the street curbs.

If a storm drain is required to meet either of the two conditions listed above, it shall be designed for a minimum capacity of the peak flow from a 10-year storm.

### **III. HYDRAULIC DESIGN STANDARDS AND PROCEDURES**

The hydraulic design of all flood control and drainage facilities shall be in accordance with the Los Angeles County Flood Control District Hydraulics Manual, latest edition, the State of California Department of Transportation Highway Design Manual, latest edition, and the American Public Works Association Standards, latest edition. Master planned facilities shall be designed in accordance with the Hesperia and Victorville Master Plans of Drainage.

- A. OPEN CHANNELS** – Open Channels shall be designed in accordance with San Bernardino County Flood Control District Standard No. S.P. 100. Hydraulic design shall be in conformance with the Los Angeles County Flood Control District Hydraulic Design Manual, latest edition, and the State of California Department of Transportation Highway Design Manual, latest edition.

**1. Bulking and Freeboard**

Bulking and freeboard shall be per San Bernardino County Flood Control District Standard No. S.P. 100.

**2. Lining**

- a. Unlined or natural channels are acceptable where flow velocities are no greater than 3 feet per second or where erosion is not a factor.
- b. Concrete or concrete rip rap will be required for side slope protection where flow velocities exceed 3 feet per second.
- c. Fully lined concrete channels will be required where flow velocities exceed 12 feet per second or where erosion is determined to be a potential factor based on soil and slope conditions, or as required by the City Engineer.

**3. Street Flow**

In any street or highway, the depth of water at curb times the velocity shall not exceed six. When this condition cannot be met, catch basins will be required to intercept the flow.

**4. Configuration and Access**

All open channels shall be made accessible for maintenance and operations and shall provide an access along one side of the channel. All trapezoidal open channels shall be provided with vehicular access to the channel bottom. Channels with a bottom width of fifty feet or greater shall include access along both sides.

## **Exhibit "A"**

### **5. Fencing**

All open channels shall be fenced with chain link fencing as a minimum to prevent unauthorized access.

### **6. Inlet and Outlet Structures**

For inlet and outlet structure design see Sub-Section No. 6 and 7 of CLOSED CONDUIT DESIGN.

## **B. CLOSED CONDUIT** – Closed conduit shall be designed in accordance with the Los Angeles County Flood Control District Hydraulics Manual, latest edition.

### **1. General**

- a. Closed conduits may be designed as flowing full and may be allowed to flow under pressure if the hydraulic grade line is sufficiently below the street surface to intercept catch basin flows with a minimum of 0.5 feet freeboard in the catch basin below the gutter invert.
- b. Where debris may be expected, the design flows will be increased by an appropriate bulking factor.

### **2. Design Requirements for Manholes**

#### **a. Spacing**

Manholes shall be located at the beginning or ending of curves, pipe size changes, angle points, junctions, and as required for maintenance.

1. Conduit diameter 30 inches or smaller:

Manholes shall be spaced at intervals of approximately 300 feet. Where the proposed pipe is less than 30 inches in diameter the horizontal alignment has numerous bends or angle points, the manhole spacing shall be reduced to approximately 200 feet.

2. Pipe diameter larger than 30 inches but smaller than 45 inches:

Manholes shall be spaced at intervals of approximately 400 feet.

## Exhibit "A"

### 3. Conduit diameter 45 inches or larger:

Manholes shall be spaced at intervals of approximately 500 feet.

The spacing requirements shown above apply regardless of design velocities. Deviations from the above criteria shall be subject to City approval.

#### b. Location

Manholes shall not be located in street intersection where possible, especially when one or more streets are heavily traveled.

In situations where the proposed pipe is to be aligned both in easement and in street right-of-way, manholes shall be located in street right-of-way wherever possible.

Manholes shall be located as close to changes in grade as feasible when the following conditions exist:

1. The upstream pipe has a steeper slope than the downstream conduit and the change in grade is greater than 10 percent of the upstream slope. Sediment tends to deposit at the point where the change in grade occurs.
2. Transitioning to a smaller downstream pipe due to an abruptly steeper slope downstream. Smaller downstream pipe shall not be allowed except when extreme downstream conditions require the use of a smaller downstream pipe. The use of smaller downstream pipe will be subject to written approval of the City Engineer. In cases where storm drains pass through, and are discontinuous through detention basins, this rule does not apply.

#### c. Design

When the design flow in a pipe flowing full has a velocity of 20 fps or greater, or is super critical in a partially full pipe, the total horizontal angle of divergence or convergence between the walls of the manhole and its center line shall not exceed 45 degrees.

## **Exhibit "A"**

d. Pressure Manholes

Pressure manholes shall not be allowed. Exceptions may be made on a case-by-case basis by the City Engineer.

e. Deep Manholes

A manhole shaft safety ledge shall be provided in all instances when the manhole shaft is 20 feet or greater in depth. Installation shall be in accordance with Los Angeles County Flood Control District Standards.

### **3. Inlets into Main Line Drains**

Lateral pipe entering a mainline pipe storm drain, generally shall be connected radially. Lateral pipe entering a main line box structure shall conform to the following:

- a. Invert of lateral pipe 24 inches or less in diameter shall be no more than five feet above the invert.
- b. Invert of lateral pipe 27 inches or larger in diameter shall be no more than 18 inches above the invert, with the exception that catch basin connector pipe less than 50 feet in length may be no more than five feet above the invert.

### **4. Minimum Pipe Size**

The minimum diameter of mainline and catch basin connector pipe shall be 18 inches.

In cases where the pipe may carry significant amounts of debris, the minimum diameter of mainline pipe shall be 36 inches.

### **5. Minimum Slope**

The minimum slope for main line pipe shall be .001 (.10 percent), unless otherwise approved by the City Engineer.

For debris carry storm drains, the minimum pipe slope shall be 0.03 (3 percent). If the surface grade is less than 3 percent, a debris basin will be required upstream of the area which does not meet this criteria.



## **Exhibit "A"**

### **6. Inlet Structures**

An inlet structure shall be provided for storm drains originating in natural channels. The structure shall generally consist of a headwall, wingwalls to protect the adjacent banks from erosion, and a paved inlet apron with a minimum 4-foot-deep cutoff wall. The apron slope should be limited to a maximum of 2:1. Wall heights should conform to the height of the water with one foot of freeboard upstream of the inlet, and be adequate to protect both the fill over the drain and the embankments. Headwall and fill over the drain and the embankments. Headwall and wingwall fencing and protection barrier or trash rack shall be provided to prevent public entry. The trash rack should be used for inlets 48 inches (diameter or width) and smaller. For inlets larger than 48 inches a special designed trash rack may be required.

If debris is prevalent, barriers consisting of vertical 3 inch or 4-inch diameter steel pipe spaced at 1/3 the main line diameter or width to a maximum of 30 inches on centers should be embedded in concrete immediately upstream of the inlet apron.

### **7. Outlet Structures**

When a storm drain outlets into a natural channel, an outlet structure shall be provided which prevents erosion and property damage. This outlet structure shall be designed with a cutoff wall having a minimum depth of three (3) feet. Velocity of flow at the outlet should agree as closely as possible with the existing channel velocity. Fencing and a protection barrier shall be provided.

When the discharge velocity is low, or subcritical, the outlet structure shall consist of a headwall, wingwalls, and an apron. The apron may consist of a concrete slab, or grouted rock with a minimum 3-foot-deep cutoff wall.

When the discharge velocity is high, or supercritical, the designer shall design bank protection in the vicinity of the outlet and an energy dissipater structure.

### **8. Protection Barriers and Trash Racks**

A protection barrier is a means of preventing access to storm drains. Protection barriers may consist of large, heavy breakaway gates, single horizontal bars across catch basin openings, or chain link fencing around an inlet of exposed outlet. Protection barriers shall be provided wherever necessary to prevent unauthorized access to storm drains.

## **Exhibit "A"**

### **9. Debris Barriers**

A debris barrier or deflector is a means of preventing large debris, such as tree limbs, logs, boulders and refuse, from entering a storm drain and plugging the conduit. The debris barrier should have openings wide enough to allow as much small debris as possible to pass through and yet narrow enough to protect the smallest conduit in the system downstream of the barrier. It shall be the designer's responsibility to provide a debris barrier or deflector appropriate for the situation.

### **10. Other Closed Conduit Criteria**

#### **a. Angle of Confluence**

In general, the angle of confluence between main line and lateral shall not exceed 30 degrees under any of the following conditions:

1. Where the flow (Q) in the proposed lateral exceeds 10 percent of the main line flow.
2. Where the velocity flow in the proposed lateral is 20 fps or greater.
3. Where the size of the proposed lateral is 60 inches or greater.
4. Where the hydraulic calculations indicate excessive head losses may occur in the main line due to the confluence.

Connector pipe may be joined to main line pipe at angles greater than 30 degrees up to a maximum of 90 degrees provided none of the above conditions exist. Connections shall not be made to mainline pipe which may create conditions of adverse flow in the connector pipes.

- #### **b.**
- The velocity in pipe shall not exceed 40 fps. For velocities from 20-30 fps, the minimum cover over steel in the pipe shall be ½ inch greater than the normal cover (1 -1 ½" minimum). For velocities from 30-40 fps, the minimum cover over the steel in the pipe shall be 1 inch greater than the normal cover (2" minimum).

## **Exhibit “A”**

### **IV. DETENTION FACILITIES**

Onsite detention facilities are required for all development projects. Volume may be by means of underground chambers for commercial development or earthen basins for non-commercial development, or as approved by the City Engineer.

For sites less than 1 acre in size, volumes shall be 13.5 cubic feet per 100 square feet of impervious area. For sites larger than one acre, required volume shall be the difference between the 100-year, 24-hour volume of the post construction volume, less 90% of the pre-construction volume, all in accordance with the San Bernardino County Hydrology Manual.

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay, Assistant City Manager  
Tina Souza, Senior Management Analyst

**SUBJECT:** Amend Project Funding Agreement with San Bernardino County Transportation Authority for the Ranchero Road Widening Project, C.O. 7094 & C.O. 7139

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### RECOMMENDED ACTION

It is recommended that the City Council approve Amendment No. 1 to the Project Funding Agreement (PFA) No. 17-1001692 between San Bernardino County Transportation Authority (SBCTA) and the City for construction of the Ranchero Road Widening Project, C.O. 7094 & C.O. 7139; and authorize the Mayor to execute the Amendment.

### BACKGROUND

The Ranchero Corridor Project consists of several improvements in three phases, I) the undercrossing at the BNSF Railway Company (BNSF) railroad tracks (at the eastern terminus of the corridor project boundary) which was completed in June 2013, II) the interchange at Interstate 15 (I-15) (at the western terminus of the corridor project boundary) which was completed in March 2015, and III) improvements to widen the five-mile roadway segment of Ranchero Road from two lanes to five lanes between these two structures for increased vehicular capacity. The widening of the roadway includes replacing and widening the bridge over the California Department of Water Resources (DWR) aqueduct, as well as widening the at-grade crossing of Union Pacific Railroad (UPRR) railroad tracks. The Ranchero Road Corridor project is the City's highest priority for roadway capital construction.

Phase III, widening of the roadway between the grade separation and the interchange (the "Project") is approaching construction readiness. Some of the pending items prior to consummating construction of the widening project include ensuring that all required agreements with agencies participating in funding for the Project are amended to include the construction portion of the Project.

On June 20, 2017 the City Council approved PFA No. 17-1001692 between SBCTA and the City for contribution of the public's (SBCTA's) share of the project utilizing Measure I, and/or other Major Local Highway funds available for use by SBCTA for right-of-way acquisition and utility relocations. The PFA requires amending to include the construction element of the Project.

### ISSUES/ANALYSIS

The City has partnered with San Bernardino County (County) on this Project with the City being the lead agency. The understanding between the City and the County are under a separate agreement. The Project is on the SBCTA's Measure I 2010-2040 Victor Valley Subarea Major

Local Highway Program (MLHP) list and associated Measure I Ten Year Delivery Plan making the Project eligible for partial funding from SBCTA. In order to receive expenditure reimbursement of SBCTA's share, a PFA must be in place. The PFA is SBCTA's standard contract for funding shares. The PFA previously approved by the City Council in 2017 did not include the construction phase of the Project because at that time anticipated start of construction was undetermined.

In order to receive partial reimbursement of forthcoming construction costs, the PFA requires an amendment to include the construction component. Further, the agreement is required to meet grant requirements associated with the project.

Some of the key elements for consideration related to executing the PFA amendment are as follows:

- The PFA and subsequent amendments are entered into in accordance with SBCTA's rules and regulations.
- The total estimated project cost is \$49,554,852
- SBCTA's share is 41.1% - \$11,346,829
- The City's share is 58.9% - \$16,261,028
- The amendment includes the County's SBCTA share for construction only.
- The County's share is 41.5% - \$9,108,003
- SBCTA's share of the County is 58.5% - \$12,838,992
- SBCTA has already allocated approximately \$14M to the project, of which, \$12,678,000 is Local Partnership Program (LPP) Formula funds. The remaining estimated \$10M allocation will be requested along with approval of this amendment by the SBCTA Board of Directors for a total \$24,185,822 allocated to the Project.
- In compliance with SBCTA's rules and regulations, payment of the City's share must be paid from Development Impact Fee (DIF) funds, in this case DIF Streets.
- If DIF funds are not available, other funds may be utilized for the City's share with the establishment of a loan from that particular fund to DIF containing terms requiring DIF to re-pay its indebtedness to said fund.
- In accordance with SBCTA regulations, all projects utilizing MLHP funds require the agency to pay for all expenditures up front with subsequent reimbursement from SBCTA for eligible expenditures. This simulates the process that occurred with the Ranchero interchange and grade separation projects. It is estimated that the City will incur up to three months of construction costs prior to receiving any reimbursements.

March 17, 2020

- SBCTA's share of the County will be directly reimbursed to the City as the lead agency. The County's share will be collected directly from the County without SBCTA involvement. A portion of staff hours for project management is eligible for reimbursement.
- Construction expenditures prior to execution of the PFA amendment are not eligible for reimbursement by SBCTA.
- If cost overruns are anticipated to occur, the PFA may be amended prior to reaching the cost limit. Although, amendments to an PFA are generally not denied by SBCTA, there is no guarantee an amendment will be approved due to funding source limitations and obligations to other projects. If said circumstance arises, the City and County will be responsible for cost overruns within their own jurisdiction.
- The executed PFA is required to obtain allocation of the LPP Competitive grant funds for the Project.

## FISCAL IMPACT

Funding for the Project is budgeted in Funds 204, 207, 300, and 504 in the FY 2019-2020 Capital Improvement Program (CIP) budget. The Project will be budgeted in subsequent fiscal years until project completion. See the chart below for the estimated project totals for the various components and agency shares. This table is also included in the PFA.

Description	Amount	City	County	SBCTA	
				City	County
Roadway					
Design/CEQA	\$1,813,290	\$948,696	\$864,594		
Environmental Mitigation	\$140,000	\$20,615	\$43,575	\$14,385	\$61,425
Right-of-Way	\$379,842	\$118,296	\$74,285*	\$82,546	\$104,715*
Regulatory Permitting	\$95,000	\$27,978	\$19,713	\$19,523	\$27,788
Construction Management	\$3,785,010	\$817,246	\$994,960	\$570,269	\$1,402,535
Construction	\$30,122,000	\$6,317,025	\$8,049,755	\$4,407,975	\$11,347,245
Subtotals:	\$36,335,142	\$ 8,249,856	\$10,046,882	\$5,094,697	\$12,943,707
City/County Only:		\$(948,696)	\$(864,594)		
DIF/Public Share Funds:		\$7,301,160	\$9,182,288	\$5,094,697	\$12,943,707
Bridge					
Design/CEQA	\$1,150,000	\$1,150,000			
Right-of-Way	\$700,000	\$412,300		\$287,700	
Construction Management	\$1,820,000	\$1,071,980		\$748,020	
Construction	\$12,692,000	\$7,475,588		\$5,216,412	
Subtotals:	\$16,362,000	\$10,109,868		\$ 6,252,132	
City Only Amount:		\$ (1,150,000)			
DIF/Public Share Funds:		\$8,959,868		\$6,252,132	
Combined Project					
Totals:	\$52,697,142	\$18,359,724	\$10,046,882	\$11,346,829	\$12,943,707
Less City/County Only:		\$ (2,098,696)	\$(864,594)		
DIF/Public Share Subtotal:		\$16,261,028	\$9,182,288	\$11,346,829	\$12,943,707
Less County Agreement*:			\$(74,285)		\$(104,715)
DIF/Public Share Funds:	\$49,554,852	\$16,261,028	\$9,108,003	\$11,346,829	\$12,838,992

As indicated in the table above, the City's portion of the cost is \$16.2M, less grant funds of \$2.9 M and developer contributions of \$12M, leaving a balance of roughly \$1.3 M to be funded from City DIF.

**ALTERNATIVE(S)**

1. Do not approve the amendment to the agreement and attempt to secure other funding sources.
2. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Attachment 1 - Amendment No. 1 for Project Funding Agreement No. 17-1001692



## **ATTACHMENT 1**

### **AMENDMENT NO. 1 TO AGREEMENT NO. 17-1001692**

#### **FOR**

#### **RANCHERO ROAD WIDENING PROJECT**

#### **(CITY OF HESPERIA)**

THIS Amendment No. 1 to Project Funding Agreement 17-1001692 is made and entered into by and between the San Bernardino County Transportation Authority (“SBCTA”) and the City of Hesperia (“CITY”). SBCTA and CITY are each a “Party” or collectively, “Parties.”

#### **RECITALS**

- A. The Parties entered into Project Funding Agreement 17-1001692 on or about July 12, 2017 (“Agreement”), to fund the right of way phase of the RANCHERO ROAD WIDENING PROJECT in the City of Hesperia (“PROJECT”) with an approved allocation of \$1,513,964; and
- B. On July 10, 2019 the SBCTA Board of Directors approved an allocation of \$12,678,000 in Senate Bill 1 Local Partnership Program formulaic funds for the Construction Phase of the PROJECT; and
- C. CITY is the lead agency on the PROJECT Construction Phase; and
- D. The Construction Phase includes project construction in the CITY and in unincorporated San Bernardino County, which will be performed by CITY on behalf of the County of San Bernardino; and
- E. CITY is requesting that SBCTA provide an additional allocation of \$9,993,857 in Measure I Victor Valley Subarea Major Local Highway Projects (“MLHP”) Program funding for the Construction Phase; and
- F. CITY is requesting an extension of the termination date of the Agreement to June 30, 2023.

NOW, THEREFORE, SBCTA and CITY agree to the following:

#### **SECTION I**

1. All references to the San Bernardino County Transportation Authority as AUTHORITY in Agreement shall mean SBCTA.

## **ATTACHMENT 1**

2. Recital B is hereby deleted in its entirety and replaced with the following:

“E. Ranchero Road Widening Project in the City of Hesperia and unincorporated San Bernardino County (“PROJECT”) is one of the projects identified as eligible for such funding and is described more fully in Attachment A; and”

3. Recital G is hereby deleted in its entirety and replaced with the following:

“F. The PROJECT will widen Ranchero Road from two to five lanes from .15 miles east of Mariposa Road to the completed Ranchero Road Undercrossing at 7<sup>th</sup> Avenue; and

4. Section I, Paragraph 1 is hereby deleted in its entirety and replaced with the following:

“1. To allocate up to a maximum of \$24,185,821 in Public Share funds for the actual cost of the PROJECT, or up to the Public Share of PROJECT costs, whichever is less. An estimate of costs for the PROJECT and Public Share fund sources is provided in Attachment B. SBCTA shall have no further responsibilities to provide any funding for PROJECT exceeding this amount unless a written amendment to this Agreement is signed by both Parties.”

5. Section I, Paragraph 2 is hereby deleted in its entirety and replaced with the following:

“2. In the case that Measure I funds are allocated to the PROJECT, to reimburse CITY within 30 days after CITY submits an original and one electronic copy of the signed invoices in the proper form covering those actual allowable PROJECT expenditures that were incurred by CITY, consistent with the invoicing requirements of the Measure I 2010-2040 Strategic Plan, including backup information. Invoices may be submitted to SBCTA as frequently as monthly.”

6. Section II, Paragraph 2 is hereby deleted in its entirety and replaced with the following:

“2.A. To be responsible for expending that portion of allocated Public Share funds on eligible PROJECT expenses in an amount not to exceed \$24,185,821 unless this Agreement is amended and approved increasing PROJECT costs. Reimbursement by SBCTA shall be in accordance with Section I, Paragraph 2. Expenses relative to time spent on the PROJECT by CITY staff are considered eligible PROJECT expenses and may be charged to the PROJECT, subject to SBCTA, State, and Federal guidelines.

2.B. In the case that State and Federal funds are allocated to the PROJECT, to secure all necessary State and Federal authorizations that are required before incurring eligible PROJECT expenditures and to be responsible for requesting reimbursement through the California Department of Transportation.”

## **ATTACHMENT 1**

7. Section II, Paragraph 4 is hereby deleted in its entirety and replaced with the following:

“4. In the case that Measure I funds are allocated to the PROJECT, to prepare and submit to SBCTA an original and one electronic copy of signed invoices for reimbursement of eligible PROJECT expenses. Invoices may be submitted to SBCTA as frequently as monthly.”

8. Section II, Paragraph 12, is hereby added:

“12. To include in all contracts between CITY and contractors for the PROJECT the requirement that SBCTA be named as an additional insured under general liability insurance policies maintained by the contractor for the PROJECT.”

9. Section III, Paragraph 6.A. is hereby added to Section III between Paragraphs 6 and 7:

“6.A. In the event CITY and/or SBCTA is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under this Agreement, CITY and/or SBCTA shall indemnify the other to the extent of its comparative fault.”

10. Section III, Paragraph 7 is hereby deleted in its entirety and replaced with the following:

“7. This Agreement will be considered terminated upon reimbursement of eligible costs by SBCTA or **June 30, 2023**, whichever is sooner, provided that the provisions of Paragraphs 5, 6, 7, 8, and 9 of Section II, and Paragraphs 5 and 6 of Section III, shall survive the termination of this Agreement. The Agreement may also be terminated by SBCTA, in its sole discretion, in the event the PROJECT work described in Attachment A has not been initiated or let by CITY within twelve (12) months of the Effective Date of this Agreement.”

11. Attachment A has been replaced in its entirety to reflect a change in the PROJECT limits and milestones.

12. Attachment B has been replaced in its entirety to reflect the change in funding.

**--- SIGNATURES ON NEXT PAGE ---**

**ATTACHMENT 1**

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 below.

**SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY**

**CITY OF HESPERIA**

By: \_\_\_\_\_  
Darcy McNaboe, President  
Board of Directors

By: \_\_\_\_\_  
Larry Bird, Mayor

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Julianna K. Tillquist  
SBCTA General Counsel

By: \_\_\_\_\_  
Eric Dunn  
CITY Attorney

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

CONCURRENCE:

By: \_\_\_\_\_  
Jeffery Hill  
Procurement Manager

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

## ATTACHMENT 1

### Attachment A

#### RANCHERO ROAD WIDENING PROJECT

##### Description of Project and Milestones

<b>PROJECT DESCRIPTION</b>	Widen Ranchero Road from 0.15 miles east of Mariposa Road to east of the completed Ranchero Road Undercrossing at 7th Avenue.	
<b>PROJECT MILESTONE</b>		<b>BASELINE</b>
Project Study Report Approved		n/a
Begin Environmental (PA&ED) Phase		12/1/2007
Circulate Draft Environmental Document		6/1/2013
Draft Project Report		n/a
End Environmental Phase (PA&ED Milestone)		7/1/2013
Begin Design (PS&E) Phase		3/1/2009
End Design Phase (Ready to List for Advertisement Milestone)		6/30/2020
Begin Right of Way Phase		11/1/2017
End Right of Way Phase (Right of Way Certification Milestone)		6/30/2020
Begin Construction Phase (Contract Award Milestone)		12/15/2020
End Construction Phase (Construction Contract Acceptance Milestone)		4/30/2022
Begin Closeout Phase		5/1/2022
End Closeout Phase (Closeout Report)		6/30/2023

# ATTACHMENT 1

## Attachment B

### RANCHERO ROAD WIDENING PROJECT

#### Revised Summary of Estimated Costs

Description	Amount	City	County	SBCTA	
				City	County
Roadway					
Design/CEQA	\$1,813,290	\$948,696	\$864,594		
Environmental Mitigation	\$140,000	\$20,615	\$43,575	\$14,385	\$61,425
Right-of-Way	\$379,842	\$118,296	\$74,285*	\$82,546	\$104,715*
Regulatory Permitting	\$95,000	\$27,978	\$19,713	\$19,523	\$27,788
Construction Management	\$3,785,010	\$817,246	\$994,960	\$570,269	\$1,402,535
Construction	\$30,122,000	\$6,317,025	\$8,049,755	\$4,407,975	\$11,347,245
Subtotals:	\$36,335,142	\$ 8,249,856	\$10,046,882	\$5,094,697	\$12,943,707
City/County Only:		\$(948,696)	\$(864,594)		
DIF/Public Share Funds:		\$7,301,160	\$9,182,288	\$5,094,697	\$12,943,707
Bridge					
Design/CEQA	\$1,150,000	\$1,150,000			
Right-of-Way	\$700,000	\$412,300		\$287,700	
Construction Management	\$1,820,000	\$1,071,980		\$748,020	
Construction	\$12,692,000	\$7,475,588		\$5,216,412	
Subtotals:	\$16,362,000	\$10,109,868		\$ 6,252,132	
City Only Amount:		\$( 1,150,000)			
DIF/Public Share Funds:		\$8,959,868		\$6,252,132	
Combined Project					
Totals:	\$52,697,142	\$18,359,724	\$10,046,882	\$11,346,829	\$12,943,707
Less City/County Only:		\$( 2,098,696)	\$(864,594)		
DIF/Public Share Subtotal:		\$16,261,028	\$9,182,288	\$11,346,829	\$12,943,707
Less County Agreement*:			\$(74,285)		\$(104,715)
DIF/Public Share Funds:	\$49,554,852	\$16,261,028	\$9,108,003	\$11,346,829	\$12,838,992

\* The County ROW costs are under Agreement 17-1001700 between SBCTA and the County of San Bernardino

#### FUNDING PLAN:

PHASE	Total Cost	Public Share (41.1% of City Costs/58.5% of County Costs)				Development Share		
		City Share		County Share		DIF		LPP
		MLHP	LPP Formula <sup>1</sup>	MLHP	LPP Formula <sup>1</sup>	City Share	County Share	Competitive <sup>1</sup>
Env Mit	\$140,000	\$14,385		\$61,425		\$20,615	\$43,575	
ROW	\$900,842	\$370,246				\$530,596		
Permits	\$95,000	\$19,523		\$27,788		\$27,978	\$19,713	
CM	\$5,605,010	\$1,318,289		\$1,402,535		\$1,889,226	\$994,960	
CON-Bridge	\$12,692,000		\$5,216,412			\$7,475,588		
CON-Road	\$30,122,000	\$3,676,476	\$731,499	\$4,617,156	\$6,730,089	\$3,796,382	\$6,670,398	\$3,900,000
<b>TOTAL</b>	<b>\$49,554,852</b>	<b>\$5,398,919</b>	<b>\$ 5,947,911</b>	<b>\$6,108,903</b>	<b>\$6,730,089</b>	<b>\$13,740,384</b>	<b>\$7,728,646</b>	<b>\$3,900,000</b>

<sup>1</sup> LPP Formula is a Public Share fund. LPP Competitive is a Development Share fund.

#### Additional Notes:

(1) Public Share can be from sources under control of SBCTA including but not limited to Measure I Major Local Highway Projects program, State Transportation Improvement Program (STIP), Surface Transportation Program (STP), SB-1 Local Partnership Program (LPP) or other funds without necessitating an amendment of this agreement. SBCTA shall provide CITY written notice of any change in source of funds. Savings from one phase of PROJECT may be used in another phase for eligible Public Share costs without necessitating an amendment of this Agreement as long as the total allocation of Public Share funding is not exceeded.

(2) CITY shall be responsible for coordination of Development Impact Fee (DIF) funds with the County of San Bernardino.

(3) CITY shall be responsible for authorization, expenditure, and reimbursement of both the City Share and County Share of all Public Share funds.

# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay, Assistant City Manager  
Tina Souza, Senior Management Analyst

**SUBJECT:** Amendment to Cooperative Agreement with County of San Bernardino for the Ranchero Road Corridor Widening Project, C.O. 7094

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### RECOMMENDED ACTION

It is recommended that the City Council 1) adopt Resolution No. 2020-12 approving Amendment No. 1 to Cooperative Agreement No. 11-424 (Agreement) between the City and the County of San Bernardino (County) for design and environmental compliance for the Ranchero Road Corridor Widening Project, C.O. 7094 and 2) authorize the City Manager to execute the amendment to the Agreement.

### BACKGROUND

The Ranchero Corridor Project consists of several improvements in three phases, I) the undercrossing at the BNSF Railway Company (BNSF) railroad tracks (at the eastern terminus of the corridor project boundary) which was completed in June 2013, II) the interchange at Interstate 15 (I-15) (at the western terminus of the corridor project boundary) which was completed in March 2015, and III) improvements to widen the five-mile roadway segment of Ranchero Road from two lanes to five lanes between these two structures for increased vehicular capacity. The widening of the roadway includes replacing and widening the bridge over the California Department of Water Resources (DWR) aqueduct, as well as widening the at-grade crossing of Union Pacific Railroad (UPRR) railroad tracks. The Ranchero Road Corridor project is the City's highest priority for roadway capital construction.

Phase III, widening of the roadway between the grade separation and the interchange (the "Project") is approaching construction readiness. Some of the pending items prior to consummating construction of the Project include ensuring that all required agreements with agencies participating in funding for the project are amended to include the construction portion of the project.

Roughly 2.5 miles of the Project is within the County's jurisdiction. The City partnered with the County to widen the roadway, with the exception of the aqueduct crossing. On May 17, 2011, the City Council adopted Resolution No. 2011-032 approving the Agreement with the County for the design and environmental compliance components of the Project. The Agreement requires amending to include the construction portion of the Project.

## ISSUES/ANALYSIS

The Agreement with the County was executed for the project approval and environmental document (PA&ED) and the plans, specifications and estimate (PS&E) phases of the Project with an estimated cost in the amount of \$1,154,156, which was split 50/50 between the City and the County (\$577,078 each). This was based on approximately 2.5 miles of Ranchero Road in each jurisdiction.

With construction approaching, the Agreement requires amending to continue progression on the Project. Additionally, the amendment is required to meet grant requirements associated with the Project. The amendment revises the Project cost estimates from \$1,154,156 to \$18,104,157 with the construction element added.

Key components for consideration are as follows:

- The Agreement and subsequent amendments are prepared in County's standard form.
- The subject amendment is substantially related to the project costs and the inclusion of the construction component of the project, as well as the City and County roles relating to construction. The terms in the Agreement remain in full force and effect except as may be specifically identified in the Agreement.
- The County is responsible for its proportionate share of the actual costs of design, California Environmental Quality Act (CEQA) compliance, and construction, including construction engineering, and inspection.
- Design and construction of the Aqueduct crossing is not part of the shared cost in the Agreement due to the extraordinary design and permitting requirements, as well as the fact that the aqueduct is solely in the City's boundary and does not cross any County jurisdictional boundary.
- Right-of-way (ROW) is the responsibility of each agency and is also excluded from the shared cost estimate.
- The City will act as the lead agency on the Project.
- The City pays for all expenditures up front with subsequent reimbursement from the County in accordance with the terms of the original Agreement.
- SBCTA will reimburse the City directly for the County public share of the project through the Major Local Highway Program (MLHP), leaving only the County developer share of 41.5% to be paid to the City by the County.

The table on the following page identifies the total estimated Project cost (excluding ROW and aqueduct crossing) with a breakdown of the City and County share, as well as SBCTA's share of the total cost. This table is also included in the amendment.



<b>PHASE OF WORK</b>	<b>TOTAL COST</b>	<b>COUNTY OF SAN BERNARDINO SHARE</b>	<b>CITY OF HESPERIA</b>	<b>SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY</b>
PA/ED / PSE	\$1,813,290	\$864,594	\$948,696	\$0
Environmental Permitting/Mitigation	235,000	63,288	48,593	123,120
Construction Management	3,785,010	994,960	817,246	1,972,803
Construction	30,122,000	8,049,755	6,317,025	15,755,220
<b>TOTAL</b>	<b>\$35,955,300</b>	<b>\$9,972,597</b>	<b>\$8,131,560</b>	<b>\$17,851,143</b>

## **FISCAL IMPACT**

Funding for the Project is budgeted in Funds 204, 207, 300, and 504 in the FY 2019-2020 Capital Improvement Program (CIP) budget. The Project will be budgeted in subsequent fiscal year's CIP until project completion.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Resolution No. 2020-12
2. Exhibit "A" Amendment No. 1 to Agreement 11-424

## **RESOLUTION NO. 2020-12**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING AMENDMENT NO. 1 TO COOPERATIVE AGREEMENT NO. 11-424 BETWEEN THE CITY AND THE COUNTY OF SAN BERNARDINO FOR DESIGN AND ENVIRONMENTAL COMPLIANCE FOR THE RANCHERO ROAD CORRIDOR WIDENING PROJECT, C.O. 7094**

**WHEREAS**, the Ranchero Road Corridor Project, comprised of three phases, is the City's highest priority for capital construction; and

**WHEREAS**, Phase I, the Ranchero Road grade separation at the BNSF Railway railroad tracks and Phase II, the Ranchero Road Interchange at Interstate 15 are complete; and

**WHEREAS**, the environmental document for Phase III, the road widening between the interchange and grade separation phases (the "Project") is complete and design of Phase III, is near completion; and

**WHEREAS**, because the Project will benefit the County of San Bernardino (County) and the City, both parties entered into Cooperative Agreement No. 11-424 (Agreement) to participate in funding and preparing said design, as well as the environmental compliance needed under the California Environmental Quality Act; and

**WHEREAS**, the City Council adopted Resolution No. 2011-032 on May 17, 2011 approving the Agreement, which was commemorated in a County Standard Contract executed by City and County on or about June 15, 2011; and

**WHEREAS**, because the Agreement did not include the construction component of the Project, an amendment to the Agreement is required to incorporate construction of the Project; and

**WHEREAS**, the Project's cost estimates in the Agreement increased from \$1,154,156 to \$18,104,157 with the construction component added; and

**WHEREAS**, with the exception of that which is identified in Amendment No. 1, all other terms and conditions of the Agreement shall remain the same; and

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA AS FOLLOWS:

- Section 1. That the City and County agree to the stipulations set forth in Amendment No. 1, attached hereto as Exhibit "A."
- Section 2. That after execution of the amendment by the City Manager, copies will be transmitted to the County of San Bernardino for its execution.
- Section 3. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March 2020.

---

Larry Bird, Mayor

ATTEST:

---

Melinda Sayre, City Clerk

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

**Contract Number**

11-424 A-1

**SAP Number****Public Works**

<b>Department Contract Representative</b>	Sundaramoorthy (Sri) Srirajan, P.E., Chief
<b>Telephone Number</b>	(909) 387-8166
<b>Project</b>	Ranchero Road Corridor Widening
<b>Contractor</b>	City of Hesperia
<b>Contractor Representative</b>	Tina Souza, Senior Management Analyst
<b>Telephone Number</b>	(760) 947-1474
<b>Contract Term</b>	6/28/2011 – 8/30/2024
<b>Original Contract Amount</b>	\$ 577,078
<b>Amendment Amount</b>	\$9,395,519
<b>Total Contract Amount</b>	\$9,972,597
<b>Cost Center</b>	6650002164 52002445 TA1591

**IT IS HEREBY AGREED AS FOLLOWS:****Recital**

WHEREAS, the County of San Bernardino (COUNTY) and the City of Hesperia (CITY), (COUNTY and CITY are also each referred to herein as "Party", and collectively referred to as "Parties"), previously entered into County Contract No. 11-424 (hereinafter referred to as "Agreement"), wherein the Parties agreed to jointly participate in the preparation of environmental documents and design work associated with the roadway widening on Ranchero Road, east of Mariposa Road to 7th Avenue, located in the COUNTY's and CITY's jurisdictional boundaries; and

WHEREAS, the Parties desire to amend the Agreement to add the Construction phase to the Agreement, and revise the PROJECT cost estimate by \$16,950,001 (from \$1,154,156 to \$18,104,157) to include the construction cost; and

WHEREAS, Right-of-Way (ROW) services are not part of this Agreement; each Party will be responsible for PROJECT related ROW services within their respective jurisdictions and the related costs; and

WHEREAS, the PROJECT consists of widening Ranchero Road from a two lane to an interim five lane road that has four through lanes and one continuous left turn lane on Ranchero Road; and installing traffic signals on Ranchero Road at the intersections of Maple Avenue, Cottonwood Avenue, and 7<sup>th</sup> Avenue, all within the PROJECT limits; and

WHEREAS, the PROJECT was designed for shelf readiness because there were not sufficient funds between the Parties to proceed to the construction phase; and

WHEREAS, hereto Amendment No. 1, the Parties desire to proceed with the PROJECT construction; and

WHEREAS, the total cost for the PROJECT is estimated to be \$36,335,142; however, for the purpose of this proposed amendment, the total project cost is estimated to be \$35,955,300. This amount excludes right-of-way services for the project (\$379,842). The total PROJECT cost includes local agency share and the public share, as a requirement of the San Bernardino County Transportation Authority (SBCTA) Measure I 2010-2040 Nexus Study (Nexus Study). The local agency share will be provided by the COUNTY and CITY, and the public share will be provided by SBCTA; and

WHEREAS, CITY agrees to enter into a separate Funding Agreement with the SBCTA for the Public Share of the PROJECT cost, which includes portions of the CITY and COUNTY shares, in accordance with the Nexus Study; and

WHEREAS, SBCTA Public Share cost for the PROJECT is estimated to be \$17,851,143 (CITY \$5,012,151 and COUNTY \$12,838,992), this amount excludes ROW cost. ROW costs are addressed in separate funding agreements; and

WHEREAS, the intent of this Amendment is to define the COUNTY's and CITY's duties and funding responsibilities as pertain to the PROJECT; and

WHEREAS, the revised cost for the Parties share of the PROJECT's Project Approval and Environmental Documents, Plans, Specifications, and Estimate, and Construction is estimated to be \$18,104,156 (excluding ROW cost). COUNTY's share of cost increases by \$9,395,519 (from \$577,078 to \$9,972,597), and the CITY's share of cost increases by \$7,554,482 (from \$577,078 to \$8,131,560), as more particularly set forth in Exhibit "A-1", attached hereto and incorporated herein by reference; and

WHEREAS, COUNTY share of the PROJECT cost will be funded by Discretionary General Funding, Measure "I" 2010-2040 Local Pass-Through funds, Gas Tax and Regional Development Impact Fees collected in the Victor Valley subarea; and the CITY's share of the PROJECT cost will be funded by CITY local funds and Regional Development Impact Fees collected in the Victor Valley subarea. Furthermore, it is anticipated that Senate Bill 1 Local Partnership Program (LPP) Grant and California Department of Resources Recycling and Recovery (CalRecycle) Grant funds awarded to the City of Hesperia (City) will be received and will be applied to both the COUNTY and CITY shares of the PROJECT cost, reducing their final contribution; and

WHEREAS, receipt of LPP and CalRecycle funds is contingent upon the PROJECT meeting specified PROJECT milestones. LPP grant amount is estimated to be \$3,900,000 and CalRecycle grant amount is estimated to be \$288,000.

WHEREAS, for purposes of this agreement, Exhibit A-1 reflects the total project costs without the LPP and CalRecycle funds. If the funds are received, PROJECT cost shares for CITY and COUNTY will be reduced accordingly.

NOW, THEREFORE, in consideration of the mutual covenants and conditions provided herein, the Parties hereto agree the Agreement, County Contract No. 11-424, is amended as follows:

1. DELETE the existing ninth WHEREAS recital in its entirety.

2. DELETE the existing paragraph 1.1 and REPLACE it with a revised paragraph 1.1, which shall read as follows:
  - 1.1 Act as the Lead Agency in the design, construction, construction engineering, inspection, and California Environmental Quality Act (CEQA) compliance (Public Resources Code section 21000 et seq.) phases of the PROJECT, with the exception of Right-of-Way. Each Party will be responsible for Right-of-Way activities within their respective jurisdictions, including the related costs. Therefore, Right-of-Way cost estimates are not part of this Agreement.
3. DELETE the existing paragraph 1.5 and REPLACE it with a revised paragraph 1.5, which shall read as follows:
  - 1.5 Pay its proportionate share of the PROJECT cost. The PROJECT cost shall include the cost of design, construction, construction engineering, inspection, and CEQA compliance. CITY's proportionate share of the PROJECT cost is estimated to be \$8,131,560, as detailed in Exhibit "A-1" of the Agreement.
4. DELETE the existing paragraph 1.6 and REPLACE it with a revised paragraph 1.6, which shall read as follows:
  - 1.6 Submit to COUNTY an itemized accounting of actual environmental, design and construction costs incurred by CITY to date and which have not already been paid by COUNTY, and a statement for the COUNTY's share of environmental, design, and construction costs, as provided herein. Costs shall be amended following CITY and COUNTY acceptance of the PROJECT's final cost accounting. In no event shall COUNTY's share of the PROJECT cost exceed \$12,465,746 (COUNTY's estimated PROJECT share of \$9,972,597 plus twenty-five percent) absent a written amendment to this Agreement approved pursuant to Paragraph 3.10.
5. DELETE the existing paragraph 1.8 and REPLACE it with a revised paragraph 1.8, which shall read as follows:
  - 1.8 COUNTY shall fully participate with the CITY and/or the PROJECT Consultant(s) in all phases of the PROJECT. COUNTY shall be included in construction meetings, if and when such meetings are held, and in related communications on PROJECT progress. CITY also agrees to consult with COUNTY on critical issues relative to the PROJECT.
6. DELETE the existing paragraph 1.9 and REPLACE it with a revised paragraph 1.9, which shall read as follows:
  - 1.9 The City Manager shall designate and provide a qualified representative who shall have the authority to discuss and resolve issues concerning the PROJECT with the COUNTY. The PROJECT Resident Engineer shall be a qualified Professional Engineer currently licensed in the State of California with relevant experience with similar project.
7. ADD paragraph 1.11, which shall read as follows:
  - 1.11 Advertise, award, administer, and initially fund the construction of the PROJECT, in accordance with the provisions of California Public Contract Code applicable to cities and require, as well as enforce, CITY's contractors to comply with all applicable laws and regulations, including Labor Code sections 1720 et seq. and 1770 et seq. that concern the payment of prevailing wages. CITY shall indemnify, defend (with counsel reasonably approved by COUNTY), and hold harmless COUNTY and its officers, employees, volunteers, and agents from any and all claims, actions, losses, damages, and/or liability arising out of CITY's obligations set forth in this paragraph.
8. ADD paragraph 1.12, which shall read as follows:

- 1.12 Provide adequate inspection of all items of work performed under the construction contract(s) with CITY's contractors or subcontractors for the PROJECT, and maintain adequate records of inspection and materials testing for review by COUNTY. CITY shall provide copies of any records of inspection and materials testing to COUNTY within ten (10) business days of CITY's receipt of written demand from COUNTY for such records. Copies of requested records shall be included as a PROJECT cost.
9. DELETE the existing paragraph 2.2 and REPLACE it with a revised paragraph 2.2, which shall read as follows:
- 2.2 Pay to the CITY, COUNTY's proportionate share of the PROJECT cost. The PROJECT cost shall include the cost of design, construction, construction engineering, inspection, CEQA compliance, and CITY overhead. COUNTY's share of the PROJECT is estimated to be \$9,972,597.
10. DELETE the existing paragraph 2.3 and REPLACE it with a revised paragraph 2.3, which shall read as follows:
- 2.3 Pay to CITY, on a reimbursement basis, its share of PROJECT costs, including its jurisdictional share of any PROJECT cost increases pursuant to Paragraphs 3.19, 3.21, and 3.23 below, within sixty (60) work days after receipt of an itemized statement as set forth in paragraph 1.6 of this Agreement, setting forth all actual PROJECT costs incurred by CITY to date and which have not already been paid by COUNTY, together with adequate documentation of said expenditures. In no event shall COUNTY's share of the PROJECT cost exceed \$12,465,746 (COUNTY's estimated PROJECT share \$9,972,597 plus twenty-five percent) absent a written amendment to this Agreement approved pursuant to Paragraph 3.10.
11. ADD paragraph 2.6, which shall read as follows:
- 2.6 Provide a no-cost permit to the CITY for CITY to perform work within COUNTY's right-of-way.
12. DELETE the existing paragraph 3.8 and REPLACE it with a revised paragraph 3.8, which shall read as follows:
- 3.8 This Agreement may be cancelled upon thirty (30) calendar days advance written notice of either Party, provided however, that neither Party may cancel this Agreement after CITY awards a contract to construct the PROJECT. In the event of cancellation as provided herein, including termination pursuant to Paragraph 3.22 or 3.24 below, all PROJECT costs required to be paid by the Parties prior to the effective date of cancellation shall be paid by the Parties in the same proportion to their contribution for the PROJECT.
13. DELETE the existing paragraph 3.9 and REPLACE it with a revised paragraph 3.9, which shall read as follows:
- 3.9 Except as provided in Paragraph 3.8 above, and except for the Parties' operation, maintenance and indemnification obligations contained herein which shall survive Agreement termination, this Agreement shall terminate upon completion of the PROJECT and payment of final billing by the COUNTY for COUNTY's share of the PROJECT costs.
14. ADD paragraph 3.19, which shall read as follows:
- 3.19 The Parties acknowledge that final PROJECT costs may ultimately exceed current estimate of PROJECT cost. Any additional PROJECT costs resulting from increased bid prices, change orders, or arising from unforeseen site conditions, including utility relocation (but not from requested additional work by the COUNTY or CITY, which is addressed in Paragraph 3.20 below) over the estimated total of Project cost of \$18,104,157 (which is the sum of \$8,131,560 from CITY

and \$9,972,597 from COUNTY), shall be borne by each Party in proportion to where the work actually lies (based on jurisdiction), as part of the Parties' respective obligations to pay the cost for the PROJECT.

15. ADD paragraph 3.20, which shall read as follows:

3.20 If either CITY or COUNTY requests additional work that is beyond the scope of the original PROJECT, and not considered by all Parties to be a necessary part of the PROJECT, said work, if approved by all Parties, will be paid solely by the agency requesting the work.

16. ADD paragraph 3.21, which shall read as follows:

3.21 In the case wherein one of the Parties owns a utility that needs to be relocated for the PROJECT, and that Party does not have prior rights for that utility, it will be the sole responsibility of that Party to relocate the utility at that Party's cost. This shall not be included as a PROJECT cost. In the case that a utility relocation is determined to be a PROJECT cost based on that utility having prior rights, the relocation of the utility will be included as a PROJECT cost for which the COUNTY and CITY will be responsible for funding within their jurisdictional boundaries.

17. ADD paragraph 3.22, which shall read as follows:

3.22 CITY shall notify COUNTY of the bids received and the amounts thereof. Within ten (10) business days, thereafter, CITY and COUNTY shall determine the cost of the PROJECT. In the event that either Party intends to cancel this Agreement based upon the bids or amount thereof, said Party shall notify the other Party prior to the awarding of a contract and thereafter the Parties shall work together to agree upon an amendment to this Agreement concerning the contribution amounts or determine an alternate course of action. If, after thirty (30) days from receipt of bid amount information, PROJECT construction costs are not mutually agreed upon in writing by amendment, this Agreement shall be deemed to be automatically terminated by mutual consent.

18. ADD paragraph 3.23, which shall read as follows:

3.23 If upon opening bids for the PROJECT, it is found that a cost overrun of 25% or less of the estimated PROJECT costs will occur, CITY may award the contract.

19. ADD paragraph 3.24, which shall read as follows:

3.24 If upon opening bids for the PROJECT, it is found that a cost overrun exceeding 25% of the estimated PROJECT cost will occur, CITY shall not award any contracts for the PROJECT. Rather CITY and COUNTY shall endeavor to agree upon an alternative course of action, including re-bidding of the PROJECT. If after thirty (30) calendar days, an alternative course of action is not mutually agreed upon in writing, this Agreement shall be deemed to be terminated by mutual consent.

20. REPLACE the existing Exhibit "A" with the attached Exhibit "A-1".

21. REPLACE all references to Exhibit "A" in the Agreement with references to Exhibit "A-1".

22. The recitals of this Amendment No. 1 are incorporated into the Agreement by reference.

23. Except as amended by this Amendment No. 1, all other terms and conditions of County Contract No. 11-424 shall remain the same.

24. This Amendment No. 1 may be executed by the Parties in counterparts, all of which together shall constitute a single agreement.



25. This Amendment No. 1 to the Agreement, County Contract No. 11-424, is effective on the date it is approved and signed by both Parties, and shall conclude upon satisfaction of the terms identified in paragraph 3.9 of the Agreement or August 30, 2024 (whichever occurs first).

SIGNATURES ON THE FOLLOWING PAGE:

COUNTY OF SAN BERNARDINO

►

Curt Hagman, Chairman, Board of Supervisors

Dated: \_\_\_\_\_

SIGNED AND CERTIFIED THAT A COPY OF THIS  
DOCUMENT HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD

Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By \_\_\_\_\_  
Deputy

\_\_\_\_\_  
(Print or type name of corporation, company, contractor, etc.)

By ►

\_\_\_\_\_  
(Authorized signature - sign in blue ink)

Name \_\_\_\_\_  
(Print or type name of person signing contract)

Title \_\_\_\_\_  
(Print or Type)

Dated: \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

**FOR COUNTY USE ONLY**

Approved as to Legal Form

►

Suzanne Bryant, County Counsel

Date \_\_\_\_\_

Reviewed for Contract Compliance

►

Mohammad Ali, P.E.

Date \_\_\_\_\_

Reviewed/Approved by Department

►

Kevin Blakeslee, Director

Date \_\_\_\_\_

**EXHIBIT A-1**  
**Estimate of Project Costs**

**COUNTY OF SAN BERNARDINO/CITY OF HESPERIA**  
**RANCHERO ROAD PAVEMENT WIDENING PROJECT**  
**HESPERIA AREA**

	This totals \$2,209,452 Actual thru 6/30/19	Actual \$568,387 YTD where is the remainder \$400k?		
<b>PHASE OF WORK</b>	<b>TOTAL COST</b>	<b>SHARE</b>	<b>CITY OF HESPERIA</b>	<b>SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY</b>
PA/ED / PSE	<b>\$1,813,290</b>	<b>\$864,594</b>	\$948,696	\$0
Environmental Permitting/Mitigation	<b>235,000</b>	<b>63,288</b>	48,593	123,120
Construction Management	\$3,785,010	\$994,960	\$817,246	\$1,972,803
Construction	\$30,122,000	\$8,049,755	\$6,317,025	\$15,755,220
<b>TOTAL</b>	<b>\$35,955,300</b>	<b>\$9,972,597</b>	<b>\$8,131,560</b>	<b>\$17,851,143</b>

Note: City and County are each responsible for Right-of-Way activities within their own jurisdictional boundaries, and therefore, Right-of-Way costs are omitted from this Agreement.

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay, Assistant City Manager  
David R. Burkett, Project Construction Manager

**SUBJECT:** Award a Professional Services Agreement for Engineering Design Services for a Traffic Signal at Main Street & Sultana Street/Timberlane Avenue, C.O. No. 7159

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### RECOMMENDED ACTION

It is recommended that the City Council award a Professional Services Agreement (PSA) to David Evans & Associates for engineering design services, in the amount of \$301,169; approve an additional 10% contingency in the amount of \$30,117, for a total not-to-exceed amount of \$331,286; and authorize the City Manager to execute said agreement.

### BACKGROUND

The City's Engineering Department conducts ongoing investigations of high vehicular collision locations through inter-departmental meetings with the Police Department and/or by requests initiated by the public or other agencies. Among those coordination efforts, the intersection of Main Street and Sultana Street/Timberlane Avenue has been identified as the highest number of fatal accidents in the City.

The intersection of Main Street and Sultana Street on the South and Timberlane Avenue on the North has been identified as the top traffic safety priority due to a total of 28 vehicular collisions since January 2013, three of which resulted in fatalities. This intersection has drawn considerable community concern over the years. The City identified and assessed safety issues and countermeasures for the project site, which meets three traffic signal warrants stipulated in the California Manual of Uniform Traffic Control Devices.

Generally, the existing configuration of Main Street is a 64 foot wide Arterial Highway consisting of two travel lanes, both eastbound and westbound, with signalized two-way turn lanes at major intersections. Main Street's average daily traffic is 17,332 vehicles (2017) traveling at or above a posted speed limit of 45 miles per hour (MPH). The most recent speed survey indicated that the 85th percentile speed is actually estimated at 60 MPH. This segment of Main Street is between two existing signals located approximately 6,700 feet apart (1.25 miles) permitting drivers to travel at speeds well beyond the posted speed limit.

This project proposes to construct a new traffic signal at the intersection as well as other improvements such as curb & gutter, sidewalks, handicap ramps, etc. in order to enhance the safety of both vehicular traffic and pedestrians. In order to proceed with the project, City staff applied for and received a federal grant through the Highway Safety Improvement Program (HSIP) in the amount of \$899,300 that will provide funding for approximately 75% of the total cost of the project.

## ISSUES/ANALYSIS

On October 8, 2019, staff released a Request for Proposal (RFP) through the City's online bidding site to more than 5,000 firms with experience in providing professional engineering consulting services to government agencies. On November 19, 2019, staff received three responses to the RFP. The proposals were reviewed and ranked by a selection panel made up of six City staff members. The three firms were ranked as follows by the selection panel (included are the fee proposals submitted by each firm):

1.	David Evans & Associates, Inc.	Victorville, CA	\$301,169
2.	Hernandez, Kroone & Associates	San Bernardino, CA	\$362,630
3.	Valued Engineering, Inc.	Upland, CA	\$198,270

After careful review of the proposals submitted by each firm, David Evans & Associates (DEA) was selected by the panel as the most qualified firm meeting the City's needs on this project. Once the selection panel completed their review and ranking of the consultants, the Fee Proposals were opened and reviewed. DEA's proposed fee was the median fee among the three proposals. Staff believes the proposed fee is a fair market value for provision of these services.

DEA was founded in 1976 in Oregon and has since grown and diversified into an Engineering News Record Top 500 Design Firm with more than 1,000 employees committed to serving private and public-sector clients across the nation. DEA has designed multiple traffic signal projects and has delivered several projects of this type in the City of Hesperia. DEA is familiar with Hesperia requirements and the California Department of Transportation (Caltrans) requirements, as coordination through Caltrans will be necessary due to the grant funding received through the federal HSIP program. The work for this project will be spearheaded from their local Victorville office. Reference checks confirmed their capabilities and competence.

Staff is recommending award of a PSA to DEA. The fee proposal from DEA to perform this work is \$301,169. Staff is also recommending an additional 10% contingency amount of \$30,117 be included in the PSA in order to address any unanticipated requirements that may arise, for a total amount of \$331,286.

## FISCAL IMPACT

Funding for the design portion of the project is included in the Adopted FY 2019-20 Capital Improvement Program Budget under Fund 204 – Measure I Renewal.

## ALTERNATIVE(S)

1. Provide alternative direction to staff

## ATTACHMENT(S)

None.

# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**To:** Mayor and City Council Members  
Chair and Board Members, Hesperia Water District

**FROM:** Nils Bentsen, City Manager

**BY:** Rachel Molina, Deputy City Manager  
Rita Perez, Human Resources Manager

**SUBJECT:** Memorandum of Understanding between the City of Hesperia and the County of San Bernardino Transitional Assistance Department (TAD) for Unsubsidized Work Experience and Community Service Training

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### RECOMMENDED ACTION

It is recommended that the City Council adopt Resolution No.2020-09 and the Board of Directors of the Hesperia Water District adopt Resolution No. HWD 2020-05, approving a Memorandum of Understanding with the County of San Bernardino Transitional Assistance Department (TAD) for Unsubsidized Work Experience and Community Service Training Program.

### BACKGROUND

Endorsed by the Welfare and Institutions Code Section 11200, et seq., the Transitional Assistance and Employment Services Program was enacted in 1997 under the State of California Work Opportunity and Responsibility to Kids (CalWORKS) Act. This Program includes the provision of job related training, community services, and Temporary Assistance to Needy Families (TANF).

Beginning in 2008, the City of Hesperia partnered with the County of San Bernardino Transitional Assistance Department Employment Services Program (TAD) in order to provide work experience and job training services to disadvantaged individuals and prepare them to enter the job market and/or move participants into sustained employment.

### ISSUES/ANALYSIS

The City of Hesperia will again partner with the County of San Bernardino Human Services in the implementation of the CalWORKS Act and the California Department of Social Services (CDSS) regulations. Ultimately, the partnership's focus will be to assist and provide job related training and community services to qualified individuals under the Program.

Various City Departments/Divisions may use the participants of the program as additional support to their department/division while providing job related training. TAD provides

coverage of the participants for liability purposes and provides all financial support to the participant directly.

The term of this Memorandum of Understanding provides for a prorated effective date as of January 7, 2020, with an expiration date of January 6, 2023.

### **FISCAL IMPACT**

None.

### **ALTERNATIVE(S)**

Provide alternative direction to Staff.

### **ATTACHMENT(S)**

1. Memorandum of Understanding with the County of San Bernardino Transitional Assistance Department (TAD) for Unsubsidized Work experience and Community Service Training.
2. Resolution No. 2020-09
3. Resolution HWD 2020-05



**MEMORANDUM OF UNDERSTANDING**  
**between**  
***Transitional Assistance Department***  
**and**  
***City of Hesperia***  
**for**  
***Unsubsidized***  
***Work Experience/Community Service Training***

**JANUARY 7, 2020**

**WHEREAS**, the State of California enacted the 1997 California Work Opportunity and Responsibility to Kids (CalWORKs) Act [Welfare and Institutions Code Section 11200, et seq.] which includes the provision of training services to Temporary Assistance to Needy Families (TANF) applicants/recipients; and

**WHEREAS**, the County of San Bernardino Transitional Assistance Department, hereinafter referred to as "TAD," administers the CalWORKs Program in accordance with Welfare and Institutions Code Section 11200 and California Department of Social Services (CDSS) Regulations MPP 42-700; and

**WHEREAS**, in order to comply with the CalWORKs Act and the CDSS regulations implementing said legislation, each County must arrange for or provide training services which include non-salaried (unsubsidized) Work Experience/Community Service, hereinafter referred to as WEX/Community Service training services, for its TANF customers; and

**WHEREAS**, the City of Hesperia, hereinafter referred to as "Provider," has experience in providing unsubsidized WEX/Community Service training to individuals through its function as a public or private non-profit entity; and

**WHEREAS**, TAD desires to enter into a non-financial Memorandum of Understanding (MOU) with the Provider for the provision of non-salaried WEX/Community Service training service assignments to San Bernardino County TANF customers;

**NOW THEREFORE**, TAD and Provider mutually agree to the following terms and conditions:

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## I. DEFINITIONS

- A. **Assessment** – An appraisal of a participant's work history, employment skills, knowledge, abilities, education, current educational competency level, employability given current skills, physical or mental conditions that limit the ability to participate, local labor market conditions, and need for supportive services.
- B. **CalWORKs** – The acronym for California Work Opportunity and Responsibility to Kids, implemented through Assembly Bill 1542.
- C. **Case Manager** – TAD staff member who provides job services and case management services for TAD program participants. Used interchangeably with "ES" or "ESS."
- D. **Community Service** – An unpaid training activity that is performed in the public or private nonprofit sector under close supervision. It is intended to provide participants with basic job skills that can lead to employment while, if possible, providing a service to the community.
- E. **Employment Services Specialist (ESS or ES)** – Welfare-to-Work staff member who provides job services and case management services for Welfare-to-Work program participants. Used interchangeably with the term "Case Manager."
- F. **HS** – The acronym for Human Services. Oversees the nine Human Services Departments and fosters concern for social programs within the County and communities, as a whole.
- G. **Memorandum of Understanding (MOU)** – For the purpose of this document, a MOU is a contractual agreement between TAD and the Work Experience/Community Service provider. MOUs are established with the parent agency. One MOU can generate numerous training sites.
- H. **Participant** – An individual who has been determined eligible to participate in, and who is receiving service under, a program or agreement authorized by TAD. Used interchangeably with "recipient" or "customer."
- I. **Provider** – A public agency or private nonprofit organization that delivers educational, training, employment, or supportive services to TAD participants. Used interchangeably with "Service Provider."
- J. **Qualitative Measures** – An assessment of the degree of a participant's success in a WEX/Community Service training assignment in terms of such attributes as the ability to follow directions, to complete assignments, to dress appropriately, to behave appropriately at the training site, etc.
- K. **Quantitative Measures** – An assessment of the degree of a participant's success in a WEX/Community Service assignment in terms of punctuality, adherence to an assigned schedule, etc.
- L. **Recipient** – An individual receiving TANF benefits and who is registered with TAD. Used interchangeably with "participant" or "customer."
- M. **Service Provider** – A public agency or private nonprofit organization entity that delivers educational, training, employment, or supportive services to TAD participants. Used interchangeably with "Provider."
- N. **Supportive Services** – Services necessary to enable a participant who cannot afford to pay for such services to participate in a training program. Payment may be provided for transportation,

childcare, health care, and other reasonable expenses required for participation in the training program and may be provided directly or through cash assistance.

- O. TAD – Transitional Assistance Department. TAD administers public assistance programs such as Temporary Assistance for Needy Families (TANF), Cal-Learn (which serves pregnant/parenting teens on TANF who have not received a high school diploma or equivalent), CalFresh, Medi-Cal, and Welfare-to-Work.
- P. TANF – Temporary Assistance for Needy Families. The federal program under which CalWORKs is administered.
- Q. Training Site Request (TSR) – Training Site Requests (WTW 733.1 Form) are completed by the Provider staff to notify TAD of WEX/Community Service training positions within their department, agency, or office. The TSR indicates the site supervisor, number of WEX/Community Service trainees the site can accommodate, pertinent information about the site, training activities, and any prerequisites or special requirements of the position(s).
- R. Training Site Supervisor – Provider's staff member designated to supervise WEX/Community Service trainees and their activities during their training assignment. The staff member works with the TAD WEX/Community Service Coordinator and/or TAD Case Manager to ensure the participant is meeting Welfare-to-Work requirements.
- S. Welfare-to-Work (WTW) – WTW is a mandatory employment-focused program for most adults who are receiving cash aid under CalWORKs.
- T. Unsubsidized Employment – Direct employment without a subsidy from TAD or other government agency.
- U. WEX (Work Experience) – Refers to a training activity in the public or private sector under the close supervision of the activity service provider. WEX/Community Service training is intended to help provide basic job skills, enhance existing job skills, and possibly provide a needed community service that will lead to unsubsidized employment.
- V. WEX/Community Service Training Plan (WTW 733.5 Form) – The WEX/Community Service Training Plan, WTW 733.5 form, is an agreement between the participant and the Provider. It confirms specifics about the participant's WEX/Community Service assignment, such as position, supervisor, daily/weekly schedule and length of assignment. It serves as a reminder about attendance/progress submission, and about continued job search during the WEX/Community Service training assignment. It also serves as an informing notice by letting the participant know the areas he/she will be evaluated on while in WEX/Community Service training, what his/her responsibilities are during the Work Experience/Community Service training activity, and also TAD's responsibilities.
- W. Work Experience/Community Service Coordinator or WEX Coordinator – The TAD staff member designated to monitor the WEX/Community Service trainees' participation and progress in the WEX/Community Service training activity. Works with the Training Site Supervisor to ensure the participant is progressing and meeting his/her WTW Plan.
- X. Work Experience Trainees – Recipients of TANF who either must participate as a condition of receiving TANF benefits or who volunteer to participate in the program in order to become more financially self-sufficient.
- Y. WEX/Community Service Referral Form – The WTW 733.2 Referral Form is used to refer TAD participants to WEX/Community Service providers for enrollment in approved activities. The 733.2 Referral Form supplies the provider(s) with information pertaining to a TAD participant's referral and possible enrollment into the WEX/Community Service activity.



- Z. WEX/Community Service Site Supervisor Orientation – Orientation to the TAD WEX/Community Service training program. Conducted when the training site has not been previously used and/or the WEX/Community Service training site supervisor is new to the WEX/Community Service training program and procedure.

## II. PROVIDER SERVICE RESPONSIBILITIES

Provider shall:

- A. Provide supervised unsubsidized WEX/Community Service training activities for participants assigned to a training site by TAD in the occupation(s) specified in the Training Site Request (TSR) (WTW 733.1 Form).
- B. Coordinate with the WEX/Community Service Coordinator in the referring TAD office to ensure that the participant has completed any pre-employment requirements such as a background check, drug test, physical exam, Tuberculosis test, etc., prior to placing the participant in unsubsidized WEX/Community Service training activities.
- C. Coordinate with the WEX/Community Service Coordinator in the referring TAD office to ensure that the participant is appropriate for, and will benefit from, the unsubsidized WEX/Community Service training activity.
- D. Coordinate the hours of participation in the unsubsidized WEX/Community Service training activity with the TAD ESS.
- E. Ensure all unsubsidized WEX/Community Service training positions are not created as a result of, or result in, any of the following:
  - 1. Displacement, or partial displacement, of current employees, including, but not limited to, a reduction in regular work hours and overtime hours, wages, or employment benefits;
  - 2. A strike, lockout, or other bona fide labor dispute, or the violation of any existing collective bargaining agreement between employees and employers;
  - 3. The filling of established, unfilled positions, unless the positions are unfunded in a public agency budget;
  - 4. The filling of positions which would otherwise be promotional opportunities for current employees;
  - 5. The filling of a position prior to compliance with applicable personnel procedures or provisions of collective bargaining agreements;
  - 6. The filling of a position created by termination, layoff, or reduction in workforce caused by the employer's intent to fill the position with a WEX/Community Service training participant;
  - 7. The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific worksite, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoffs.
- F. Assist and encourage WEX/Community Service training participants to compete for job openings for which they qualify in the Provider's agency. WEX/Community Service training participants assigned to public agencies shall be allowed to participate in classified service examinations equivalent to the positions they occupy as a trainee and participate in all open and promotional examinations for which experience in the position or other relevant experience may be qualifying.

- G. During the WEX/Community Service training activity, provide each participant with:
1. Reasonable and proper supervision and instruction regarding training activities.
  2. Safety instructions and equipment necessary to protect the participant and others from injury and to protect equipment and property from damage, in accordance with OSHA guidelines.
  3. The same working conditions as provided for Provider employees. Examples of which include, but are not limited to, coffee breaks and lunch breaks.
- H. Supply TAD with a monthly record of the participant's attendance and progress by the tenth of each month following the month of service or as requested. Provider shall evaluate participant progress using the Work Experience/Community Service Training Site Supervisor's Handbook and the work site's job standards which shall be discussed at the time of placement. Progress shall be stated in both quantitative measures and qualitative measures.
- I. Comply with the terms and conditions outlined in the Work Experience/Community Services Training Site Supervisor's Handbook. Examples of these terms and conditions include, but are not limited to, communication with TAD WEX/Community Service Coordinators and/or Case Managers, reporting participant progress and instances of participant injury, and adhering to Training Site Supervisor responsibilities.
- J. **Not** authorize or permit a TAD WEX/Community Service training participant to operate any privately owned or County owned vehicle in connection with a work experience or community service assignment under any circumstances.

### III. PROVIDER GENERAL RESPONSIBILITIES

- A. In the performance of this MOU, Provider, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Provider certifies that neither it nor its principals is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by a federal department or agency as required by Executive Order 12549 and implemented as 45 CFR, Part 76.
- B. Without the prior written consent of TAD, this MOU is not assignable by Provider either in whole or in part.
- C. Provider agrees not to enter into any subcontracting agreements for work contemplated under the MOU without first obtaining written approval from the TAD Director. Any subcontractor shall be subject to the same provisions as Provider in addition to all MOU provisions as required by County. Provider shall be fully responsible for the performance of any subcontractor.
- D. Provider shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this MOU, except for statistical information not identifying any participant. Provider shall not use or disclose any identifying information for any other purpose than carrying out the Provider's obligations under this MOU, except as may be otherwise required by law. This provision will remain in force even after the termination of the MOU.
- E. Contractor shall ensure that all staff, volunteers and/or subcontractors performing services under this Contract comply with the terms and conditions as set forth in the Human Services Information Privacy and Security Requirements prior to providing any services. Contractor shall immediately notify the County of any suspected or actual breach of confidential information as further detailed in the requirements. These requirements specified at <http://hss.sbcounty.gov/Privacy> are hereby incorporated by this reference.

- F. Provider shall ensure that all known or suspected instances of child abuse or neglect are reported to the appropriate law enforcement agency or to the appropriate Child Protective Services agency. This responsibility shall include:
1. Assurance that all employees, agents, consultants or volunteers who perform services under this Agreement and are mandated by Penal Code Sections 11164 et seq. to report child abuse or neglect, sign a statement, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.
  2. Development and implementation of procedures for employees, agents, consultants, or volunteers who are not subject to the mandatory reporting laws for child abuse to report any observed or suspected incidents of child abuse to a mandated reporting party, within the program, who will ensure that the incident is reported to the appropriate agency.
- Provision of or arrangement of training in child abuse reporting laws (Penal Code, Sections 11164 et seq.) for all employees, agents, consultants, and volunteers, or verification that such persons have received training in the law within thirty (30) days of employment/volunteer activity.
- G. Provider shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for any position in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3. This includes licensed personnel who are not able to provide documentation of prior Department of Justice clearance. A copy of a license from the State of California, which requires a DOJ clearance, is sufficient proof.
- H. Contractor agrees to and shall comply with the following indemnification and insurance requirements:
1. Indemnification – The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The Contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
  2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.
  3. Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.



4. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
5. Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.
6. Proof of Coverage – The Contractor shall furnish Certificates of Insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".
8. Deductibles and Self-Insured Retention – Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
9. Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.
10. Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.



11. The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- a. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

- b. Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- 1) Premises operations and mobile equipment.
- 2) Products and completed operations.
- 3) Broad form property damage (including completed operations).
- 4) Explosion, collapse and underground hazards.
- 5) Personal injury.
- 6) Contractual liability.
- 7) \$2,000,000 general aggregate limit.

- c. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a

combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

- d. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
- e. For Cyber (internet) and Electronic Data Processing (EDP) contracts – Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall protect the involved County entities and cover breach response cost as well as regulatory fines and penalties.

I. Provider shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the MOU and shall procure all licenses and pay all fees and other charges required thereby. Provider shall maintain all required licenses during the term of this MOU. Failure to comply with the provisions of this section may result in immediate termination of this MOU.

J. Provider shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this MOU.

K. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program, Employment Discrimination, and Civil Rights Compliance requirements:

- 1. Equal Employment Opportunity Program: The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and all rules and regulations adopted pursuant thereto: Executive Orders 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250; Title VII of the Civil Rights Act of 1964; Division 21 of the California Department of Social Services Manual of Policies and Procedures; California Welfare and Institutions Code section 10000), the California Fair Employment and Housing Act; and other applicable federal, state, and county laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.
- 2. Employment Discrimination: During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment or service recipient because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

3. Civil Rights Compliance: The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with the County Human Services Contracts Unit within 30 days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, the County shall supply a sample of the Plan format. The Contractor shall be monitored by the County for compliance with provisions of its Civil Rights Plan. Additionally, the Contractor shall submit to County an Assurance of Compliance with the California Department of Social Services Nondiscrimination in State and Federally Assisted Programs Statement annually.

- L. Provider agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).
- M. Provider shall obtain and complete required documents as well as maintain satisfactory performance as outlined in this MOU.

#### **IV. TAD RESPONSIBILITIES**

TAD shall:

- A. Supply Provider with a copy of the Work Experience/Community Service Training Site Supervisor's Handbook.
- B. Retain the right to deny a participant's enrollment at the WEX/Community Service training site if the enrollment is not consistent with the participant's Action Plan or does not conform to regulations governing WEX/Community Service training activities.
- C. Pay for any pre-placement requirements such as a background check, drug test, physical exam, Tuberculosis test, etc., prior to placing the participant in unsubsidized WEX/Community Service training activities.
- D. Determine the number of hours a person may participate in an unsubsidized WEX/Community Service training activity and coordinate with Provider's schedule and need.
- E. Have the right to observe and monitor all activities involved in the performance of this MOU.

#### **V. MUTUAL RESPONSIBILITIES**

- A. TAD and Provider agree they will establish mutually satisfactory methods for the exchange of such information as may be necessary in order that each party may perform its duties and functions under this agreement and appropriate procedures to ensure all information is safeguarded from improper disclosure in accordance with applicable State and Federal laws and regulations.
- B. TAD and Provider agree they will establish mutually satisfactory methods for problem resolution at the lowest possible level as the optimum, with a procedure to mobilize problem resolution up through TAD's and Provider's mutual chain of command, as deemed necessary.
- C. TAD and Provider agree to develop and implement procedures and forms necessary to administer and document program referral, participation, compliance and effectiveness.



## **VI. FISCAL PROVISIONS**

- A. Provider is prohibited from making any payments to the participant for training activities performed under this MOU. It is further stipulated that financial remuneration shall not be paid by TAD for WEX/Community Service training provided by the County and/or TAD to TAD participants.
- B. Unsubsidized WEX/Community Service training participants are covered for Workers' Compensation benefits through the California Department of Social Services under a contract with the State Compensation Insurance Fund (SCIF). All benefits are administered and authorized through the SCIF.

## **VII. RIGHT TO MONITOR AND AUDIT**

- A. HS administrative support staff for TAD or any subdivision or appointee thereof, and the State of California or any subdivision or appointee thereof, including the Inspector General, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Provider in the delivery of services provided under this MOU. Full cooperation shall be given by Provider in any auditing or monitoring conducted.
- B. Provider shall cooperate with TAD in the implementation, monitoring and evaluation of this MOU and comply with any and all reporting requirements established by this MOU.
- C. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by HS administrative support staff for TAD, Federal and State representatives for a period of three years after termination of the MOU or until all pending County, State and Federal audits are completed, whichever is later. Records of Provider which do not pertain to the services under this MOU shall not be subject to review or audit unless provided in this or another Contract. Technical program data shall be retained locally and made available upon TAD's reasonable advance written notice or turned over to TAD.
- D. Provider shall provide all reasonable facilities and assistance for the safety and convenience of TAD's representative in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of Provider.
- E. TAD/WTW may hold an on-site visit (OSV) within the forty-five (45) day period following the participant's start date at the WEX site, and at any other time deemed necessary. The purpose of the OSV is to ensure that both TAD/WTW and the Provider have a clear, comprehensive, and mutual understanding of the terms and conditions of this MOU.

## **VIII. TERM**

This Memorandum of Understanding (MOU) is effective as of January 7, 2020 and expires January 6, 2023, but may be terminated earlier in accordance with provisions of Section IX of this MOU.

## **IX. EARLY TERMINATION**

- A. This MOU may be terminated without cause upon thirty (30) days written notice by either party. The TAD's Director is authorized to exercise TAD's rights with respect to any termination of this MOU. The Provider's authorized representative has authority to terminate this MOU on behalf of Provider.

- B. If, during the term of this MOU, State and/or Federal funds appropriated for the purposes of this MOU are reduced or eliminated, TAD may immediately terminate this MOU upon written notice to Provider.

**X. GENERAL PROVISIONS**

- A. No waiver of any of the provisions of the MOU documents shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under any MOU document shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- B. Any alterations, variations, modifications, or waivers of provisions of the MOU, unless specifically allowed in the MOU, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this MOU. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

**XI. CONCLUSION**

- A. This MOU, consisting of thirteen (13) pages is the full and complete document describing services to be rendered by Provider to TAD including all covenants, conditions and benefits.
- B. The signatures of the Parties affixed to this MOU affirm that they are duly authorized to commit and bind their respective agencies to the terms and conditions set forth in this document.

COUNTY OF SAN BERNARDINO  
HUMAN SERVICES  
TRANSITIONAL ASSISTANCE DEPARTMENT

CITY OF HESPERIA

Name: Gilbert Ramos  
Title: Director  
Address: 860 E. Brier Drive  
San Bernardino, CA 92415  
Date: \_\_\_\_\_

Name: Nils Bentsen  
Title: City Manager  
Address: 9700 Seventh Avenue  
Hesperia, CA 92345  
Date: \_\_\_\_\_

## **RESOLUTION NO. 2020-09**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING THE MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF SAN BERNARDINO TRANSITIONAL ASSISTANCE DEPARTMENT (TAD) FOR UNSUBSIDIZED WORK EXPERIENCE AND COMMUNITY SERVICE TRAINING**

**WHEREAS**, the State of California enacted the 1997 California Work Opportunity and Responsibility to Kids (CalWORKs) Act [Welfare and Institutions Code Section 11200, et seq.] which includes the provision of training services to Temporary Assistance to Needy Families (TANF) applicants/recipients; and

**WHEREAS**, the County of San Bernardino Transitional Assistance Department Employment Services Program, hereinafter referred to as "TAD", administers the CalWORKs Program in accordance with the Welfare and Institutions Code Section 11200 and California Department of Social Services (CDSS) Regulations MPP 42-700; and

**WHEREAS**, in order to comply with the CalWORKs Act and the CDSS regulations implementing said legislation, each County must arrange for or provide training services which include non-salaried (unsubsidized) Work Experience/Community Service, hereinafter referred to as WEX/Community Service training services, for its TANF customers; and

**WHEREAS**, the City Council has experience in providing unsubsidized WEX/Community Service training to individuals through its function as a public or private non-profit; and

**WHEREAS**, the City Council desires to enter into a non-financial Memorandum of Understanding (MOU) with TAD for the provision of non-salaried WEX/Community Service training service assignments to San Bernardino County TANF customers.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. That the recitals are true and correct.

Section 2. That the City Council approves the Memorandum of Understanding (on file in the City Clerk's Office) between the City of Hesperia and the County of San Bernardino, Transitional Assistance Department (TAD) for Unsubsidized Work Experience/Community Service Training, effective January 7, 2020 through January 6, 2023.

Section 3. That the duly authorized agents of the City of Hesperia are hereby authorized and directed to execute the Memorandum of Understanding.

Section 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March 2020.

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Larry Bird, Mayor

ATTEST:

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Melinda Sayre, City Clerk

## **RESOLUTION HWD NO. 2020-05**

### **A RESOLUTION OF THE HESPERIA WATER DISTRICT OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING THE MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF SAN BERNARDINO TRANSITIONAL ASSISTANCE DEPARTMENT (TAD) FOR UNSUBSIDIZED WORK EXPERIENCE AND COMMUNITY SERVICE TRAINING**

**WHEREAS**, the State of California enacted the 1997 California Work Opportunity and Responsibility to Kids (CalWORKs) Act [Welfare and Institutions Code Section 11200, et seq.] which includes the provision of training services to Temporary Assistance to Needy Families (TANF) applicants/recipients; and

**WHEREAS**, the County of San Bernardino Transitional Assistance Department Employment Services Program, hereinafter referred to as "TAD", administers the CalWORKs Program in accordance with the Welfare and Institutions Code Section 11200 and California Department of Social Services (CDSS) Regulations MPP 42-700; and

**WHEREAS**, in order to comply with the CalWORKs Act and the CDSS regulations implementing said legislation, each County must arrange for or provide training services which include non-salaried (unsubsidized) Work Experience/Community Service, hereinafter referred to as WEX/Community Service training services, for its TANF customers; and

**WHEREAS**, the Board of Directors have experience in providing unsubsidized WEX/Community Service training to individuals through its function as a public or private non-profit; and

**WHEREAS**, the Board of Directors desires to enter into a non-financial Memorandum of Understanding (MOU) with TAD for the provision of non-salaried WEX/Community Service training service assignments to San Bernardino County TANF customers.

**NOW THEREFORE**, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT AS FOLLOWS:

Section 1. That the recitals are true and correct.

Section 2. That the Board of Directors approves the Memorandum of Understanding (on file in the City Clerk's Office) between the City of Hesperia and the County of San Bernardino, Transitional Assistance Department (TAD) for Unsubsidized Work Experience/Community Service Training, effective January 7, 2020 through January 6, 2023.

Section 3. That the duly authorized agents of the City of Hesperia are hereby authorized and directed to execute the Memorandum of Understanding.

Section 4. That the Board Secretary shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.



**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March 2020.

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Larry Bird, Mayor

ATTEST:

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Melinda Sayre, City Clerk

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members  
Chair and Commissioners, Community Development Commission

**FROM:** Nils Bentsen, City Manager

**BY:** Rod Yahnke, Economic Development Manager  
Jennifer M. Shove, Administrative Analyst

**SUBJECT:** Amendment to Agreement with RA Cohan Commercial Real Estate Services

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### RECOMMENDED ACTION

It is recommended that City Council and Commissioners of the Hesperia Community Development Commission (HCDC) approve and authorize an amendment for an additional \$12,000 to Agreement 2017-18-053 with RA Cohan Commercial Real Estate Services (RA Cohan), for a total not-to-exceed contract of \$62,000.

### BACKGROUND

In January 2018, the Economic Development Department contracted with RA Cohan for his professional relationships and expertise in the commercial brokerage industry to assist the department with attraction efforts in the retail industry.

### ISSUES/ANALYSIS

Currently there are not enough funds on the contract to pay RA Cohen for the time left on the contract. Funding in the amount of \$12,000 will pay consultant through the termination of their Agreement on June 30, 2020.

### FISCAL IMPACT

Sufficient budget exists in the FY 2019-20 Budget.

### ALTERNATIVE(S)

1. Provide alternative direction to staff.

### ATTACHMENT(S)

None.

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Mike Blay, Assistant City Manager  
Don Riser, Animal Services Manager

**SUBJECT:** Hesperia Veterinary Services Contract

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### RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to enter into a five-year agreement with Dr. Joseph Velasco, DVM in an amount not-to-exceed \$710,000 to provide on-site veterinary services.

### BACKGROUND

Starting in FY 2011-12, the City contracted with Dr. William Connelly, DVM for veterinary services during normal operating hours. The City agreed to pay a \$10,000 stipend for spay and neuters, as well as lease office space at the Animal Control facility. This arrangement reduced veterinary related costs, as well as staff costs for transporting animals to offsite practices. For example, the City utilized a number of veterinarians during FY 2010-11 and paid approximately \$137,000; additionally, one Animal Control Officer was required daily to transport all of the animals. For comparison, during FY 2018-19, the City paid \$144,226 for animal care, of which \$137,831 to Hesperia Veterinary Services (Dr. Connelly) and \$6,396 to an afterhours practice. More importantly, since Hesperia Veterinary Services leases office space at the Animal Control building, an Animal Control Office was not needed to transport animals. It should be noted that of the \$137,831, \$120,000 was the monthly stipend for spay and neuters, while the \$17,831 was for other veterinary services allowed within the contract.

In addition to treatment of animals, Hesperia Veterinary Services provides the City with the following services:

- Administer rabies vaccinations to comply with state licensing laws.
- Conduct weekly lost-cost vaccination, micro-chip, spay/neuter clinics for Hesperia residents.
- Assist Animal Control Officers with documentation of animal abuse and cruelty cases and testify in court or administrative hearings as necessary.
- Veterinary authorization on owner requested euthanasia.

Since the City elected for an onsite veterinary, annual surgeries have increased, as California State law, Food & Agriculture §30521 (dogs) and §31760 (cats) states no public animal control agency shall sell or give away any cat or dog that has not been spayed or neutered. The following is the spay/neuter statistics for the past four fiscal years.

2016 – 2017	1,806 Surgeries
2017 – 2018	2,014 Surgeries
2018 – 2019	2,377 Surgeries
2019 – To date	2,077 Surgeries with a year-end estimate of 3,100

### **ISSUES/ANALYSIS**

The current Animal Shelter veterinarian, Dr. William Connelly, DVM is in the process of retiring and will be selling his practice, Hesperia Veterinary Services to Dr. Joseph Velasco, DVM. With the transfer of ownership, the City will be required to enter into a new agreement.

With the increase of surgeries, Dr. Joseph Velasco agreed to increase the weekly spay/neuter surgeries, which is currently set at 70 to 80 for an additional \$1,000 monthly (monthly stipend of \$11,000). Dr. Velasco has also agreed to perform all other services that are currently provided by Dr. Connelly.

### **FISCAL IMPACT**

With the increase to the monthly stipend for additional surgeries, the annual cost of Hesperia Veterinary Services for spay & neuters will be \$132,000 and total \$660,000 over five-years (\$132,000 annual x 5-years). Additionally, Hesperia Veterinary Services will provide additional services, which would be included in the contract. For these services, an additional \$50,000 will be included for a total not-to-exceed amount of \$710,000.

Should the City Council approve the contract with Dr. Velasco, the annual cost of \$132,000 will be included in the annual budget.

### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

### **ATTACHMENT(S)**

None.

# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay – Assistant City Manager  
Bethany Hudson – Engineering Technician  
Tina Souza – Senior Management Analyst

**SUBJECT:** Amendments to Title 1, Chapter 1.12, Title 8, Chapter 8.30 and Title 15, Chapter 15.06 of the Hesperia Municipal Code

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### RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2020-03: amending Title 1, Chapter 1.12, Title 8, Chapter 8.30 and Title 15, Chapter 15.06 of the Hesperia Municipal Code.

### BACKGROUND

On April 30, 2003 the State Water Resources Control Board (SWRCB) adopted Water Quality Order No. 2003-0005-DWQ; National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (MS4 Permit) as required by the Clean Water Act (CWA). The City was required to apply for coverage under the MS4 Permit and has been a permittee since 2003.

The SWRCB renewed and reissued the MS4 Permit in February 2013 as Water Quality Order No. 2013-0001-DWQ, and new requirements became effective on July 1, 2013. The MS4 Permit required the City to review and update its ordinances, policies and procedures to comply with new regulations in the MS4 Permit.

The City of Hesperia adopted Ordinance 2016-07 to comply with the NPDES Permit Implementation on September 6, 2016. This ordinance gave the City adequate legal authority to implement and enforce the provisions under the MS4 Permit issued in February 2013. Part of the MS4 Permit implementation is Program Effectiveness Assessment and Improvement.

The City has currently been working with a consulting firm to evaluate and assess the City's Stormwater Management Program for compliance with the MS4 Permit requirements. Based on staff findings and the consultant's recommendations, amendments to Title 8, Chapter 8.30, Surface and Groundwater Protection: NPDES Permit Implementation of the Hesperia Municipal Code are required to bring the City into compliance with the permit regulations and requirements, along with incidental revisions to Title 1, Chapter 1.12 and Title 15, Chapter 15.06.

## **ISSUES/ANALYSIS**

Staff has prepared revisions to Title 8, Chapter 8.30, Title 1, Chapter 1.12, and Title 15, Chapter 15.06 for the Council's review. Chapter 8.30 has several revisions resulting in a substantially re-written version. Staff worked with the consultant and other City Staff to ensure that any new or updated sections represent current permit language and comply with the regulations.

Below is a short summary of the changes to each section of Chapter 8.30.

### **Section 8.30.030 – Definitions**

This section was updated with current definitions that have been changed or modified by state or federal agencies. Some definitions were added for clarification purposes throughout the Chapter, while others were deleted.

### **Section 8.30.130 – Requirement to eliminate illicit/illegal discharges**

This section was updated to reflect the MS4 Permit language. Staff found some inconsistencies with the language and timeframes in comparison to the permit language in this section.

### **Section 8.30.170 – Reduction of pollutants in urban runoff**

This section was updated to provide specific language in compliance with the MS4 Permit.

### **Section 8.30.180 – Best Management Practices (BMPs)**

Additional language was added to this section to better clarify BMPs for development sites.

### **Section 8.30.190 – Responsibility to obtain permits and implement BMPs – Commercial and Industrial Facilities**

This section was modified to include language requiring proof of compliance with the Industrial General Permit (IGP) prior to issuance of a "business license", due to the new California State Law, SB205 that went into effect on January 1, 2020.

### **Section 8.30.200 – Construction Projects: Construction Site Stormwater Runoff Control Program**

This section added language to comply with the Construction General Permit (CGP) and MS4 Permit language for construction sites that disturb over 1 acre of land.

### **Section 8.30.220 – Post Construction requirements for Site Design Only projects; Water Quality Management Plan (WQMP)**

This section was amended to clarify and specify the two types of development projects that require a WQMP per the MS4 Permit language.

### **Section 8.30.230 – Post Construction requirements for Regulated Projects; Water Quality Management Plan (WQMP)**

This section was added to clarify and specify the requirements of the MS4 Permit for a Regulated Project WQMPs.

### **Section 8.30.240 – Source Control Measures**

This section was modified to include language and clarify implementation per the MS4 permit.

### **Section 8.30.250 – Authority to enter, inspect, monitor and sample**



This section was modified to include language to give authority to City inspectors and/or other authorized City representatives, in addition to enforcement officers, to have the ability to enter, inspect, monitor and sample as needed to comply with the MS4 Permit.

**Section 8.30.290 – Appeals**

This section was modified to follow the City's Municipal Code Enforcement Procedures under Title 1, Chapter 1.12.

**Section 8.30.300 – Acts in violation of the CWA and/or the Porter-Cologne Water Quality Control Act**

This section was modified to comply with the permit and regulatory language.

Below is a short summary of the changes to each section of Chapter 15.06

**Section 1.12.130 – Special enforcement procedures**

This section was revised to include special enforcement procedures for enforcing Chapter 8.30 in compliance with the MS4.

After further evaluation of the Hesperia Municipal Code, staff found that NPDES compliance language was also written in Title 15, Chapter 15.06. To make the code more cohesive, staff is removing all language having to do with NPDES from this Chapter and including language as appropriate in Chapter 8.30.

**15.06.020 – Definitions**

NPDES related definitions were removed from this section for inclusion in Chapter 8.30

**15.06.040 - Permit application submittals.**

A portion of this section was removed and addressed Chapter 8.30.

**15.06.110 National Pollutant Discharge Elimination System (NPDES compliance)**

Section 15.06.110 – National Pollutant Discharge Elimination System (NPDES) compliance

This section has been removed from Title 15 and has been modified and replaced in Title 8, Chapter 8.30.

**FISCAL IMPACT**

Development of the ordinance required staff time; however, there is no other fiscal impact associated with approval of the recommended action.

**ALTERNATIVE(S)**

1. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Ordinance 2020-03 (Title 8, Chapter 8.30, Surface and Groundwater Protection: NPDES Permit Implementation)
2. Exhibit "A" Municipal Code Title 8, Chapter 8.30

3. Municipal Code Title 8, Chapter 8.30 with revisions
4. Exhibit “B” Municipal Code Title 1, Chapter 1.12 with revisions
5. Exhibit “C” Municipal Code Title 15, Chapter 15.06 with revisions

## **ORDINANCE NO. 2020-03**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING TITLE 1, CHAPTER 1.12, TITLE 8, CHAPTER 8.30, AND TITLE 15, CHAPTER 15.06 OF THE HESPERIA MUNICIPAL CODE, RELATED TO SURFACE AND GROUNDWATER PROTECTION REGULATIONS**

**WHEREAS**, the City of Hesperia has the authority and responsibility to control discharges to the City's Small Municipal Separate Storm Sewer System (MS4) as required by the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges (MS4 Permit) to protect the public health, safety, and welfare; and

**WHEREAS**, Title 8, Chapter 8.30 of the Hesperia Municipal Code contains regulations related to protecting the water quality of receiving waters, including groundwater, in a manner pursuant to, and consistent with the Clean Water Act (CWA), the Porter-Cologne Act, and the MS4 Permit by reducing pollutants in stormwater discharges into the City's MS4 to the maximum extent practicable (MEP); and

**WHEREAS**, Title 8, Chapter 8.30 further ensures the health, safety and general welfare of the residents of the City by prohibiting unauthorized non-stormwater discharges into the City's MS4. Chapter 8.30 establishes legal authority to implement and enforce stormwater management requirements, and carry out inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter of the Municipal Code, and with the MS4 Permit.

**WHEREAS**, Title 8, Chapter 8.30 also contains regulations pertaining to specific business types and development types and associated activities, as well as includes regulations mandated by the state for those business and development types and activities; and

**WHEREAS**, the City adopted Title 8, Chapter 8.30, Surface and Groundwater Protection: NPDES Permit Implementation on September 6, 2016; and

**WHEREAS**, evaluation of the City's Stormwater Management Program established the need for modifications to comply with the MS4 Permit; and

**WHEREAS**, the updates attached hereto as Exhibit "A" contain updated state and local regulations in order to continue to manage NPDES Permit Implementation and the City's Stormwater Program; and

**WHEREAS**, Title 1, Chapter 1.12 of the Hesperia Municipal Code contains regulations related to Municipal Code enforcement. Amendments to Chapter 8.30 resulted in the need to amend Chapter 1.12 to eliminate conflicting language regarding enforcement procedures.

**WHEREAS**, Title 15, Chapter 15.06 of the Hesperia Municipal Code contains regulations related to grading. Amendments to Chapter 15.06 are required consistent with Chapter 8.30 amendments.

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE, THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

Section 1. All of the facts set forth in the foregoing recitals are true, correct and are adopted as findings.

Section 2. Title 8, Chapter 8.30 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "A," attached hereto.

Section 2. Title 1, Chapter 1.12 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "B," attached hereto.

Section 2. Title 15, Chapter 15.06 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "C," attached hereto.

Section 3. Ordinance No. 2016-07, containing the regulations related to Surface and Groundwater Protection shall remain in full force and effect, excepting any changes noted in Exhibit "A" attached hereto.

Section 4. This Ordinance shall take effect on April 16, 2020.

Section 5. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 6. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution 93-78.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March 2020.

---

Larry Bird, Mayor

ATTEST \_\_\_\_\_  
Melinda Sayre, City Clerk

## **Exhibit "A"**

### **Chapter 8.30 - SURFACE AND GROUNDWATER PROTECTION: NPDES PERMIT IMPLEMENTATION**

#### **8.30.010 - Authority.**

This chapter is enacted pursuant to the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s issued and as amended, reissued, or otherwise modified by the California State Water Resources Control Board (SWRCB) pursuant to Section 402 of the Federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act, (Porter-Cologne Act), California Water Code § 13000 et seq. (MS4 Permit).

#### **8.30.020 - Title, purpose, intent and objective.**

- A. This chapter shall be known as the " Surface and Groundwater Protection: NPDES Permit Implementation Ordinance," and may be cited as such.
- B. This chapter confirms and consolidates the legal authority necessary to control discharges to and from the city's MS4 as required by the MS4 Permit.
- C. This chapter is enacted to ensure the health, safety and general welfare of the residents of the city, and to protect and enhance the water quality of receiving waters, and groundwater, in a manner pursuant to and consistent with the CWA, the Porter-Cologne Act, and the MS4 Permit by reducing pollutants in stormwater discharges into the city's MS4 to the maximum extent practicable (MEP).
- D. This chapter further ensures the health, safety and general welfare of the residents of the city by prohibiting unauthorized non-stormwater discharges into the city's MS4, and by establishing legal authority to implement and enforce all stormwater management requirements, and carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter, and the MS4 Permit.

#### **8.30.030 - Definitions.**

Unless specifically defined in Chapter 1.04, or as defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Beneficial uses" means the uses of water necessary for the survival or wellbeing of man, plants, and wildlife. "Beneficial uses" that may be protected include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

"Best management practice(s)" or "BMP(s)" means any schedule of activities, prohibitions of practices, maintenance procedures, and other management practices or guidelines as adopted by any federal, state, regional or local agency to prevent or reduce the discharge of pollutants directly or indirectly to the city's MS4 and surface or groundwaters. BMPs include, but are not limited to: treatment requirements; operating and maintenance practices to control

## **Exhibit "A"**

runoff, sludge, waste disposal, spillage or leaks of non-stormwater and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices and procedures and other such provisions as the city determines appropriate for the control of pollutants. Examples of BMPs may include: public education and outreach; proper planning of development projects; proper cleaning of catch basin inlets; proper sludge or waste handling and disposal; treatment requirements; operating procedures; and practices to control site runoff, spillage or leaks, sludge or waste storage and disposal or drainage from raw material or chemical storage.

"Construction activity" means any activity used in the process of developing, redeveloping, enhancing or maintaining land that involves soil disturbing activities; including, but not limited to, clearing, paving, grading, and disturbances to ground such as stockpiling and excavation.

"Contamination" means an impairment of the quality of waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease (as defined in the Porter Cologne Act). "Contamination" includes any equivalent effect resulting from the disposal of waste whether or not Waters of the United States are affected.

"Discharge" means the release or placement, either directly or indirectly, of any substance into the city's MS4, or where it can be transported to the city's MS4, through gravity-driven, hydraulic, wind, or other processes including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance.

"Discharger" means any person engaged in any activities or operations on any premises, or owning or having control over the day to day operations of facilities or premises which may result in the release or placement, either directly or indirectly, of any substance into the city's MS4, including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance. Dischargers include, but are not limited to: real property owners; occupants, tenants and lessees of real property; contractors and developers; industrial, commercial and other business facility owners, and the agents, managers, officers, employees, or volunteers of any of the foregoing.

"Erosion" means the process whereby material (such as sediment) is detached and entrained in water or air and can be transported to a different location. Chemical erosion involves materials that are dissolved and removed and transported.

"Facility" means a public or private place, amenity, structure, or piece of equipment built, installed or established for a particular purpose.

"Grading" means the cutting and/or filling of the land surface to a desired slope or elevation.

"Hazardous material" or "hazardous substance" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials include, but are not limited to, those specified in Division 20, Chapter 6.5 of the California Health and Safety Code; 40 CFR Part 116; or 40 CFR Part 302.

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"Hydromodification" means the "alteration of the hydrologic characteristics of coastal and noncoastal waters, which in turn could cause degradation of water resources" (USEPA, 2007). The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, runoff flow rate and/or volume, evapotranspiration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that may result in downstream impacts, such as increased stream flows and sediment transport.

"Illegal connection" means:

1. Any drain, pipe, open channel or other conveyance, whether on the surface or subsurface, which allows, or has the potential to allow, an illicit discharge to enter the MS4, including, but not limited to, any connections to the MS4 from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by a government agency; or
2. Any drain or conveyance connected to the MS4 that is not permitted pursuant to a valid NPDES permit or which has not been documented in plans, maps or equivalent records approved by the city.

"Illicit discharge" means any of the following:

1. Any direct or indirect non-stormwater discharges to the MS4 that are not composed entirely of stormwater, except as exempted in Section 8.30.100 of this chapter;
2. Any direct discharge to the MS4 from an illegal connection; or
3. Any direct or indirect discharge to the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations, including but not limited to, those discharges prohibited by the discharge prohibitions section of the MS4 Permit.

"Impervious surface" means a constructed, modified, or natural surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks, driveways, and impervious bedrock outcroppings.

"Incidental runoff" means unintended amounts (volume) of runoff, such as unintentional, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental runoff if it is: (1) part of a facility's design; (2) due to intentional overflow or application; or (3) due to negligence.

"Low impact development" or "LID" means a sustainable development practice that benefits water supply and contributes to water quality protection. LID uses site design and stormwater management to maintain the site's predevelopment runoff rates and volumes. The goal of LID is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

"Maximum extent practicable" or "MEP" means management practices, control techniques, and system design and engineering methods for the control of pollutants taking into account considerations of synergistic, additive, and competing factors, including, but not limited to pollutant removal effectiveness, regulatory compliance, gravity of the problem, public acceptance, social benefits, cost and technological feasibility. Technology-based standards

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establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs that the state or city determine appropriate for the reduction of pollutants in stormwater. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense).

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels or storm drains) which is: (1) owned or operated by the city; (2) designated or used for collecting or conveying stormwater; (3) not a combined sewer; and (4) not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.12.

"New development" means all public and private residential (whether single family, multi-unit or planned unit development), industrial, commercial, retail, and other nonresidential construction projects, or grading for future construction, on an area/land that has not previously been developed and for which a city discretionary land use permit or approval is required.

"National Pollution Discharge Elimination System (NPDES)" means a national program under Section 402 of the CWA for regulation of discharges of pollutants from point sources to Waters of the United States. Such discharges are illegal unless authorized by an NPDES permit.

"NPDES permit" means a NPDES Permit issued pursuant to the CWA by the EPA, the SWRCB or a RWQCB.

" Notice of Intent" or "NOI" means an application for coverage under a NPDES Permit.

"Non-Point Source " or "NPS" means diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non-Point Sources include but are not limited to urban, agricultural, or industrial areas, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. NPS pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes, and coastal waters, or introduces them into groundwater.

"Non-stormwater discharge" means any discharge that is not composed entirely of stormwater.

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, trash, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or



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contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including, but not limited to, sediments, slurries, concrete rinsates, lime, and asphalt); pollutants as defined in Section 1362(6) of the CWA; and noxious or offensive matter of any kind.

"Pollution" means "the alteration of the quality of the Waters of the United States by waste, to a degree that unreasonably affects either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses (as defined in the Porter-Cologne Act)." Pollution may include contamination.

"Pollutants of concern" means pollutants defined by the system of interest: a list of potential pollutants to be analyzed for in the Monitoring and Reporting Program. This list shall include: TSS, total inorganic nitrogen, total phosphorus, soluble reactive phosphorus, acute toxicity, fecal coliform, total coliform, pH, and chemicals/potential Pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential Pollutants available for stormwater to pick-up or transport to Receiving Waters, all Pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d), the category of development and the type of Pollutants associated with that development category. It also refers to pollutants for which water bodies are listed as impaired under CWA section 303(d), pollutants associated with the land use type of a development, and/or pollutants commonly associated with urban runoff. Pollutants commonly associated with urban runoff include total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polycyclic aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste, and anthropogenic trash).

"Post-Construction BMPs" means a subset of BMPs including structural and non-structural controls which detain, retain, filter, or educate to prevent the release of pollutants to surface waters during the final functional life of development.

"Premises" means any building, structure, lot, parcel or land, or portion thereof, whether improved or unimproved, including adjacent sidewalks and parking strips.

"Receiving waters" means all surface water bodies, including any natural or manmade stream, whether flowing continuously or not, that is fed from permanent or natural sources, and, without limitation, rivers, creeks, runs, rivulets, and drains within the city that are identified by the regional board in a basin plan. A receiving water may or may not be properly defined as a Water of the United States. Groundwater is fed from receiving waters on the surface. Therefore, although not technically defined as a "receiving water", groundwater is protected as a receiving water and by groundwater-specific regulations.

"Redevelopment" means any land-disturbing activity that results in the creation, addition, or replacement of impervious surface area on a site on which some past development has occurred and for which a city discretionary land use permit or approval is required. Redevelopment does not include trenching, excavation and resurfacing associated with linear underground projects ("LUPs"); pavement grinding and resurfacing of existing roadways; construction of new sidewalks, pedestrian ramps, or bike lanes on existing roadways; or routine replacement of damaged pavement such as pothole repair or replacement of short, non-contiguous sections of roadway.

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"Regional board" or "RWQCB" means the California Regional Water Quality Control Board—Lahontan Region.

"Regulated project" means development projects that create and/or replace 5,000 square feet or more of impervious surface.

"Sediment" means mineral and organic solid particulate matter that is suspended, transported, or moved from its site of origin by air, water, gravity, snow, or ice and comes to rest on the earth's surface or is washed from land into water. Sediment resulting from anthropogenic sources (e.g. human induced land disturbance activities) is considered a pollutant. This code regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment.

"Site design BMP" means any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's hydrology. Redevelopment projects that are undertaken to remove pollutant sources (such as existing surface parking lots and other impervious surfaces) or to reduce the need for new roads and other impervious surfaces (as compared to conventional or low-density new development) by incorporating higher densities and/or mixed land uses into the project design, are also considered site design BMPs.

"Site design measures" means specific measures that reduce project site runoff in accordance with the MS4 Permit and as specified by the city.

"Site design only projects" means development projects that create and/or replace 2,500 – 5,000 square feet of impervious surface including, but not limited to, single family infill development that are not part of a larger plan development, accessory dwelling units, and detached garages.

"State Board" or "SWRCB" means the California State Water Resources Control Board.

"Stormwater pollution prevention plan" or "SWPPP" means a pollution control plan documenting site activities, pollutant sources; and all stormwater and non-stormwater BMPs used at the site, required under 40 CFR Part 122, the CWA, the CGP, IGP, and most MS4 Permits. A plan to minimize and manage pollutants to minimize pollution from entering the MS4, identifying all potential sources of pollution and describing planned practices to reduce pollutants from discharging off the site.

"Source control " means, in general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and stormwater or authorized non-stormwater. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of illegal connections/illicit discharges, and other non-structural measures. Facility design (structural) examples include providing attached lids to trash containers, canopies for fueling islands, secondary containment, or roof or awning over material and trash storage areas to prevent direct contact between water and Pollutants.

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of stormwater and urban runoff pollution, including treatment control BMPs.

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"Treatment control BMP" means any engineered system designed to remove pollutants by gravity of particulate pollutants, filtration, biological uptake, media adsorption or any physical, biological or chemical process.

"Unauthorized non-stormwater discharge" means discharges of material other than stormwater to waters of the United States that are not prohibited provided any pollutant discharges are identified, and appropriate control measures are developed and implemented to minimize the impacts of such discharges. The "Discharge Prohibitions" section of the MS4 Permit provides a list of specific discharge types, which are thus conditionally authorized by the MS4 Permit. Any non-stormwater discharges that are in violation of the Basin Plan are also unauthorized.

"Urban runoff" means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial, or industrial activities involving the use of potable and non-potable water.

"Waste" means "...sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal," as defined in California Water Code Section 13050(d). Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system which applies to solid and semi-solid waste which cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, nonhazardous solid waste, and inert waste.

"Waste Discharge Requirements (WDRs)" means the equivalent of the term "permits" as defined in Section 13374 of the California Water Code and as used in the Federal Water Pollution Control Act, as amended. The regional board usually reserves reference to the term "permit" to Waste Discharge Requirements for discharges to surface Waters of the United States.

"Water quality management plan" or "WQMP" means the document required by the city for new development, redevelopment projects and regulated projects in accordance with the provisions of MS4 permit which demonstrates that a project site is in compliance with the post-construction requirements set forth in the MS4 permit. A WQMP will specify appropriate measures for site design, source control, runoff reduction, stormwater treatment, baseline Hydromodification management and LIDs required for such projects. The city has two WQMP "types," as follows: (1) WQMP for Regulated Projects, and (2) WQMP for Site Design Only Projects.

"Water quality standards" means (1) the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.) of receiving waters and (2) the water quality objectives necessary to protect those uses.

"Watershed" means the geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

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" Waste Discharger Identification" or "WDID" means the identification number provided by the state when a Notice of Intent is filed to obtain permit coverage under general permits, including the IGP, CGP, and the MS4 Permit.

### 8.30.040 - Administration.

- A. Except as otherwise provided in this chapter, the director shall administer, implement, and enforce the provisions of this chapter.
- B. This chapter applies to dischargers and places of discharge located within the city that discharge stormwater or non-stormwater into the MS4, receiving waters, and/or groundwater. However, this chapter may not be enforceable in areas where the city lacks legal jurisdiction over stormwater or non-stormwater discharges into their MS4 from State and federal facilities, e.g., schools and hospitals, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and non-point source discharges otherwise permitted by the United States Environmental Protection Agency (USEPA) or the regional board.

### 8.30.050 - Compatibility with other regulations.

This chapter is intended to be consistent with any current federal, state, or local law, regulation, order, or permit, and as any of these may be amended, reissued, or otherwise modified from time to time.

### 8.30.060 - Ultimate responsibility for discharges.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4, receiving waters, or groundwater. This chapter shall not create liability on the part of the city, or any agent or employee thereof, for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made under this chapter.

### 8.30.070—8.30.090 - Reserved.

### 8.30.100 - Prohibited discharges.

- A. Except as exempted in the MS4 Permit, no person shall discharge, facilitate, cause, permit or allow to be discharged to the MS4, receiving water, and/or groundwater, either directly or indirectly, any illicit discharge, including but not limited to, pollutants, hazardous materials and other unauthorized non-stormwater discharges.
- B. It is prohibited to intentionally dispose of leaves, dirt, other landscape debris, or trash into the MS4, receiving waters, or groundwater.

### 8.30.110 - Prohibited discharge exemptions.

- A. Prohibited discharges and exemptions to prohibited discharges are identified and described in the MS4 Permit.

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- B. Nothing in this section eliminates the need to obtain any other appropriate permits, such as those discharges which are required to be enrolled under the "Waste Discharge Requirements and NPDES General Permit for Limited Threat Discharges to Surface Water".

### 8.30.120 - Limitation of exemption.

Notwithstanding the exemptions provided in the MS4 Permit, if the city, either independently or at the direction of the regional board, determines that an exempt discharge type is a significant source of pollutants, threatens applicable water quality standards, causes or contributes to a violation of any receiving water limitation, results in the conveyance of pollutants to the MS4, receiving waters, or groundwater, or is otherwise a danger to public health or safety, the city may prohibit, limit, or direct the control of such discharge and thereafter may take any enforcement option available.

### 8.30.130 - Requirement to abate illicit discharges.

Dischargers are required to promptly cease and desist discharging and abate any illicit discharge, including, as applicable, any of the following:

- A. Every person for, any premises, who becomes aware of an illicit discharge, whether to the MS4, receiving water, or land surface, shall immediately cease the discharge, abate the discharge within seventy-two (72) hours, and prevent the occurrence of any future illicit discharges.
- B. Abate high-risk discharges immediately.
- C. Abate uncontrolled sources of pollutants within the period of time dictated by the city.
- D. Abate the illicit discharge within the period of time dictated by the city. Any discharger engaging in the discharge of pollutants shall abate and remediate the pollutant at their sole cost and expense. If not fully corrected within the time period stated by the city, any abatement and remediation costs incurred by the city shall be borne by the responsible person.
- E. Where pollution problems persist, the city may order the cessation of activities until pollutant sources are effectively abated and controlled.
- F. The city may notify the RWQCB of any illicit discharges or failure to abate and remediate any illicit discharges.

### 8.30.140 - Incidental runoff.

Where runoff in excess of incidental runoff originates, the following actions shall be taken, as applicable, to control such runoff:

- A. Detect and correct any leak within seventy-two (72) hours of discovery of the leak or notification by city;

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- B. Properly design and maintain irrigation systems and ensure sprinkler heads are aimed appropriately to prevent runoff;
- C. Cease irrigation activities during precipitation events;

### 8.30.150 - Illegal connections prohibited.

- A. The establishment, use, operation, maintenance, or continued use of any illegal connection to the city's MS4 is prohibited.
- B. City-issued construction permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items within dedicated easements, rights-of-way, or other public place and/or facility.
- C. City-issued building permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items on private property so as to allow direct or indirect discharge into the city's MS4. Indirect discharges include, but are not limited to, under-sidewalk drains, driveway approaches and unrestricted street flow.
- D. No person shall construct, modify or cause to be constructed or modified, any structure, facility or appurtenant devices which may alter the normal functioning of the city's MS4, including any actions which may alter the capacity, slope, or structural integrity of a storm drain, channel or related structure without first receiving a permit issued by the city.
- E. In addition to any remedy provided in this chapter, the city may require the person responsible for an illegal connection to the MS4 to eliminate the connection or secure approval for the connection by a specified date. If the responsible person fails to disconnect or secure approval for an illegal connection as required, the city may abate the illegal connection and pursue recovery of costs.

### 8.30.160 - Notification of illicit discharges/spills.

- A. Notwithstanding other requirements of law, as soon as any person for a facility or operation, or person for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4, receiving waters, land surface, or groundwater from the facility, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- B. Any releases shall be reported promptly in the following manner:
  - 1. The release of a hazardous or other material which poses an imminent danger to public health and safety shall be immediately reported to emergency services by emergency dispatch services (911).
  - 2. The release of a non-hazardous material shall be reported to the city and any other applicable jurisdiction or regulatory agency as soon as the discharge is discovered.



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- C. In addition to the above requirements, release of any hazardous materials or substances, sewage, oil, or petroleum to any Waters of the State, or discharged or deposited where it is or probably will be discharged in or on any Waters of the State, shall immediately be reported to the State Office of Emergency Services, as required by California Water Code Sections 13271 and 13272.

### **8.30.170 - Reduction of pollutants in urban runoff.**

- A. Any person engaged in activities which will or may result in pollutants entering the city's MS4 shall undertake all practicable measures to cease activities, and endeavor to eliminate or reduce pollutants. Activities shall include, but are not limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, ground disturbing activities, and stores fronting city streets.
- B. Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, trash, or other discarded or abandoned objects, articles and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land or other premises in the city, so that the same might be or become a pollutant discharged to the MS4 or receiving waters.
- C. Parking lots, gas station areas of pavement or similar structures shall be cleaned as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city MS4 or receiving waters.
- D. Any person performing construction activities in the city shall implement appropriate BMPs to prevent the discharge of construction wastes, sediments, silts, pollutants, or contaminants from construction activities, materials, tools, and equipment from entering the MS4 or receiving waters in accordance with the standards set forth in this chapter. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development or sale, must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (CGP).

### **8.30.180 - Best management practices (BMPs).**

- A. The city, or other state, federal or regional agency may establish requirements identifying BMPs to be implemented for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the MS4, receiving waters, or groundwater.
- B. Each site, activity, operation, or facility in the city that may discharge any pollutant to the MS4, receiving waters, or groundwater shall implement and maintain BMPs designated by the city or other agency.

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- C. All new, redevelopment, industrial, and commercial facilities shall:
1. Install, implement, and maintain BMP's that minimize the discharge of pollutants to the MS4 and which are consistent with the most recent version of the California Stormwater Quality Association (CASQA) BMP Handbooks (New Development and Redevelopment; Construction; and Industrial), or consistent with other BMP Manuals or Guidance established or required by the city;
  2. Retain maintenance records for structural BMPs and treatment devices, including waste hauling receipts, for a period of three years and make them available to the city upon request; and
  3. Provide information to the city, if requested, to assess compliance with the MS4 Permit in accordance with the Homeland Security Act or other federal law that concerns security in the United States.
  4. Allow reasonable inspections of the premises or facility by city officials or their designees to determine compliance with BMP's and any state or local law regarding stormwater.
- D. All grading plans and permits shall comply with the provisions of this chapter for NPDES compliance.
- E. All BMP's shall be installed before grading begins. All BMP's shall be updated as necessary to prevent erosion and control construction-related pollutants from discharging from the site. All BMP's shall be maintained in good working order to the satisfaction of the city during construction unless the project is deemed complete by the city and all permanent drainage and erosion control systems, if required, are in place.

### **8.30.190 - Responsibility to obtain permits and implement BMPs—Commercial and Industrial facilities.**

- A. All persons engaged in commercial or industrial activities or operations, or owning commercial or industrial facilities or property which will, or may, result in pollutants entering stormwater, the MS4, receiving waters, or groundwater, shall obtain coverage under any/all applicable permit(s), including, but not limited to: NPDES General Permit for Storm Water Discharges Associated with Industrial Activities; (IGP), other NPDES Permits; or other state or federal permits; and shall install and maintain BMPs as required by the applicable permit, consistent with city requirements and/or BMP Handbook(s) or guidance established or required by the city, as applicable; or equivalent.
- B. Proof of compliance with the IGP (including but not limited to: the WDID number, copies of any NOI, No Exposure Certification, SWPPP, inspection reports, monitoring results, and other information deemed necessary to assess compliance with the IGP), shall be provided to the city prior to issuance of a business license, or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon



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inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

- C. Applications for a new or renewed business license shall include the applicable Standard Industrial Classification (SIC) code for the facility; and proof of IGP coverage, if required.
- D. Commercial and Industrial facilities or property, not subject to the IGP shall implement BMPs as required by the city.
- E. All commercial and industrial facilities or property shall be required to:
  - 1. apply for, obtain, and comply with all city building, grading, post-construction BMP, and all other city and local permits;
  - 2. prepare and implement a Water Quality Management Plan (WQMP) or equivalent (as required by the MS4 Permit); and
  - 3. comply with all the requirements of the IGP (if required) and any/all applicable permits.

### 8.30.200 - Construction projects: Construction Site Stormwater Runoff Control Program.

- A. The city shall maintain a continuously updated inventory of all construction projects as described in the MS4 Permit.
- B. Any property owner or other responsible person conducting construction activity which: disturbs one acre or more of soil; disturbs less than one acre of soil but is part of a larger common plan of development or sale; or as required by the regional board; shall obtain coverage under the CGP before conducting any construction activities.
- C. Any person conducting construction activity that could potentially have an adverse impact on the city's MS4 or on beneficial uses of receiving waters shall install and implement appropriate construction and post-construction BMPs to reduce the discharge of pollutants to the MEP, as listed in their city-approved WQMP, Erosion and Sediment Control Plan (ESCP), SWPPP (if required), site plan, and/or as recommended in the most recent version of the CASQA Construction BMP Handbook.
- D. Proof of coverage under the CGP (a copy of the NOI and/or the WDID) and a SWPPP, deemed complete by the city, or an Erosivity Waiver Certification issued by the SWRCB, must be provided before the city will issue any permits applicable to the construction activity. Project sites conducting construction activities that require coverage under the CGP, shall have available for review, a copy of the NOI, the WDID number, and the applicable SWPPP on the premises, and the site must comply with all requirements of the CGP for the entire project duration. Alternatively, an Erosivity Waiver Certification issued by the SWRCB must be retained and available for inspection at the site for the entire project duration.
- E. For project sites subject to the CGP, no grading permit shall be issued unless the plans include a SWPPP deemed complete by the city with details of best management practices, including desilting basins or other temporary drainage or control measures, or both, as may be necessary to control construction-related pollutants which originate from

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the site as a result of construction-related activities. For project sites not subject to the CGP, no grading permit shall be issued unless the plans include a city-approved Erosion and sediment control plan.

### 8.30.210 - Erosion and sediment control plan ("ESCP").

- A. All applicants for projects involving construction activities (regardless of size) shall submit an erosion and sediment control plan (ESCP) to the city for review and approval. The city shall not issue grading or building permits until the ESCP for the project is approved. The project applicant shall prepare the ESCP using the most current version of the city's ESCP Template and Guidance.
- B. The ESCP shall be implemented year round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted in advance to the city for review and approval.
- C. An applicant may submit the SWPPP required under the CGP to the city in lieu of the ESCP, provided the SWPPP meets the city's ESCP requirements.

### 8.30.220 - Post-construction requirements for site design only projects; Water Quality Management Plan.

- A. Applicants for all new development and redevelopment projects shall develop, submit to the city for approval, and implement the required WQMP. WQMPs shall: comply with all requirements specified by the MS4 Permit and/or specified in the city Municipal Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.
- B. The city shall not issue an approval for a subdivision map, grading, plan review, or building permit, or any other permit prior to receiving, reviewing, and approving a site design only WQMP for the project.
- C. The Site Design Only WQMP shall include all proposed measures for site design as applicable in accordance with the MS4 Permit and as specified by the city. Applicants shall use the State Water Board SMARTS Post-Construction Calculator, or equivalent to quantify the runoff reduction resulting from implementation of the site design measures.

### 8.30.230 - Post-construction requirements for regulated projects; Water Quality Management Plan.

- A. Applicants for all new development and redevelopment projects shall develop, submit to the city for approval, and implement the required WQMP. WQMPs shall: comply with all requirements specified by the MS4 Permit and/or specified in the Municipal Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.
- B. A Preliminary Water Quality Management Plan (PWQMP) shall be submitted at the earliest planning stages for all Regulated Projects and shall be a condition of any required planning approval. A PWQMP shall include all sections in the Regulated

## Exhibit "A"

WQMP template except for the BMP Educational Materials, O&M Plans and Maintenance Agreements.

- C. The city shall not issue an approval for a subdivision map, site plan, or other entitlement prior to receiving, reviewing, and approving a PWQMP. If a PWQMP is not approved, the city shall provide the project applicant with a written explanation for the disapproval. Any disapproved PWQMP must be revised by the project applicant and resubmitted to the city for approval before a project may proceed.
- D. The city shall not issue an approval for a subdivision map, plan review, grading or building permit, or any other permit, prior to receiving, reviewing, and approving a Final WQMP for the project.
- E. The regulated WQMP shall include all required and proposed measures for site design, source control, runoff reduction, stormwater treatment, baseline hydromodification management, and LID techniques as applicable and as specified in the MS4 Permit. Structural BMPs shall be required for projects as specified in the MS4 Permit, and the project shall be designed so that the structural BMPs comply with the volume and/or flow design criteria specified by the city.
- F. In developing a regulated WQMP, applicants shall comply with the following provisions and the most current versions of any WQMP manuals, templates, or guidelines as may be subsequently developed or recommended by the city:
  - 1. All regulated WQMPs must identify the entity responsible for maintenance, provide maintenance schedules for post-construction structural and treatment control BMPs, and for any required hydromodification and LID features (collectively referred to in this subsection (as "stormwater management facilities")), and provide a plan which ensures continued maintenance and operational effectiveness for stormwater management facilities.
  - 2. The regulated WQMP shall include at least one of the following to ensure continued proper operation and maintenance of the stormwater management facilities:
    - a. A requirement that the project applicant/property owner enter into a formal stormwater management facilities operation and maintenance agreement with the city ("owner's agreement") prior to the issuance of any certificate of occupancy. The owner's agreement shall be recorded by the applicant/property owner with the County of San Bernardino against the property or properties involved, and shall be binding on all subsequent owners of land served by the stormwater management facilities.
    - b. For townhome and condominium projects, a requirement that the recorded conditions, covenants and restrictions (CC&Rs) covering the properties include written text stating that the homeowners association is required to ensure ongoing operation and maintenance of the stormwater management facilities. If there is no association, individual owners shall provide written documentation ensuring they will assume responsibility for the operation and maintenance of the stormwater management facilities until such responsibility is legally transferred. Such CC&Rs and written commitments shall run with the land and be

## Exhibit "A"

enforceable against all subsequent owners and/or, homeowners associations, and their successors and assigns.

- c. Any other legally enforceable mechanism as approved by the city, such as recordation in the property deed, that assigns the operations and maintenance responsibility for the stormwater management facilities to the applicant/project owner or to the city.
  3. Owner's agreement, CC&Rs and/or deeds shall, at a minimum, include conditions that the applicant, owner, or homeowners association, and all subsequent owners, transferees, successors or assigns of such persons:
    - a. Assume responsibility for maintenance and operation of all required stormwater management facilities to the MEP standard.
    - b. Replace any degraded or failing structural BMP feature with new control measures or BMP features meeting the current standards of the city.
    - c. Conduct stormwater management facilities maintenance and inspections as required in the approved WQMP associated with the property.
    - d. Ensure that all stormwater management facilities are inspected at least annually, that inspection findings are reported to the city annually, and that inspection records be retained and be available for review for at least three years.
    - e. Provide access to city staff for the purpose of performing operations and management inspections of any installed stormwater management facilities.
- G. Prior to final inspection, property owners for new development and redevelopment projects covered by this section, shall:
1. Construct all stormwater pollution control BMPs, structural or treatment control BMPs, and LID features strictly per design standards shown on the approved project plans and the WQMP;
  2. Submit for city review and approval a BMP and LID maintenance schedule and inspection plan;
  3. File a signed statement that the project site and all structural or treatment control BMPs and LID features shall be maintained in compliance with the WQMP; and
  4. Submit to the city the owner's agreement for recordation, the recorded CC&Rs, or the recorded enforceable mechanism/deeds set forth in the above provisions, specifying the responsibility for and ensuring the continued operation and maintenance of post-construction structural and treatment control BMPs, and any required site design measures, hydromodification and LID features for the project.

## **Exhibit "A"**

- H. Each project implementing a WQMP shall be individually evaluated to ascertain if the proposed project is in substantial conformance with the approved WQMP prior to issuance of the certificate of occupancy.
- I. The WQMP must demonstrate to the city's satisfaction that proposed BMPs and LID features, numeric design criteria, or design elements meet the requirements of the municipal NPDES permit and this code.
- J. Projects that do not require a WQMP as described in the MS4 Permit are subject to all applicable city post-construction requirements and conditions of approval.

8.30.230 - Reserved.

8.30.240 - Source control measures.

Projects with pollutant-generating activities and/or sources shall implement permanent and operational source control measures, as specified by the MS4 Permit or in the Municipal Code, and documented using city regulated WQMP template.

8.30.250 - Authority to enter, inspect, monitor and sample.

Whenever the city conducts an inspection to confirm compliance with or enforce any of the provisions of this chapter, or whenever there is reasonable cause to believe that there exists on any premises any condition which may constitute a violation of the provisions of this chapter, an enforcement officer, city inspectors, or other authorized city representative may enter the property, building or premises at all reasonable times, with presentation of proper identification, to inspect or perform any duty imposed upon the enforcement officer, city inspector, or other authorized representative by this chapter; including but not limited to: testing, sampling, monitoring and record examination. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry at the expense of the property owner.

8.30.260 - Requirement to sample and monitor.

The city may require any discharger or person engaged in any activity that may cause illicit discharges; or cause or contribute pollutant discharges to the MS4, receiving waters, or groundwater, to perform sampling, monitoring and analyses and submit the resulting reports to the city. The burden and all costs associated with the required sampling, monitoring, analyses, and reports shall be borne by the discharger or person engaging in the activity.

8.30.270 - Data collection.

The city may require any discharger or person responsible for any industrial or commercial facility or for any new development or redevelopment project to submit information to the city or other agency as necessary to comply with the CGP, the IGP or to confirm the facility's or project's compliance with this chapter.

## **Exhibit "A"**

### **8.30.280 - Enforcement.**

- A. The City Council of the city hereby declares any non-stormwater discharge to the land surface, the city's MS4, receiving waters, or groundwater a public nuisance, unless authorized under Section 8.30.110 of this chapter.
- B. Any person violating any provision of this chapter, or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor.
- C. Upon identification of any violation of this code or public nuisance, the city shall advise the person(s) deemed responsible in writing of the violation(s) by means of a notice of correction, notice of violation, stop work order, cease and desist order, or notice of public nuisance. The notice or order shall state a reasonable period of not less than seventy-two (72) hours during which correction or abatement must occur.
- D. All other enforcement will be as specified in Title 1, Chapter 1.12 of this code.

### **8.30.290 - Appeals.**

All appeals will follow the procedures under Title 1, Chapter 1.12 of this code.

### **8.30.300 - Acts in violation of the CWA and/or the Porter-Cologne Water Quality Control Act.**

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the CWA and/or the Porter-Cologne Act and may be subject to the provisions of those acts, including civil and criminal penalties.

### **8.30.310 - Compensation for damages.**

Any person who discharges pollutants into the city's MS4 which cause or have the potential to cause increased maintenance of the system, non-routine inspection or sampling of the system, system blockages or other damage or interference in the city's MS4; or causes any other damages to the city, including the imposition of fines or penalties on the city by federal, state or local regulatory agencies; shall be liable to the city for all damages and additional costs, including fines and penalties, plus reasonable attorneys' fees and costs of suit required to collect such amounts.

### **8.30.320 - Remedies non-exclusive.**

Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the director or city attorney to seek cumulative remedies.

Chapter 8.30 - SURFACE AND GROUNDWATER PROTECTION: NPDES PERMIT IMPLEMENTATION

8.30.010 - Authority.

This chapter is enacted pursuant to the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s); ~~NPDES No. CAS000004 (MS4 Permit)~~ issued and as amended, reissued, or otherwise modified by the California State Water Resources Control Board (SWRCB); pursuant to Section 402 of the Federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act, ("Porter-Cologne Act"), California Water Code § 13000 et seq. (MS4 Permit).

8.30.020 - Title, purpose, intent and objective.

- A. ~~(a)~~ This chapter shall be known as the City of Hesperia (city) "Surface and Groundwater Protection: NPDES Permit Implementation Ordinance," and may be cited as such.
- B. ~~(b)~~ This chapter confirms and consolidates the legal authority necessary to control discharges to and from the city's MS4 as required by the MS4 Permit.
- C. ~~(c)~~ This chapter is enacted to ensure the health, safety and general welfare of the residents of the City-city, of Hesperia and to protect and enhance the water quality of receiving waters, including and groundwater, in a manner pursuant to and consistent with the CWA, the Porter-Cologne Act, and the MS4 Permit by reducing pollutants in stormwater discharges into the city's MS4 to the maximum extent practicable (MEP).
- D. ~~(d)~~ This chapter further ensures the health, safety and general welfare of the residents of the city by prohibiting unauthorized non-stormwater discharges into the city's MS4, and by establishing legal authority to implement and enforce all stormwater management requirements, and carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter, and ~~with~~ the MS4 Permit.

8.30.030 - Definitions.

Unless specifically defined in Chapter 1.04, or as defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~"Basin plan" means the Water Quality Control Plan for the Lahontan Region.~~

"Beneficial Uses" means the uses of water necessary for the survival or wellbeing of man, plants, and wildlife. ~~These uses of water serve to promote the tangible and intangible economic, social, and environmental goals.~~ "Beneficial Uses" that may be protected include, but are not limited to: domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. ~~Existing beneficial uses are uses that were attained in the surface or groundwater on or after November 28, 1975; and potential beneficial uses are uses that would probably develop in future years through the implementation of various control measures. "Beneficial Uses" are equivalent to "Designated Uses" under federal law. (California~~



~~Water Code Section 13050(f)). Beneficial Uses for the Receiving Waters are identified in the Basin Plan.~~

"Best management practice(s)" or "BMP(s)" means any schedule of activities, prohibitions of practices, maintenance procedures, and other management practices or guidelines as adopted by any federal, state, regional or local agency to prevent or reduce the discharge of pollutants directly or indirectly to the city's MS4 and surface or groundwaters. BMPs include, but are not limited to: treatment requirements; operating and maintenance practices to control runoff, sludge, waste disposal, spillage or leaks of non-stormwater and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices and procedures and other such provisions as the city determines appropriate for the control of pollutants. Examples of BMPs may include: public education and outreach; proper planning of development projects; proper cleaning of catch basin inlets; proper sludge or waste handling and disposal; treatment requirements; operating procedures; and practices to control site runoff, spillage or leaks, sludge or waste storage and disposal or drainage from raw material or chemical storage.

~~"CASQA" means the California Stormwater Quality Association.~~

~~"City engineer" means the city engineer of the City of Hesperia, or his/her designee.~~

~~"Clean Water Act" or "CWA" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251, et seq.).~~

~~"Clean Water Act Section 402(p)" means the federal statute requiring municipal and industrial dischargers to obtain NPDES permits for their discharges of stormwater [33 USC 1342(p)].~~

~~"Clean Water Act Section 303(d) Listed Water Body" means an impaired water body in which water quality does not meet applicable water quality standards and/or is not expected to meet water quality standards, even after the application of technology-based pollution controls required by the CWA. The discharge of urban runoff to these water bodies by MS4 Permittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.~~

"Construction activity" means any activity used in the process of developing, redeveloping, enhancing or maintaining land that involves soil disturbing activities; including, but not limited to, clearing, paving, grading, and disturbances to ground such as stockpiling and excavation.

~~"Construction General Permit" or "CGP" means the current version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm water Discharges Associated with Construction and Land Disturbance Activities: NPDES No. CAS000002. The CGP is issued by the SWRCB for discharges associated with construction projects over one acre, or smaller sites that are part of a larger common plan of development or sale.~~

"Contamination" means "an impairment of the quality of waters of the ~~S~~state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease (as defined in the Porter Cologne Act).-" "Contamination" includes any equivalent effect resulting from the disposal of waste whether or not Waters of the ~~United~~ S ~~States~~ tates are affected.



~~"Criteria" means the numeric values and the narrative standards that represent contaminant concentrations that are not to be exceeded in the receiving environmental media (surface water, groundwater, sediment) to protect beneficial uses.~~

"Discharge" means the release or placement, either directly or indirectly, of any substance into the city's MS4, or where it can be transported to the city's MS4, through gravity-driven, hydraulic, wind, or other processes including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance.

"Discharger" means any person engaged in any activities or operations on any premises, or owning or having control over the day to day operations of facilities or premises which may result in the release or placement, either directly or indirectly, of any substance into the city's MS4, including, but not limited to, stormwater, non-stormwater, wastewater, solid materials, liquids, hazardous material, raw materials, debris, litter, trash, or any other substance. Dischargers include, but are not limited to: real property owners; occupants, tenants and lessees of real property; contractors and developers; industrial, commercial and other business facility owners, and the agents, managers, officers, ~~or employees~~, or volunteers of any of the foregoing.

~~"Environmentally Sensitive Areas (ESAs)" means areas that include but are not limited to all Clean Water Act Section 303(d) impaired water bodies; areas designated as Areas of Special Biological Significance in the Basin Plan; water bodies designated with the RARE beneficial use in the Basin Plan; areas designated as preserves or their equivalent under the Natural Communities Conservation Program (Multiple Species Habitat Conservation Plan, MSHCP) within or with participation by the city; and any other equivalent environmentally sensitive areas which have been identified by the regional board or local jurisdictions.~~

"Erosion" means the process whereby material (such as sediment) is detached and entrained in water or air and can be transported to a different location. Chemical erosion involves materials that are dissolved and removed and transported.

"Facility" means a public or private place, amenity, structure, or piece of equipment built, installed or established for a particular purpose.

~~"Small MS4 Permit" (MS4 Permit) means the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements (WDRs) for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) applicable to the City of Hesperia (Water Quality Order No. 2013-0001—DWQ, General Permit No. CAS000004), and any subsequent amendment, reissuance or successor to the municipal NPDES permit.~~

~~"GIS" means Geographical Information Systems.~~

"Grading" means the cutting and/or filling of the land surface to a desired slope or elevation.

~~"Green Infrastructure" means, generally, technologically feasible and cost-effective systems and practices that use or mimic natural processes to infiltrate, evapotranspire, or use stormwater or runoff on the site where it is generated. Green infrastructure is sometimes used interchangeably with low impact development (LID). See LID.~~

"Hazardous material" or "hazardous substance" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials include, but are not limited to, those specified in Division 20, Chapter 6.5 of the California Health and Safety Code; 40 CFR Part 116; or 40 CFR Part 302.

"Hydromodification" means the "alteration of the hydrologic characteristics of coastal and noncoastal waters, which in turn could cause degradation of water resources" (USEPA, 2007). The change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, runoff flow rate and/or volume, evapotranspiration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that may result in downstream impacts, such as increased stream flows and sediment transport.

"Illegal connection" means:

1. 1: Any drain, pipe, open channel or other conveyance, whether on the surface or subsurface, which allows, or has the potential to allow, an illicit discharge to enter the MS4, including, but not limited to, any connections to the MS4 from indoor drains and sinks, regardless of whether the drain or connection had been previously allowed, permitted or approved by a government agency; or
2. 2: Any drain or conveyance connected to the MS4 that is not permitted pursuant to a valid NPDES permit or which has not been documented in plans, maps or equivalent records approved by the city.

"Illicit discharge" means any of the following:

1. 1: Any direct or indirect non-stormwater discharges to the MS4 that are not composed entirely of stormwater, except as exempted in ~~section~~ Section 408.30.100 of this chapter;
2. 2: Any direct discharge to the MS4 from an illegal connection; or
3. 3: Any direct or indirect discharge to the MS4 that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations, including but not limited to, those discharges prohibited by the discharge prohibitions section of the MS4 Permit.

"Impervious surface" means a constructed, modified, or natural surface that cannot effectively infiltrate rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks, driveways, and impervious bedrock outcroppings.

"Incidental runoff" means unintended amounts (volume) of runoff, such as unintentional, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental runoff if it is: (1) part of a facility's design; (2) due to intentional overflow or application; or (3) due to negligence.

~~"Industrial General Permit" or "IGP" means the current version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated~~

with Industrial Activities Order NPDES NO. CAS000001, issued by the SWRCB (covered industrial SIC Codes are listed in 40 CFR Section 122.26(b)(14)).

"Linear Underground/Overhead Project (LUP)" means, but is not limited to, any conveyance, pipe, or pipeline for the transportation of any gaseous, liquid (including water and wastewater for domestic municipal services), liquescent, or slurry substance; any cable line or wire for the transmission of electrical energy; any cable line or wire for communications (e.g. telephone, telegraph, radio or television messages); and associated ancillary facilities. Construction activities associated with LUPs include, but are not limited to, (a) those activities necessary for the installation of underground and overhead linear facilities (e.g. conduits, substructures, pipelines, towers, poles cables, wires, connectors, switching, regulating and transforming equipment, and associated ancillary facilities); and include, but are not limited to, (b) underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/or pavement repair or replacement, and stockpile/borrow locations.

"Low impact development" or "LID" means a sustainable development practice that benefits water supply and contributes to water quality protection. LID uses site design and stormwater management to maintain the site's predevelopment runoff rates and volumes. The goal of LID is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall.

"~~MEP (Maximum Eextent Ppracticable)~~ or "MEP"" means management practices, control techniques, and system design and engineering methods for the control of pollutants taking into account considerations of synergistic, additive, and competing factors, including, but not limited to pollutant removal effectiveness, regulatory compliance, gravity of the problem, public acceptance, social benefits, cost and technological feasibility, ~~although MEP is not defined in the CWA. MEP is the technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet.~~ Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs that the state or city determine appropriate for the reduction of pollutants in stormwater. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). ~~MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead, the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the regional board, the regional board defines MEP.~~

"Municipal separate storm sewer system" or ("MS4") means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, man-made channels or storm drains) which is: (1) owned or operated by the city; (2) designated or used for collecting or conveying stormwater; (3) not a combined sewer; and (4) not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.12.

"New development" means all public and private residential (whether single family, multi-unit or planned unit development), industrial, commercial, retail, and other nonresidential construction projects, or grading for future construction, on an area/land that has not previously been developed and for which a city discretionary land use permit or approval is required.

"National Pollution Discharge Elimination System (NPDES)" means a national program under Section 402 of the CWA for regulation of discharges of pollutants from point sources to ~~w~~Waters of the United States. Such discharges are illegal unless authorized by an NPDES permit.

"NPDES permit" means a NPDES Permit issued pursuant to the CWA by the EPA, the SWRCB or a RWQCB.

"~~\_NOI~~[Notice of Intent]" or "NOI" means an application for coverage under ~~the General Stormwater~~ NPDES Permits.

"Non-Point Source ~~Pollution (NPS)~~" or "NPS" means diffuse, widespread sources of pollution. These sources may be large or small, but are generally numerous throughout a watershed. Non-Point Sources include but are not limited to urban, agricultural, or industrial areas, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. NPS pollution can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up pollutants from these numerous, diffuse sources and deposits them into rivers, lakes, and coastal waters, or introduces them into groundwater.

"Non-stormwater discharge" means any discharge that is not composed entirely of stormwater.

~~"Open space" means any parcel or area of land or water that is essentially unimproved or devoted to an open space use for the purposes of (1) the preservation of natural resources, (2) the managed production of resources, (3) outdoor recreation, or (4) public health and safety. [Riverside County General Plan, adopted October 7, 2003. Technical Appendix A, Glossary]~~

~~"Outfall" means a Point Source as defined by 40 CFR 122.2 a, the point where a municipal separate storm sewer discharges to Waters of the United States, or Water of the State, and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which connect segments of the same stream or other Waters of the United States and are used to convey Waters of the United States. [40 CFR 122.26 (b)(9)]~~

~~"Owner" means the person with the right of possession of a parcel of real property, or the structure or facility on such real property. Owner also means and includes any part owner, joint tenant, tenant, tenant in common, or joint tenant of the whole or a part thereof.~~

~~"Person" means any individual as well as any partnership, committee, business entity, association, corporation, public agency, joint venture, and any other organization, entity or group of persons, public or private, or the agent, employee or representative of any of the above.~~

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, trash, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including, but not limited to, sediments, slurries, concrete rinsates, lime, and asphalt); pollutants as defined in Section 1362(6) of the CWA; and noxious or offensive matter of any kind.

"Pollution" means "the alteration of the quality of the Waters of the United States by waste, to a degree that unreasonably affects either of the following: 1) The waters for beneficial uses; or 2) Facilities that serve these beneficial uses (as defined in the Porter-Cologne Act)." Pollution may include contamination.

~~"Pollution prevention" means practices and processes that reduce or eliminate the generation of pollutants, in contrast to source control, treatment, or disposal.~~

"Pollutants of concern" means pollutants defined by the system of interest: a list of potential pollutants to be analyzed for in the Monitoring and Reporting Program. This list shall include: TSS, total inorganic nitrogen, total phosphorus, soluble reactive phosphorus, acute toxicity, fecal coliform, total coliform, pH, and chemicals/potential Pollutants expected to be present on the project site. In developing this list, consideration should be given to the chemicals and potential Pollutants available for stormwater to pick-up or transport to Receiving Waters, all Pollutants for which a waterbody within the Permit Area that has been listed as impaired under CWA Section 303(d), the category of development and the type of Pollutants associated with that development category. It also refers to pollutants for which water bodies are listed as impaired under CWA section 303(d), pollutants associated with the land use type of a development, and/or pollutants commonly associated with urban runoff. Pollutants commonly associated with urban runoff include total suspended solids; sediment; pathogens (e.g., bacteria, viruses, protozoa); heavy metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polycyclic aromatic hydrocarbons; synthetic organics (e.g., pesticides, herbicides, and PCBs); nutrients (e.g., nitrogen and phosphorus fertilizers); oxygen-demanding substances (decaying vegetation, animal waste, and anthropogenic trash).

~~"Porter-Cologne Act" means the Porter-Cologne Water Quality Control Act, California Water Code section 13000, et seq.~~

"Post-Construction BMPs" means a subset of BMPs including structural and non-structural controls which detain, retain, filter, or educate to prevent the release of pollutants to surface waters during the final functional life of development.

"Premises" means any building, structure, lot, parcel or land, or portion thereof, whether improved or unimproved, including adjacent sidewalks and parking strips.

~~"Rainy season/wet season" means the period from October 1 through May 31<sup>st</sup> of each year.~~

"Receiving waters" means all surface water bodies, including any natural or manmade stream, whether flowing continuously or not, that is fed from permanent or natural sources, and, without limitation, rivers, creeks, runs, rivulets, and drains within ~~San Bernardino County~~the city that are identified by the regional board in a basin plan. A receiving water may or may not be properly defined as a Water of the United States. Groundwater is fed from receiving waters on the surface. Therefore, although not technically defined as a "receiving water", groundwater is protected as a receiving water and by groundwater-specific regulations.

"Redevelopment" means any land-disturbing activity that results in the creation, addition, or replacement of ~~exterior~~ impervious surface area on a site on which some past development has occurred and for which a city discretionary land use permit or approval is required. Redevelopment does not include trenching, excavation and resurfacing associated with linear underground projects ("LUPs"); pavement grinding and resurfacing of existing roadways; construction of new sidewalks, pedestrian ramps, or bike lanes on existing roadways; or routine replacement of damaged pavement such as pothole repair or replacement of short, non-contiguous sections of roadway.

"Regional board" or "RWQCB" means the California Regional Water Quality Control Board—Lahontan Region.

"Regulated project" means development projects that create and/or replace 5,000 square feet or more of impervious surface. ~~The Permittee shall require Regulated Projects to implement measures for site design, source control, runoff reduction, stormwater treatment and baseline hydromodification management.~~

"Sediment" means mineral and organic solid particulate matter soil, sand, and minerals that is suspended, transported, or moved from its site of origin by air, water, gravity, snow, or ice and comes to rest on the earth's surface or is washed from land into water. Sediment resulting from anthropogenic sources (Le.g. human induced land disturbance activities) is considered a pollutant. This Order code regulates only the discharges of sediment from anthropogenic sources and does not regulate naturally occurring sources of sediment. ~~Sediment can destroy fish nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants.~~

"Site ~~d~~Design BMP" means any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's hydrology. Redevelopment projects that are undertaken to remove pollutant sources (such as existing surface parking lots and other impervious surfaces) or to reduce the need for new roads and other impervious surfaces (as compared to conventional or low-density new development) by incorporating higher densities and/or mixed land uses into the project design, are also considered site design BMPs.

"Site design measures" means specific measures that reduce project site runoff in accordance with the MS4 Permit and as specified by the city.



"Site design only projects" means development projects that create and/or replace 2,500 – 5,000 square feet of impervious surface including, but not limited to, single family infill development that are not part of a larger plan development, accessory dwelling units, and detached garages.

~~"Small Municipal Separate Storm Sewer System (Small MS4)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are: (i) Owned or operated by the United States, a State, city, town, boroughs, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the CWA that discharges to waters of the United States. (ii) Not defined as "large" or "medium" municipal separate storm sewer systems (iii) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings. (40 CFR §122.26(b)(1))~~

"State Board" or "SWRCB" means the California State Water Resources Control Board.

"Stormwater pollution prevention plan" or "SWPPP" means a pollution control plan documenting site activities, pollutant sources; and all stormwater and non-stormwater BMPs used at the site, required under 40 CFR Part 122, the CWA, the CGP, IGP, and most MS4 Permits. A plan to minimize and manage **P**ollutants to minimize **P**ollution from entering the MS4, identifying all potential sources of **P**ollution and describing planned practices to reduce **P**ollutants from discharging off the site.

"Source **c**ontrol **B**MPs" means, in general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between pollutant sources and stormwater or authorized non-stormwater. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of illegal connections/C/ID illicit discharges, and other non-structural measures. Facility design (structural) examples include providing attached lids to trash containers, canopies for fueling islands, secondary containment, or roof or awning over material and trash storage areas to prevent direct contact between water and Pollutants.

~~"Stormwater" or "stormwater" means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation. Stormwater runoff is generated when precipitation flows over land or impervious surfaces and does not percolate into the ground. Without any change in its meaning, this term may be spelled or written as one word or two separate words.~~

"Structural BMP" means any structural facility designed and constructed to mitigate the adverse impacts of stormwater and urban runoff pollution, including treatment control BMPs.

~~"Total Maximum Daily Load (TMDL)" means the maximum amount of a pollutant that can be discharged into a water body from all sources (point and non-point) while still maintaining water quality standards. Under Clean Water Act Section 303(d), TMDLs must be developed for~~

~~all water bodies that do not meet water quality standards after application of technology-based controls.~~

~~"TMDL Implementation Plan" means the component of a TMDL that describes actions, including monitoring, needed to reduce Pollutant loadings and a timeline for implementation. TMDL Implementation Plans can include a monitoring or modeling plan and milestones for measuring progress, plans for revising the TMDL if progress toward cleaning up the waters is not made, and the date by which Water Quality Standards will be met (USEPA Final TMDL Rule: Fulfilling the Goals of the CWA, EPA 841-F-00-008, July 2000).~~

"Treatment control BMP" means any engineered system designed to remove pollutants by gravity of particulate pollutants, filtration, biological uptake, media adsorption or any physical, biological or chemical process.

"Unauthorized non-stormwater discharge" means discharges of material other than stormwater to waters of the United States that are not prohibited provided any pollutant discharges are identified, and appropriate control measures are developed and implemented to minimize the impacts of such discharges. The "Discharge Prohibitions" section of the MS4 Permit provides a list of specific discharge types, which are thus conditionally authorized by the MS4 Permit. Any non-stormwater discharges that are in violation of the Basin Plan are also unauthorized.

"Urban runoff" means surface water flow produced by storm and non-storm events. Non-storm events include flow from residential, commercial, or industrial activities involving the use of potable and non-potable water.

~~"USEPA" means the United States Environmental Protection Agency.~~

"Waste" means "...sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal," as defined in California Water Code Section 13050(d). Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a waste classification system which applies to solid and semi-solid waste which cannot be discharged directly or indirectly to waters of the state and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of waste (listed in order of highest to lowest threat to water quality): hazardous waste, designated waste, nonhazardous solid waste, and inert waste.

"Waste Discharge Requirements (WDRs)" means the equivalent of the term "permits" as defined in Section 13374 of the California Water Code and as used in the Federal Water Pollution Control Act, as amended. The Regional Board usually reserves reference to the term "permit" to Waste Discharge Requirements for discharges to surface Waters of the United States.

~~"Water Quality Objective" means the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area. (California Water Code Section 13050(h))~~

"Water Quality Management Plan" or "WQMP" means the document required by the city for all new development, and redevelopment projects and regulated projects as defined in accordance with the provisions of Section E.12 of the municipal NPDES MS4 permit which



demonstrates that a project site is in compliance with the post-construction requirements set forth in the ~~municipal NPDES~~MS4 permit. A WQMP will specify appropriate measures for site design, source control, runoff reduction, stormwater treatment, baseline Hydromodification management and LIDs required for such projects. The city has two WQMP "types," as follows: (1) WQMP for Regulated Projects, and (2) WQMP for Site Design Only Projects.

"Water quality standards" means (1) the beneficial uses (e.g., swimming, fishing, municipal drinking water supply, etc.,) of receiving waters and (2) the water quality objectives necessary to protect those uses.

"Watershed" means the geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

~~"Waters of the United States" means, broadly, the navigable surface waters and all tributary surface waters to navigable surface waters. Groundwater is not considered to be a Water of the United States. In 40 CFR 122.2, Waters of the U.S. are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.~~

~~"\_WDID (Waste Discharger Identification)"~~ or "WDID" means the identification number provided by the ~~S~~state when a Notice of Intent is filed to obtain permit coverage under general permits, including the IGP, CGP, and the ~~General Small~~MS4 Permit.

#### 8.30.040 - Administration.

A. ~~(a)~~ Except as otherwise provided in this chapter, the ~~city manager or authorized designee~~director shall administer, implement, and enforce the provisions of this chapter.

B. ~~(b)~~ This chapter applies to dischargers and places of discharge located within the city that discharge stormwater or non-stormwater into the MS4, receiving waters, and/or groundwater. However, this chapter may not be enforceable in areas where the city lacks legal jurisdiction over stormwater or non-stormwater discharges into their MS4 from State and federal facilities, e.g., schools and hospitals, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and

non-point source discharges otherwise permitted by the United States Environmental Protection Agency (USEPA) or the regional board.

#### 8.30.050 - Compatibility with other regulations.

This chapter is intended to be consistent with any current federal, ~~or state, or local~~ law, regulation, order, or permit, and as any of these may be amended, reissued, or otherwise modified from time to time.

#### 8.30.060 - Ultimate responsibility for discharges.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into the MS4, receiving waters, or groundwater. This chapter shall not create liability on the part of the city, or any agent or employee thereof, for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made under this chapter.

#### 8.30.070—8.30.090 - Reserved.

#### 8.30.100 - Prohibited discharges.

A. ~~(a)~~ Except as exempted in the MS4 Permit, no person shall discharge, facilitate, cause, permit or allow to be discharged to the MS4, receiving water, and/or groundwater, either directly or indirectly, any illicit discharge, including but not limited to, pollutants, hazardous materials and other unauthorized non-stormwater discharges.

B. ~~(b)~~ It is prohibited to intentionally dispose of leaves, dirt, other landscape debris, or trash into the MS4, receiving waters, or groundwater.

#### 8.30.110 - Prohibited discharge exemptions.

A. ~~(a)~~ Prohibited discharges and exemptions to prohibited discharges are identified and described in the MS4 Permit.

B. ~~(b)~~ Nothing in this section eliminates the need to obtain any other appropriate permits, such as those discharges which are required to be enrolled under the "Waste Discharge Requirements and NPDES General Permit for Limited Threat Discharges to Surface Water".

#### 8.30.120 - Limitation of exemption.

Notwithstanding the exemptions provided in the MS4 Permit, if the city, either independently or at the direction of the regional board, determines that an exempt discharge type is a significant source of pollutants, threatens applicable water quality standards, causes or contributes to a violation of any receiving water limitation, results in the conveyance of pollutants to the MS4, receiving waters, or groundwater, or is otherwise a danger to public health or safety, the city may prohibit, limit, or direct the control of such discharge and thereafter may take any enforcement option available.

8.30.130 - Requirement to ~~eliminate-abate~~ illicit/~~illegal~~ discharges.

~~The city shall require d~~Dischargers are required to promptly cease and desist discharging ~~and/or cleanup~~ and abate any illicit/~~illegal~~ discharge, including, as applicable, any of the following ~~actions~~:

~~(a)A.~~ Every owner of, and/or responsible person for, any premises, who becomes aware of an illicit ~~or illegal~~ discharge ~~from the site~~, whether to the MS4, receiving water, or land surface, shall immediately cease the discharge, eliminate-abate the discharge within seventy-two (72) hours, and prevent the occurrence of any future illicit/~~illegal~~ discharges.

~~(b)B.~~ Cleanup-Abate high-risk ~~spills-discharges as soon as possible~~immediately.

~~(c)C.~~ Abate uncontrolled sources of pollutants ~~that could pose an environmental threat~~ within ~~30 days~~the period of time dictated by the city.

~~(d)D.~~ Perform necessary clean-up work and bill the responsible party, if needed-Abate the illicit discharge within the period of time dictated by the city. Any discharger engaging in the discharge of pollutants shall abate and remediate the pollutant at their sole cost and expense. If not fully corrected within the time period stated by the city, any abatement and remediation costs incurred by the city shall be borne by the responsible person.

~~(e)E.~~ If necessary, w~~W~~here pollution problems persist, the city may order the cessation of activities until pollutant sources are effectively abated and controlled.

~~—(f) Require a new timeframe when all parties agree that cleanup-abatement activities cannot be completed within the original timeframe, and notify the regional board in writing within five business days of the determination that the timeframe requires revision.~~

F. -The city may notify the RWQCB of any illicit discharges or failure to abate and remediate any illicit discharges.

8.30.140 - Incidental runoff.

~~The city shall require every owner or responsible person for any premises from which~~Where runoff in excess of incidental runoff originates, ~~to take~~ the following actions shall be taken, as applicable, to control such runoff:

(a) Detect and correct any leak within seventy-two (72) hours of ~~learning of~~discovery of any the leak or notification by city;

~~(b)A.~~ Properly design and maintain irrigation systems and ensure aim-sprinkler heads are aimed appropriately to prevent runoff;

B. (c) ~~Cease~~ irrigation activities during precipitation events;

~~—(d) Manage any pond containing recycled water such that no discharge occurs unless the discharge is a result of a twenty five-year, twenty four hour storm event or greater,~~

~~and the regional board is notified by email no later than twenty-four (24) hours after the discharge. Such notice must include identifying information, including the pond owner's name and permit identification number.~~

C.

#### 8.30.150 - Illegal connections prohibited.

A. ~~(a)~~ The establishment, use, operation, maintenance, ~~and/or~~ continued use of any illegal connection to the city's MS4 is prohibited.

B. ~~(b) Any discharger or responsible person that maintains an illegal connection shall disconnect and discontinue use of such connection.~~

~~(c)~~ C. City-issued construction permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items within dedicated easements, rights-of-way, or other public place and/or facility.

~~(d)~~ D. City-issued building permits are required for the construction or modification of any storm drain or conveyor of drainage waters and appurtenant items ~~within~~ on private property so as to allow direct or indirect discharge into the city's MS4. Indirect discharges include, but are not limited to, under-sidewalk drains, driveway approaches and unrestricted street flow.

~~(e)~~ E. No person shall construct, modify or cause to be constructed or modified, any structure, facility or appurtenant devices which may alter the normal functioning of the city's MS4, including any actions which may alter the capacity, slope, or structural integrity of a storm drain, channel or related structure without first receiving a permit issued by the city.

~~(f)~~ F. In addition to any remedy provided in this chapter, the city may require ~~parties~~ the person responsible for an illegal connection to the MS4 to eliminate the connection or secure approval for the connection by a specified date. If ~~any such~~ the responsible person fails to disconnect or secure approval for an illegal connection ~~by such date as required~~, the city may ~~perform the disconnection~~ abate the illegal connection and pursue ~~the recovery of costs~~ for such disconnection.

#### 8.30.160 - Notification of illicit discharges/spills.

A. ~~(a)~~ Notwithstanding other requirements of law, as soon as any ~~responsible~~ person for a facility or operation, or ~~responsible~~ person for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into the MS4, ~~or~~ receiving waters, land surface, or groundwater from ~~said the~~ facility, ~~said that~~ person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

~~(b)~~ Any ~~such~~ releases shall ~~further~~ be reported promptly in the following manner: ~~by any responsible person for a facility or operation, or responsible for emergency response for a facility or operation:~~

~~(1)~~1. The release of a hazardous or other material which poses an imminent danger to public health and safety shall be immediately reported to emergency services by emergency dispatch services (911).

~~(2)~~2. The release of a non-hazardous material shall be reported to the city and any other applicable jurisdiction or regulatory agency as soon as the discharge is discovered.

B. (c) In addition to the above requirements, release of any hazardous materials or substances, sewage, oil, or petroleum to any Waters of the State, or discharged or deposited where it is or probably will be discharged in or on any Waters of the State, shall immediately be reported to the State Office of Emergency Services, as required by California Water Code Sections 13271 and 13272.

#### 8.30.170 - Reduction of pollutants in urban runoff.

~~(a)~~A. Any ~~responsible~~ person engaged in activities which will or may result in pollutants entering the city's MS4 shall undertake all practicable measures to cease ~~such~~ activities, and ~~or endeavor to~~ eliminate or reduce ~~such~~ pollutants. ~~Such a~~ Activities shall include, but ~~not be~~ are not limited to ownership and use of parking lots, gasoline stations, industrial facilities, commercial facilities, ground disturbing activities, and stores fronting city streets.

~~(b)~~B. ~~Littering.~~ Except for pollutants lawfully disposed of by way of containers or at a licensed dumping ground, no person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, trash, or other discarded or abandoned objects, articles and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land or other premises in the city, so that the same might be or become a pollutant discharged to the MS4 or receiving waters.

(c) ~~Persons owning or operating a p~~ Parking lots, gas station area of pavement or similar structures shall be cleaned ~~those structures~~ as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the city ~~storm drain system or watercourse~~ MS4 or receiving waters.

~~(d)~~C. ~~Construction.~~ Any person performing construction activities in the city shall implement appropriate BMPs to prevent the discharge of construction wastes, sediments, silts, pollutants, or contaminants from construction activities, materials, tools, and equipment from entering the MS4 or receiving waters in accordance with the standards set forth in this chapter. Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development or sale, must obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (CGP): NPDES NO. CAS000002 (CGP) (references herein refer to the current or most recent version of the CGP).

~~City BMP requirements for grading activities are specified in 15.06.110.~~

8.30.180 - Best management practices (BMPs).

~~A. (a) Appropriate city departments~~The city, or other state, federal, or regional agency may establish requirements identifying BMPs to be implemented for any activity, operation, or facility ~~which that~~ may cause or contribute to pollution or contamination of stormwater, the MS4, receiving waters, or groundwater. ~~Where BMP requirements are established by the city (or promulgated by any federal, State of California, or regional agency) for any activity, operation, or facility which would otherwise cause the discharge of pollutants to the MS4, receiving waters, and/or groundwater, every responsible person undertaking such activity or operation, or owning or operating such facility, shall comply with such requirements.~~

~~B. (b) Each person responsible for any~~ site, activity, operation, or facility in the city that may discharge any pollutant to the MS4, receiving waters, ~~and~~ or groundwater shall implement and maintain~~those~~ BMPs ~~as may be~~ designated by the city.

~~—(c) All operators of construction sites shall obtain coverage under the CGP, if applicable;~~

~~C. (d) All operators of new, or redevelop~~mented land, and industrial, and commercial facilities shall:

~~(1)1.~~ Install, implement, and maintain BMP's that Minimize the discharge of pollutants to the MS4 ~~through the installation, implementation, and/or maintenance of BMPs and which are~~ consistent with the most recent version of the California Stormwater Quality Association (CASQA) BMP Handbooks (New Development and Redevelopment; Construction; and Industrial), or consistent with other BMP Manuals or Guidance established or ~~recommended~~required by the city;

~~(2)2.~~ Retain maintenance records for structural BMPs and treatment devices, including waste hauling receipts, for a period of three years and make them available to the city upon request; and

3. (3) Provide information to the city, if requested, to assess compliance with the MS4 Permit in accordance with the Homeland Security Act or other federal law that concerns security in the United States.

4. Allow reasonable inspections of the premises or facility by city officials or their designees to determine compliance with BMP's and any state or local law regarding stormwater.

~~D. (e) —~~All grading plans and permits shall comply with the provisions of this chapter for NPDES compliance.

E. All BMP's shall be installed before grading begins. All BMP's shall be updated as necessary to prevent erosion and control construction-related pollutants from discharging from the site. All BMP's shall be maintained in good working order to the satisfaction of the city during construction unless the project is deemed complete by the city and all permanent drainage and erosion control systems, if required, are in place.



8.30.190 - Responsibility to obtain permits and implement BMPs—Commercial and Industrial facilities.

- A. ~~(a)~~ All persons engaged in commercial or industrial activities or operations, or owning commercial or industrial facilities or property which will, or may, result in pollutants entering stormwater, the MS4, receiving waters, or groundwater, shall obtain coverage under any/all applicable permit(s), ~~(including, but not limited to: NPDES General Permit for Storm Water Discharges Associated with Industrial Activities; (IGP), other NPDES Permits;~~ or other state or federal permits); ~~and~~ and shall install and maintain BMPs as required by the applicable permit, ~~and~~ consistent with city requirements and/or BMP Handbook(s) or guidance established or ~~recommended~~ required by the city, as applicable; or equivalent.
- B. ~~(b)~~ Proof of compliance with the IGP (including but not limited to: the ~~Waste Discharger Identification (WDID)~~ number, copies of any ~~Notice of Intent (NOI)~~, No Exposure Certification, SWPPP, inspection reports, monitoring results, and other information deemed necessary to assess compliance with the IGP), shall be provided to the city prior to issuance of a business license, or as a condition of, a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.
- C. ~~(c)~~ Applications for a new or renewed business license shall include the applicable Standard Industrial Classification (SIC) code for the facility; and proof of IGP coverage, if required.
- D. ~~(d)~~ Commercial and Industrial facilities or property, not subject to the IGP shall implement BMPs as required by the city.
- E. ~~(e)~~ All commercial and industrial facilities or property shall be required to:
- a. ~~(1)~~ apply for, obtain, and comply with all city building, grading, post-construction BMP, and all other city and local permits;
  - b. ~~(2)~~ prepare and implement a Water Quality Management Plan (WQMP) or equivalent (as required by the MS4 Permit); and
  - c. ~~(3)~~ comply with all the requirements of the IGP (if required) and any/all applicable permits.

8.30.200 - Construction projects: Construction Site Stormwater Runoff Control Program.

- A. ~~(a)~~ The city shall maintain a continuously updated inventory of all construction projects as described in the MS4 Permit.
- B. ~~(b)~~ Any property owner or other responsible person conducting construction activity which: disturbs one acre or more of soil; disturbs less than one acre of soil but is part of a larger common plan of development or sale; or as required by the regional board; shall obtain coverage under the CGP before conducting any construction activities.

C. ~~(c)~~ Any ~~property owner or other party person~~ conducting construction activity that could potentially have an adverse impact on the city's MS4 or on beneficial uses of receiving waters shall install and/or implement appropriate construction and post-construction BMPs to reduce the discharge of pollutants to the MEP, as listed in their city-approved WQMP, Erosion and Sediment Control Plan (ESCP), SWPPP (if required), site plan, and/or as recommended in the most recent version of the CASQA Construction BMP Handbook.

D. ~~(d)~~ Proof of coverage under the CGP (a copy of the NOI and/or the WDID) and a SWPPP, deemed complete by the city, or an Erosivity Waiver Certification issued by the SWRCB, must be provided before the city will issue any ~~grading, construction or similar~~ permits applicable to ~~such the~~ construction activity. ~~Anywhere p~~Project site ~~s operators~~ conducting construction activities ~~that~~ requiring coverage under the CGP, shall have available for review, a copy of the NOI, the WDID number, and the applicable SWPPP; shall be available for review ~~at the construction site on the premises~~, and the site must comply with all requirements of the CGP for the entire project duration. Alternatively, an Erosivity Waiver Certification issued by the SWRCB must be retained and available for inspection at the site for the entire project duration.

E. For project sites subject to the CGP, no grading permit shall be issued unless the plans include a SWPPP deemed complete by the city with details of best management practices, including desilting basins or other temporary drainage or control measures, or both, as may be necessary to control construction-related pollutants which originate from the site as a result of construction-related activities. For project sites not subject to the CGP, no grading permit shall be issued unless the plans include a city-approved erosion and sediment control plan.

#### 8.30.210 - Erosion and sediment control plan ("ESCP").

A. ~~(a)~~ All applicants for projects involving construction activities (regardless of size) shall submit an erosion and sediment control plan (ESCP) to the city for review and approval. The city shall not issue grading or building permits until the ESCP for the project is approved. The project applicant shall prepare the ESCP using the most current version of the Hesperia city's ESCP Template and Guidance.

B. ~~(b)~~ The ESCP shall be implemented year round and must be updated to reflect changing conditions on the project site. Any modifications to the ESCP shall be submitted in advance to the city for review and approval.

C. ~~(c)~~ An applicant may submit the SWPPP required under the CGP to the city in lieu of the ESCP, provided the SWPPP meets the city's ESCP requirements.

#### 8.30.220 - Post-construction requirements for specified site design only projects; Water Quality Management Plan ~~(WQMP)~~.

A. ~~(a)~~ Applicants for all new development and redevelopment projects ~~defined in the MS4 Permit (Water Quality Orders 2013-0001, and 2003-0005, and as amended, reissued, or modified by the SWRCB)~~, shall develop, submit to the city for approval, and implement the required WQMP. ~~Project~~ WQMPs shall: comply with all requirements specified by the



MS4 Permit and/or specified in ~~the City Development Municipal~~ Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.

~~B. (b) The city shall not issue an approval for a subdivision map, site plan, plan review, grading or building permit, development or improvement plan, or other similar city-issued any other permit, prior to receiving, reviewing, and approving a Final site design only WQMP for the project.~~

~~C. The Site Design Only WQMP shall include all proposed measures for site design as applicable in accordance with the MS4 Permit and as specified by the city. Applicants shall use the State Water Board SMARTS Post-Construction Calculator, or equivalent to quantify the runoff reduction resulting from implementation of the site design measures.~~

#### 8.30.230 - Post-construction requirements for regulated projects; Water Quality Management Plan (WQMP).

~~A. (a) Applicants for all new development and redevelopment projects shall develop, submit to the city for approval, and implement the required WQMP. WQMPs shall: comply with all requirements specified by the MS4 Permit and/or specified in the city Municipal Code; be prepared using the applicable city WQMP Template, and be submitted to the city for review and approval.~~

~~B. (c) A Preliminary Water Quality Management Plan (PWQMP) shall be submitted at the earliest planning stages for all Regulated Projects and shall be a condition of any required planning approval. A PWQMP shall include all sections in the Regulated WQMP template except for the BMP Educational Materials, O&M Plans and Maintenance Agreements.~~

~~(d) The City shall not issue an approval for a subdivision map, site plan, or other entitlement prior to receiving, reviewing, and approving a PWQMP. If a PWQMP is not approved, the city shall provide the project applicant with a written explanation for the disapproval. Any disapproved PWQMP must be revised by the project applicant and resubmitted to the city for approval before a project may proceed.~~

~~C. The city shall not issue an approval for a subdivision map, plan review, grading or building permit, or any other permit, prior to receiving, reviewing, and approving a Final WQMP for the project.~~

~~D. (e) The regulated WQMP shall include all required and proposed measures for site design, source control, runoff reduction, stormwater treatment, baseline hydromodification management, and LID techniques as applicable and as specified in the MS4 Permit. Structural BMPs shall be required for projects as specified in the MS4 Permit, and such the projects shall be designed so that the structural BMPs comply with the volume and/or flow design criteria specified by the city.~~

E. ~~(d)~~ In developing a regulated WQMP, applicants shall comply with the following provisions and the most current versions of any WQMP manuals, templates, or guidelines as may be subsequently developed or recommended by the city:

1. ~~(1)~~ All regulated WQMPs must identify the entity responsible for maintenance, provide maintenance schedules for post-construction structural and treatment control BMPs, and for any required hydromodification and LID features (collectively referred to in this subsection (as "stormwater management facilities"), and provide a plan which ensures continued maintenance and operational effectiveness for ~~such~~ stormwater management facilities.

~~(3)~~2. The regulated WQMP shall include at least one of the following to ensure continued proper operation and maintenance of the stormwater management facilities:

~~(A)~~a. A requirement that the project applicant/property owner enter into a formal stormwater management facilities operation and maintenance agreement with the city (~~the~~ "owner's agreement") prior to the issuance of any certificate of occupancy. ~~Such~~ The owner's agreement shall be recorded by the applicant/property owner with the County of San Bernardino against the property or properties involved, and ~~such owner's agreement~~ shall be binding on all subsequent owners of land served by the stormwater management facilities.

~~(B)~~(A) For multi-unit residential townhome and condominium projects, a requirement that the recorded conditions, covenants and restrictions (CC&Rs) covering the properties include written text stating that the homeowners association is required ~~to enter into the applicable Lighting and Landscape District~~ to ensure ongoing operation and maintenance of the stormwater management facilities. If there is no association, individual owners shall provide written documentation ensuring they will assume responsibility for the operation and maintenance of the stormwater management facilities until such responsibility is legally transferred. Such CC&Rs and written commitments shall run with the land and be enforceable against all subsequent owners and/or, homeowners associations, and their successors and assigns.

b. ~~(C)~~ Any other legally enforceable mechanism as approved by the city, such as recordation in the property deed, that assigns the operations and maintenance responsibility for the stormwater management facilities to the applicant/project owner or to the city.

3. ~~(3)~~ ~~Such~~ owner's agreement, CC&Rs and/or deeds shall, at a minimum, include conditions that the applicant, owner, or homeowner's association, and all subsequent owners, transferees, successors or assigns of such persons:

~~(A)~~a. Assume responsibility for maintenance and operation of all required stormwater management facilities to the MEP standard.

~~(B)~~b. Replace any degraded or failing structural BMP feature with new control measures or BMP features meeting the current standards of the city.

- ~~(G)c.~~ Conduct stormwater management facilities maintenance and inspections as required in the approved WQMP associated with the property.
- ~~(D)d.~~ Ensure that all stormwater management facilities are inspected at least annually, that inspection findings are reported to the city annually, and that inspection records ~~inspections~~ be retained and be available for review for at least three years.
- ~~(E)e.~~ Provide access to city staff for the ~~sole~~ purpose of performing operations and management inspections of any installed stormwater management facilities.
- F. ~~(e)~~ Prior to final inspection, ~~applicants, facility operators and/or property owners, as appropriate,~~ for new development and redevelopment projects covered by this section, shall:
1. ~~(1)~~ Construct all stormwater pollution control BMPs, structural or treatment control BMPs, and LID features strictly per design standards shown on the approved project plans and the WQMP;
  2. ~~(2)~~ Submit for city review and approval a BMP and LID maintenance schedule and inspection plan;
  3. ~~(3)~~ File a signed statement that the project site and all structural or treatment control BMPs and LID features shall be maintained in compliance with the WQMP; and
  4. ~~(4)~~ Submit to the city the owner's agreement for recordation, the recorded CC&Rs, or the recorded enforceable mechanism/deeds set forth in the above provisions, specifying the responsibility for and ensuring the continued operation and maintenance of post-construction structural and treatment control BMPs, and any required site design measures, ~~H~~hydromodification and LID features for the project.
- G. (f) Each project implementing a WQMP shall be individually evaluated to ascertain if the proposed project is in substantial conformance with the approved WQMP prior to issuance of the certificate of occupancy.
- H. (g) The WQMP must demonstrate to the city's satisfaction that proposed BMPs and LID features, numeric design criteria, or design elements meet the requirements of the municipal NPDES permit and this code.
- ~~(h) The city shall review any proposed WQMPs. If a WQMP is not approved, the city shall provide the project applicant with a written explanation for the disapproval. Any disapproved WQMP must be revised by the project applicant and resubmitted to the city for approval before a project may proceed. No subdivision map, site plan, grading or building permit, development or improvement plan or other similar city-issued permit shall be issued until the city has approved the WQMP.~~
- ~~(i) Compliance with an approved WQMP shall be a condition of any required planning approval.~~

- I. (j) Projects that do not require a WQMP as described in the MS4 Permit are subject to all applicable city post-construction requirements and conditions of approval.

~~8.30.230 - Reserved.~~

8.30.240 - Source control measures.

Projects with pollutant-generating activities and/or sources shall implement permanent and operational source control measures, as specified by the MS4 Permit ~~and/or~~ specified in the City Development Municipal Code, and documented using ~~City~~ regulated WQMP ~~t~~emplates.

8.30.250 - Authority to enter, inspect, monitor and sample.

Whenever the city conducts an inspection to confirm compliance with or enforce any of the provisions of this chapter, or whenever ~~any enforcement officer has~~there is reasonable cause to believe that there exists on any premises any condition which may constitute a violation of the provisions of this chapter, ~~such an~~ enforcement officer, city inspectors, or other authorized city representative may enter ~~such the property,~~ building or premises at all reasonable times, with presentation of proper identification, to inspect ~~the same~~ or perform any duty imposed upon the enforcement officer, city inspector, or other authorized representative by this chapter; including but not limited to: testing, sampling, monitoring and record examination. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry at the expense of the property owner.

8.30.260 - Requirement to sample and monitor.

The city may require any discharger ~~and/or~~ any person engaged in any activity that may cause illicit discharges; or cause or contribute pollutant discharges to the MS4, receiving waters, or groundwater, to perform sampling, monitoring and analyses and submit the resulting reports to the city. The burden and all costs associated with the required sampling, monitoring, analyses, and reports shall be borne by the discharger or person engaging in ~~such the~~ activity.

8.30.270 - Data collection.

The city may require any discharger or ~~responsible~~ person responsible for any industrial or commercial facility or for any new development or redevelopment project to submit information to the city or other agency as necessary to comply with the CGP, the IGP or to confirm ~~such the~~ facility's or project's compliance with this chapter.

8.30.280 - Enforcement.

A. The City Council of the city hereby declares any non-stormwater discharge to the land surface, the city's MS4, receiving waters, or groundwater a public nuisance, unless authorized under Section 8.30.110 of this chapter.

B. Any person violating any provision of this chapter, or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor.

~~C. To enforce the provisions of this chapter, Upon identification of any violation of this code or public nuisance, the city inspectors, enforcement officers, and other authorized personnel shall advise the person(s) deemed responsible in writing of the violation(s) by means of a notice of correction, notice of violation, stop work order, cease and desist order, or notice of public nuisance . The notice or order shall state a reasonable period of not less than seventy-two (72) hours during which correction or abatement must occur.~~

~~D. All other enforcement will follow the enforcement procedures as specified in Title 1, Chapter 1.12 of this code. Enforcement should be conducted in a manner consistent with the City NPDES Enforcement Response Plan. Where appropriate, the city will refer violations to the regional board.~~

#### 8.30.290 - Appeals.

~~All appeals will follow the procedures under Title 1, Chapter 1.12 of this code. Any responsible person served with a notice of violation, cease and desist, stop work or abatement order, or required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement officer or otherwise aggrieved by the decision of an authorized enforcement officer or the city manager, may appeal such notice, decision or order, within ten calendar days following service of the decision, notice or order by filing a written appeal with the city in the manner set forth in section 1.05.090 of this code. Appeal hearings and subsequent proceedings shall also be in accordance with the provisions of sections 1.05.090 through 1.05.100 of this code.~~

#### 8.30.300 - Acts in violation of the CWA and/or the Porter-Cologne Water Quality Control Act.

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the CWA and/or the Porter-Cologne Act and may be subject to the provisions of those acts, including civil and criminal penalties. ~~Any enforcement action authorized under this chapter shall also include written notice to the violator of such potential liability.~~

#### 8.30.310 - Compensation for damages.

Any person who discharges pollutants into the city's MS4 which cause or have the potential to cause increased maintenance of the system, non-routine inspection or sampling of the system, system blockages or other damage or interference in the city's MS4; or causes any other damages to the city, including the imposition of fines or penalties on the city by federal, state or local regulatory agencies; shall be liable to the city for all damages and additional costs, including ~~such~~ fines and penalties, plus reasonable attorneys' fees and costs of suit required to collect such amounts.

#### 8.30.320 - Remedies non-exclusive.

Each and every remedy available for the enforcement of this chapter shall be nonexclusive and it is within the discretion of the ~~city manager~~ director or city attorney to seek cumulative remedies.

## **Exhibit “B”**

1.12.130 - Special enforcement procedures.

### **17. Non-Stormwater Discharges**

- a. Abatement concerning non-stormwater discharges to the land surface, receiving waters, groundwater, or into the city’s MS4 shall be pursuant to Chapter 8.30 of this code.
- b. Enforcement concerning non-stormwater discharges to land surface, receiving waters, groundwater, or into the city’s MS4 pursuant to Chapter 8.30 of this Code.

## Exhibit C

### Chapter 15.06 - GRADING

#### 15.06.020 - Definitions.

~~"Construction general permit (CGP)" means the current version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities. The Construction General Permit (CGP) is issued by the Storm Water Resources Control Board (SWRCB) for storm water discharges associated with construction projects over one acre, or smaller sites that are part of a larger common plan of development or sale. (Also Defined in HMC 8.30.030).~~

~~"Erosion and sediment control plan" means a site-specific plan which identifies and describes the best management practices proposed to control erosion and prevent sediment and construction-related pollutants from being carried off-site by storm water~~

~~"Storm water pollution prevention plan (SWPPP)" means a site drawing with details, notes and related documents that identify the measures proposed by the permittee to (1) control erosion and prevent sediment and construction-related pollutants from being carried off-site by storm water, and (2) to prevent non-storm water discharges from entering the storm drain system.~~

~~"Storm water pollution prevention plan (SWPPP)" means a pollution control plan documenting site activities, pollutant sources; and all stormwater and non-stormwater BMPs used at the site, required under 40 CFR Part 122, the Clean Water Act (CWA), the CGP, Industrial General Permit (IGP), and most Municipal Separate Storm Sewer Systems (MS4) Permits. A plan to minimize and manage Pollutants to minimize Pollution from entering the MS4, identifying all potential sources of Pollution and describing planned practices to reduce Pollutants from discharging off the site.~~

#### 15.06.040 - Permit application submittals.

~~G. NPDES Permit Documents. For applicable projects, a SWPPP and a Water Quality Management Plan, each approved by the City, shall be provided with the grading permit application. Projects for which a SWPPP is not required shall provide a City-approved Erosion and Sediment Control Plan (ESCP).~~

#### ~~15.06.110 - National Pollutant Discharge Elimination System (NPDES) compliance.~~

~~A. General. All grading plans and permits shall comply with the provisions of this section for NPDES compliance.~~

~~All best management practices shall be installed before grading begins. All best management practices shall be updated as necessary to prevent erosion and control construction-related pollutants from discharging from the site. All best management practices shall be maintained in good working order to the satisfaction of the Building Official or designee unless final grading approval has been granted by the Building Official or designee and all permanent drainage and erosion control systems, if required, are in place.~~

~~B. Storm Water Pollution Prevention Plan (SWPPP). For project sites subject to the CGP, or when requested by the Building Official or designee, no grading permit shall be issued unless the plans for such work include a City-approved SWPPP with details of best management practices, including desilting basins or other temporary drainage or control measures, or both, as may be necessary to control construction-related pollutants which originate from the site as a result of construction-related activities. For project sites not subject to the CGP, no grading permit shall be issued unless the plans for such work include a City-approved ESCP.~~



# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and City Council members

**FROM:** Nils Bentsen, City Manager

**BY:** Michael Blay, Assistant City Manager  
Bethany Hudson, Engineering Technician  
Tina Souza, Senior Management Analyst

**SUBJECT:** Amend Administrative Bail Schedule

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### RECOMMENDED ACTION

It is recommended that the City Council adopt Resolution No. 2020-14, amending Resolution No. 2018-74, amending the City-Wide Administrative Bail Schedule.

### BACKGROUND

The City of Hesperia adopted Ordinance 2016-07 to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (MS4 Permit) on September 6, 2016. This ordinance gave the City adequate legal authority to implement and enforce the provisions under the MS4 Permit issued in February 2013. Part of the MS4 Permit implementation is Program Effectiveness Assessment and Improvement.

The City has currently been working with a consulting firm to evaluate and assess the City's Stormwater Management Program for compliance with the MS4 Permit requirements. During review of the City's Ordinance and Municipal Code, staff found that administrative fines for enforcement of Title 8, Chapter 8.30 directly associated with the City's Stormwater Management Program were not established. Further, review of the program resulted in several revisions to Chapter 8.30. The Administrative Bail Schedule is being updated along with the Municipal Code which is under a separate staff report.

### ISSUES/ANALYSIS

City Staff, along with recommendations from the consultant, established administrative fines that pertain directly to the NPDES Program implemented in compliance with the MS4 Permit. Part of MS4 Permit compliance is making sure that the City has Legal Authority to implement and enforce the permit requirements. Pursuant to the Municipal Code, violations of the adopted regulations are considered a public nuisance and the City may pursue administrative means to enforce the regulations in Title 8, Chapter 8.30. Inclusion of fines in the City-wide Administrative Bail Schedule related to nuisance activities will allow Code Enforcement, Law enforcement and other authorized staff to issue administrative citations for non-compliance and failure to abate violations related to the NPDES Program.

Pursuant to the Hesperia Municipal Code, a public nuisance and may be prosecuted using administrative means by Code Enforcement or Law Enforcement other authorized city staff. Inclusion of fines in the City Administrative Bail Schedule related to potential nuisance activities will also allow Code Enforcement and Law Enforcement to abate violations related to surface and groundwater protection through the use of administrative fines.

With the exception of special enforcement procedures identified in Chapter 8.30, enforcement will be in accordance with Chapter 1.12 of the Municipal Code. The administrative fines will ordinarily follow an order of progression. In general, a person in violation of Chapter 8.30 will have up to three or four separate opportunities to correct or abate a violation before administrative citations and related fines are issued dependent on the severity of the violation, failure to correct or abate the violation as requested by the City, and repeat offenses.

#### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

#### **ATTACHMENT(S)**

1. Resolution No. 2020-14
2. Exhibit "A" (City Administrative Bail Schedule revisions)

## **RESOLUTION NO. 2020-14**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING RESOLUTION NO. 2020-14, AMENDING RESOLUTION 2018-74, AMENDING THE CITY-WIDE ADMINISTRATIVE BAIL SCHEDULE**

**WHEREAS**, the administrative bail schedule was adopted via Resolution No. 2002-42; and

**WHEREAS**, the administrative bail schedule was amended most recently on December 18, 2018 by Resolution No.2018-74; and

**WHEREAS**, fines are levied as an incident of the voluntary act of an individual or business and not the result of property ownership; and

**WHEREAS**, the State Water Resources Control Board issued the Phase II Municipal Separate Storm Sewer System (MS4) Permit which became effective on July 1, 2013, and mandates certain municipalities to comply with permit regulations to reduce or eliminate pollutants from entering into the Waters of the US; and

**WHEREAS**, the Hesperia Municipal Code contains regulations related to the MS4 Permit requirements; and

**WHEREAS**, the City of Hesperia is responsible for enforcement of the Hesperia Municipal Code in its entirety; and

**WHEREAS**, the City of Hesperia desires to regulate and administer all activities under the MS4 permit regulations and as such, must adopt the appointed fine schedule to cite administratively, persons, businesses, and facility operators responsible and who violate the requirements, fail to abate a violation, or who commence operations without proper permits from the City.

**WHEREAS**, Pursuant to the Hesperia Municipal Code, a public nuisance and may be prosecuted using administrative means by Code Enforcement or Law Enforcement or other authorized City staff. Inclusion of fines in the City Administrative Bail Schedule related to potential nuisance activities will allow Code Enforcement and Law Enforcement to abate violations related to related to surface and groundwater protection through the use of administrative fines

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, AS FOLLOWS:

- Section 1. In all respects, the facts as set forth in this resolution are true and correct.
- Section 2. The following resolutions are hereby amended as of March 17, 2020: Resolution No. 2020-14.
- Section 3. The schedule of fines set forth in Exhibit "A" are hereby adopted and shall be applied to the specified violations. The effective date of this resolution shall be April 16, 2020.
- Section 4. Interpretation of this resolution may be made by the City Manager or designee.

Section 5. If any section, sub-section, sentence, clause, or word in the resolution is held to be invalid by decision of any court of competent jurisdiction or action of State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution.

Section 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March, 2020.

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Larry Bird  
Mayor

ATTEST:

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Melinda Sayre  
City Clerk

**Exhibit "A"**

SECTION	DESCRIPTION	1st	2nd	3rd
8.30.100	Prohibited Discharges	\$500.00	\$700.00	\$1,000.00
8.30.130	Illicit Discharge Abatement	\$500.00	\$700.00	\$1,000.00
8.30.140	Incidental Runoff	\$500.00	\$700.00	\$1,000.00
8.30.150	Illegal Connections	\$500.00	\$700.00	\$1,000.00
8.30.170	Pollutant Reduction	\$500.00	\$700.00	\$1,000.00
8.30.180	Implementation of Best Management Practices	\$500.00	\$700.00	\$1,000.00
8.30.190	Proper Permit Coverage and Compliance	\$500.00	\$700.00	\$1,000.00
8.30.200	Construction Site Stormwater Runoff Control	\$500.00	\$700.00	\$1,000.00
8.30.210	Erosion Sediment Control	\$500.00	\$700.00	\$1,000.00
8.30.240	Source Control Measures	\$500.00	\$700.00	\$1,000.00
8.30.250	Authority to Inspect, Monitor, and Sample	\$500.00	\$700.00	\$1,000.00
8.30.260	Sampling and Monitoring	\$500.00	\$700.00	\$1,000.00
8.30.280	Surface and Groundwater Protection Enforcement	\$500.00	\$700.00	\$1,000.00

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# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members  
Chair and Board Members, Hesperia Water District  
Chair and Board Members, Hesperia Housing Authority  
Chair and Board Members, Hesperia Community Development Commission

**FROM:** Nils Bentsen, City Manager

**BY:** Mike Blay, Assistant City Manager  
Tina Bulgarelli, Administrative Analyst

**SUBJECT:** Joint Resolution Amending the City-Wide Fee Schedule

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### RECOMMENDED ACTION

It is recommended that the Council and respective Boards adopt Joint Resolution No. 2020-13, Resolution No. HWD 2020-08, Resolution No. HHA 2020-03, Resolution No. HCDC 2020-02, amending Joint Resolution No. 2018-21, Resolution No. HWD 2018-07, Resolution No. HHA 2018-04, and Resolution No. HCDC 2018-04 amending the City-Wide fee schedule.

### BACKGROUND

On October 4, 2016, the City Council approved amendments to the City-Wide Fee Schedule related to several Senate Bills (SB 1473, SB 1186) and DUI Emergency Cost Recovery.

On December 6, 2016, the City Council approved amendments to the City-Wide Fee Schedule. These amendments included an attachment related to the fees charged for Fire Services, commonly known to the fee schedule as Appendix "B".

On October 3, 2017, the City Council approved amendments to the City-Wide Fee Schedule. These fees included changes to Engineering fees, water meter costs, Planning and Building and Safety fees, and new hourly rates for costs reasonably borne.

On January 16, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to plan review for on-site grading for Engineering.

On April 17, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to fees charged during real estate transactions.

On August 21, 2018, the City Council approved an amendment to the City-Wide Fee Schedule authorizing fees related to oversize vehicle parking, and adopting the San Bernardino County Fire Protection District Fee Schedule in correspondence with the Fire District Annexation.

On December 18, 2018, the City Council approved an amendment to the City-Wide Fee Schedule related to fees for Sidewalk Vending permits.

On November 19, 2020 the City Council approved an amendment to the City-Wide Fee Schedule related to the cost of water supplemental fees.

## **ISSUES/ANALYSIS**

The following fee schedule revisions are recommended:

### **Business License**

A new fee for the Stormwater program is recommended. This fee is related to Senate Bill 205, which requires certain types of commercial or industrial businesses to register their business with an appropriate SIC code and obtain an Industrial General Permit from the state. The law also requires the City to alert Lahontan if the business does not register with the State of California for an industrial permit. Staff is recommending this as an investigative fee to recover the cost of investigating each SIC code provided and researching whether the business has the required general permit.

### **Planning**

The Planning Division is charged with reviewing documents related to land use entitlement. At times, a customer submits a plan for review by the Planning Division and after approval, decides to change elements of the design that make either minor or major changes to the approved site. The fee for a revised Conditional Use Permit and a Revised Site Plan Review have traditionally been the same, regardless of the amount of design changes made after approval. Staff is recommending creating two separate fees, one for minor revisions, which is the fee that is charged now, and one for major revisions to recover the cost of doing a complete review of a site that is substantially changed after approval. These substantial changes often involve movement of lot lines, placement of buildings, driveway access, etc. and so must be reviewed in totality by the Development Review Committee. Increasing the fee for major revisions will ensure that the City is recovering its costs when a project is revised substantially after approval.

The second set of changes to the Planning fees have to do with the hourly rates adopted in 2017. This is a clean-up item to revise fees that were previously notated at the old hourly rate and updating them to the new hourly rate for planning to continue to recover costs.

There are also several items that staff recommends deleting. These recommendations include notating cost reasonably borne (CRB) on fee line items instead of on an as needed basis and items related to the stormwater program which are recommended to be moved to the NPDES Program fee section.

### **Engineering Fees**

During the review process staff collects a traffic impact study from projects which require civil review of traffic impacts. TKE, the City's contract engineering firm, reviews the studies as the City does not have a traffic engineer on staff. As such, staff is recommending an update to the review fee to recover the cost of having TKE review the documents and provide comment.

Staff is also recommending a new fee related to the analysis of traffic studies. At times it is necessary to determine whether a project will require a full traffic study and staff does not believe that charging the full study fee is appropriate. Staff is recommending a fee for a traffic



impact analysis review, which is a preliminary review of the project and some components of the traffic that will indicate whether a full traffic study is required. This process is happening currently, however, a lower fee is recommended as the process is less involved than a full traffic study. TKE 's traffic engineer also performs these reviews. Staff received these fee amounts from TKE for inclusion in the fee schedule.

Other changes to the Engineering fee schedule include removal of the stormwater related fees as it is recommended that they are located in a new section.

### **National Pollutant Discharge Elimination System Program (NPDES)**

The City currently works under a Municipal Separate Storm Sewer System (MS4) permit from the State for the Stormwater program. The fees presented to Council for recommended adoption are designed to recover the cost of administering the program, for which the State did not allocate any local funding. The program has three components, first, during construction, plan review and inspection are performed, and second, a post-construction portion that requires staff to ensure that all Best Management Practices that were designed during the first component are applied and maintained.

The third part of the program deals with the business licensing and regulation of businesses with activities that the state believes could cause illicit discharge to enter the stormwater system. This portion of the program has three parts. The first part is the post-construction Best Management Practice (BMP) inspection. These inspections take place before building permit final to ensure that the development complies with the MS4 permit and has installed permanent BMP's. The second portion is related to businesses who each year must self-certify to the City that they have properly maintained the BMP's that were inspected pre-final. The owner is required to do this annually as part of the MS4 permit. The final part is related to the business license and is restricted to commercial or industrial businesses that fall under a specific SIC code and must obtain and maintain an industrial general permit (IGP). Staff will review these licenses each year and ensure that they are complying.

### **Supplemental Water Charges**

On November 19, 2019 the Council adopted fees related to the Supplemental Water fee for Single Family Residential, Hotel, Motel and Multi-Family development. Staff is recommending adoption of a supplemental water fee related to commercial and industrial development. After review, staff believes that structuring the fee in the same way as Single Family Residential will adequately recover the cost of supplemental water for commercial and industrial development.

### **FISCAL IMPACT**

Adoption of this resolution will allow the City to recover costs related to the major redesign of projects that have already received a land use entitlement, and update the fee schedule to include the proper hourly rate for planning related review.

Adoption of the NPDES program fees will allow the City to recover the cost of administering the MS4 Permit and all its various components.

Adoption of the supplemental water fee for commercial and industrial will complete the update to the supplemental water rates that was initiated in 2019.

Staff believes that by continuing to update the fee schedule as needed, the City can continue to recover costs and fine-tune any fees that require updating on a regular basis.

**ALTERNATIVE(S)**

1. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Joint Resolution No. 2020-13, Resolution No. HWD 2020-08, Resolution No. HHA 2020-03, Resolution No. HCDC 2020-02
2. Exhibit "A" – Amendments to City-Wide Fee Schedule

**JOINT RESOLUTION NO. 2020-13  
RESOLUTION NO. HWD-2020-08  
RESOLUTION NO. HCDC-2020-02  
RESOLUTION NO. HHA-2020-03**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, AND THE BOARD OF DIRECTORS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AMENDING JOINT RESOLUTION NO. 2018-21, RESOLUTION NO. HWD 2018-07, RESOLUTION NO. HHA 2018-04, AND RESOLUTION NO. HCDC 2018-04, AMENDING THE CITY-WIDE FEE SCHEDULE**

**WHEREAS**, on December 6, 2016 the City of Hesperia City Council, Hesperia Water District, Hesperia Fire District, Hesperia Housing Authority and Hesperia Community Development Commission adopted a revised City-wide fee schedule inclusive of all City, District, and Commission fees.

**WHEREAS**, Pursuant to Article XIII B (Proposition 4) of the California Constitution, it is the intent of the City Council of the City of Hesperia, the Board of Directors of the Hesperia Water District, the Board of Directors of the Hesperia Housing Authority, and the Board of Directors of the Hesperia Community Development Commission to recover costs reasonably borne from fees and charges for services rendered; and

**WHEREAS**, Pursuant to Article XIII C and Article XIII D (Proposition 218) of the California Constitution the fees, charges and regulatory fees are levied as an incident of the voluntary act of an individual or business and not the result of property ownership; and

**WHEREAS**, the State adopted Senate Bill 205, which requires certain commercial and industrial businesses to register with the state and obtain an industrial general permit and the state has allocated the responsibility of ensuring that these businesses comply to local jurisdictions; and

**WHEREAS**, the City is required to possess and administer a Municipal Separate Storm Sewer System (MS4) permit and enact requirements that ensure that persons are not illicitly discharging into the groundwater system; and

**WHEREAS**, as such, the City has enacted the stormwater program to monitor and remediate illicit discharge, engage local businesses and residents in education and best practices for site maintenance during construction, and ensure that all development complies with the general permit; and

**WHEREAS**, fees are required to administer the program, provide plan review, inspections, monitoring, business license research and other components required by the program in order to remain in compliance with state regulations; and

**WHEREAS**, it is necessary to charge these fees during development and business license issuance and renewal to ensure that the program continues and the City is able to recover the cost of the program; and

**WHEREAS**, the Planning division reviews development prior to land use entitlement. During the review process, applicants design a project that is then reviewed and approved by Planning and various other departments; and

**WHEREAS**, should the applicant choose to modify the site design after approval, the project must return to the approval process, especially in the case of major site design changes that could affect parcels, building placement, and driveway access, and as such a fee is required to recover the costs of the second approval of the project; and

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, AND THE BOARD OF DIRECTORS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AS FOLLOWS:

- Section 1. In all respects, the facts as set forth in this resolution are true and correct.
- Section 2. The following resolutions are hereby amended: Joint Resolution No. 2018-21, Resolution No. HWD 2018-07, Resolution No. HHA 2018-04, and Resolution No. HCDC 2018-04. Resolution of the City Council and Board of Directors.
- Section 3. The schedule of fees and charges set forth in Exhibit "A" are hereby adopted and shall be applied to the specified services. The effective date of this resolution shall be May 17, 2020.
- Section 4. All fees described are for each identified process and additional fees shall be required for each additional process or service required.
- Section 5. Interpretation of this resolution may be made by the City Manager or designee. When there are conflicts between fees, the lower fee shall be applied.
- Section 6. If any section, sub-section, sentence, clause, or word in the resolution is held to be invalid by decision of any court of competent jurisdiction or action of State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution.
- Section 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 17<sup>th</sup> day of March, 2020

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Larry Bird, Mayor

ATTEST:

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Melinda Sayre, City Clerk

## Exhibit "A"

### SECTION 70:

### Business License

#### Business License

- |  |   |              |
|--|---|--------------|
|  | <b>I. Industrial General Permit (SB205)</b> | <b>\$100</b> |
|--|---|--------------|

### SECTION 190:

### Planning Fees

#### Planning Fees

- |     |  |  |
|-----|--|--|
|     | 1) <b>Accessory Dwelling Units</b>   | <b>\$140</b>                           |
| 2)  | Certificate of Correction/ <b>Certificate of Compliance</b>  | <del>\$91</del> <b>\$140</b>           |
| 3)  | Development Agreement (includes density bonus, etc.)   | <del>\$906</del> <b>+ CRB</b>          |
| 4)  | Document Review (Bio Study, Cultural, Traffic, Noise, etc.)  | <del>\$68 each</del> <b>\$140 each</b> |
| 16) | Revised Site Plan Reviews (SPRRs) and Revised Conditional Use Permits (CUPRs) – <b>Major Revisions</b> | <b>\$2,128</b>                         |
| 5)  | Revised Site Plan Reviews (SPRRs) and Revised Conditional Use Permits (CUPRs) – <b>Minor Revisions</b> | <del>\$257</del> <b>+ CRB</b>          |
| 18) | Site Plan Review   | <del>\$2,128</del> <b>+ CRB</b>        |
| 19) | Special Event/Temporary Use Permit/Temporary Occupancy Permit  | <del>\$91</del> <b>\$140</b>           |
|     | A. ABC and Public Convenience or Necessity Letters   | <del>\$45</del> <b>\$70</b>            |
|     | B. Site Review (without application)   | <del>\$91</del> <b>\$140</b>           |
|     | C. Zoning Letter   | <del>\$91</del> <b>\$140</b>           |
|     | D. <b>Mobile Food Service/Sidewalk Vending</b>   | <b>\$140</b>                           |
|     | <b>F. <del>WQMP consistency review with landscape/civil plans</del></b>                                | <b>\$131</b>                           |
|     | D. Tenant Improvement Plan Review  | <del>\$91</del> <b>\$140</b>           |
| 4.  | Miscellaneous (tenant improvements, additions, landscaping, etc.)                                      | <del>\$91</del> <b>\$140</b>           |

### SECTION 201:

### Engineering Fees

#### Engineering

- |  |  |                                       |
|--|--|---------------------------------------|
|  | <b>A. <del>WQMP Review</del></b>   |                                       |
|  | <b>1. <del>Single Family Residential – Infill</del></b>  | <del>\$225 + CRB after 3 checks</del> |
|  | <b>2. <del>MS4 Non Regulated Project (2,500 – 5,000 sq. ft. impervious area)</del></b>                                 | <del>\$300 + CRB after 3 checks</del> |
|  | <b>3. <del>MS-4 Regulated Preliminary Review Project/Commercial/Ind/Tracts (≥ 5,000 sq. ft. impervious area)</del></b> | <del>\$225 + CRB after 3 checks</del> |
|  | <b>4. <del>MS-4 Regulated Project/Commercial/Ind/Tracts (≥ 5,000 sq. ft. impervious area)</del></b>                    | <del>\$225 + CRB after 3 checks</del> |
|  | <b>5. <del>SWPPP Review ≥ 1 Acre</del></b>   | <del>\$300 + CRB after 3 checks</del> |
|  | <b>6. <del>Erosion/Sediment Control Plan &lt; 1 Acre</del></b>   | <del>\$86.00</del>                    |

## Exhibit "A"

### ~~B. SWPPP (off-site)~~

<del>Tracts</del>	<del>\$2,322 + CRB</del>
<del>Commercial/Industrial/ Multiple residential</del>	<del>\$1,548 + CRB</del>
<del>WQMP</del>	
<del>Commercial/Industrial/ Multi-Family</del>	<del>\$210 + CRB</del>
Professional Report Review (Geotechnical, Soils Report, Percolation, <del>Traffic</del> , Sewer Analysis)	\$214
<b>Traffic Scoping Analysis Review</b>	<b>\$500</b>
<b>Traffic Impact Study Review</b>	<b>\$2,500</b>

<b>SECTION 205</b>		<b>NPDES Program Fees</b>	
<b>NPDES Program</b>			
1)	<b>Plan Check</b>		
	<b>A. WQMP Review</b>		
	1. Site Design Only WQMP		
	a. Single Family Residential Infill	\$225	
	b. Accessory Dwelling Unit (ADU)	\$165	
	c. Commercial/Industrial/Multi-Family	\$300	
	2. Preliminary/Final Regulated WQMP		
	a. Commercial/Industrial/Multi-Family	\$1,500	
	b. Tracts	\$1,500	
	c. Tracts with more than 50 lots	\$1,500 + \$10 per lot	
	3. WQMP Consistency Review with Landscape/Civil Plans		
	a. Commercial/Industrial/Multi-Family	\$140	
	b. Tracts	\$210	
	4. Regulated WQMP Maintenance Agreement		
	a. Review and Processing	\$100	
	<b>B. Erosion Sediment Control Plan (ESCP) and Storm Water Pollution Prevention Plan (SWPPP)</b>		
	1. ESCP Sites less than 1 acre		
	a. Single Family Residential	\$125	
	b. Commercial/Industrial/Multi-Family	\$190	
	2. SWPPP Sites over 1 acre		
	a. Single Family Residential	\$1,000	
	b. Commercial/Industrial/Multi-Family	\$1,000	
	c. Tracts	\$1,000	
2)	<b>Inspections</b>		
	<b>A. Erosion Sediment Control (ESCP) –Sites less than 1 acre</b>		
	1. Single Family Residential Site Inspection	\$450	
	2. Commercial/Industrial Multi-Family Site Inspection	\$640	
	<b>B. Storm Water Pollution Prevention Plan (SWPPP) - Sites over 1 acre</b>		
	1. Single Family Residential Site Inspection	\$850 + CRB after 8	
	2. Commercial/Industrial Multi-Family Site Inspection	\$1,550 + CRB after 12	
	3. Tracts Site Inspection	\$2,350 + \$10 per lot + CRB after 12	
	<b>C. Post Construction BMP Installation Inspections</b>		
	1. Single Family Residential Site Design	\$110	

## **Exhibit "A"**

		<b>Measure Implementation</b>	
<b>3)</b>	<b>NPDES Program</b>	<b>2. Commercial/Industrial/Multi-Family</b>	
		a. Site Design Measure Implementation	<b>\$165</b>
		b. Above/Underground Detention/Retention	<b>\$170</b>
		<b>3. Tracts</b>	
		a. Site Design Measure Implementation	<b>\$65/lot</b>
		b. Detention/Retention System	<b>\$179</b>
		<b>1. Post Construction BMP Maintenance Program</b>	
		a. Annual BMP Certification Permit	<b>\$100</b>
		b. BMP Inspection	<b>\$110</b>
		c. Overdue Certification (greater than 30 days)	<b>\$200</b>
		<b>2. Business Operations NPDES Compliance Program</b>	
		a. Business Site Inspection	<b>\$110</b>

## Exhibit "A"



### Hesperia Water District Water / Sewer Connection Fee Summary **COMMERCIAL/INDUSTRIAL      PROPOSED**

#### Water Meters

\* All water meter fees are based on Building Plan submittal date. This rate includes District installation of service line.

Size	Meter	Installation	Facilities Fee	Supplemental Water Fee			Total
3/4"	162.00	1,240.00	3,513.00	3,076.00	-	-	\$ 7,991.00
1"	182.00	1,240.00	5,270.00	4,614.00	-	-	\$ 11,306.00

Size	Labor	Equipment	Street Repair	Meter and Materials	Facilities Fee	Supplemental Water Fee		Total
1-1/2"	727.00	941.00	1,796.00	1,145.00	14,052.00	12,304.00	-	\$ 30,965.00
2"	727.00	941.00	1,796.00	1,666.00	22,483.00	19,686.00	-	\$ 47,299.00
3"	820.00	1,008.00	1,796.00	3,350.00	44,966.00	39,373.00	-	\$ 91,313.00
4"	820.00	1,008.00	1,796.00	3,830.00	70,260.00	61,520.00	-	\$ 139,234.00
6"	-		-		140,520.00	123,040.00	-	\$ 263,560.00
8"					224,832.00	196,864.00	-	\$ 421,696.00

\*cost for Labor, Equipment, Street Repair and Meter and Materials for 6" and 8" meters determined at time of submittal

#### Fire Services

\* All fire service fees are based on Building Plan submittal date. District does not make connections.

Size	Facilities Fee	Supplemental Water Fee		Total
2"	\$ 702.60	\$ -		\$ 702.60
3"	\$ 1,405.20	\$ -		\$ 1,405.20
4"	\$ 2,810.40	\$ -		\$ 2,810.40
6"	\$ 4,215.60	\$ -		\$ 4,215.60
8"	\$ 9,133.80	\$ -		\$ 9,133.80
10"	\$ 14,052.00	\$ -		\$ 14,052.00

#### Sewer Connections

\*Sewer connection fees are based on Building Permit issuance date. District does not make connections.

Victor Valley Waste Water Reclamation Authority		Per Fixture Unit	Equivalent Dwelling Unit	Total Per EDU
Effective Date	July 1, 2009	\$ 187.50	20 Fixture Units	\$ 3,750.00
Effective Date	July 1, 2014	\$ 200.00	20 Fixture Units	\$ 4,000.00
Hesperia Water District		Per Fixture Unit	Equivalent Dwelling Unit	Total Per EDU
Effective Date	February 1, 2008	\$ 70.45	20 Fixture Units	\$ 1,409.00

Fixture units will be calculated by Hesperia Water District based on approved Building Plans.



# City of Hesperia

## STAFF REPORT



**DATE:** March 17, 2020

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Mike Blay, Assistant City Manager  
Tina Bulgarelli, Administrative Analyst

**SUBJECT:** Appeal of Revocation of Business License No. RB-43234

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### RECOMMENDED ACTION

It is recommended that the Council hear evidence and render a decision in the appeal of the revocation of Business License No. RB-43234.

### BACKGROUND

On January 14, 2020, Code Enforcement visited Magic Hands Massage at 12053 Mariposa Rd. Unit I. An inspection was conducted and during that inspection several violations were noted. Firstly, the employee was wearing a mini shirt that showed her buttocks. When asked if the business was open for massage, the employee responded yes. Second, upon interviewing the employee, it was discovered that there was no CAMTC certified massage technician working. CAMTC, or the CA Massage Therapy Council is a state agency that mandates that all massage businesses have a working CAMTC certified massage technician or therapist in order to be open. The Municipal Code also requires this. A citation was issued to the business for this violation.

A second inspection was done on January 17, 2020. Code Enforcement inspected the business and witnessed an adult female wearing lingerie, she was witnessed putting a short robe on and running out the back exit of the business into the alley way. Code Enforcement was able to document this with photographic evidence. A male customer was seen in the business and went and ran to a back room. None of the employees or the customer would come out of the rooms or speak to Code Enforcement. A citation was issued for this violation and Code Enforcement turned the case information over to Development Services to review for revocation.

A third inspection was done on January 27, 2020. Code Enforcement inspected the business and the employees were wearing short skirts and dresses and put coats on when the officer entered the business. One of the massage employees had a CAMTC license, but had no business license. The officer stated to them that they could not be open without both a valid business license and a CAMTC certification even if the business owner possessed a business license. A female business owner came to the business and spoke to the officer, she repeatedly asked the officer if he would like to go for lunch or a coffee and called him "honey". The officer denied her repeatedly and continued to ask for the required documents. She did not produce a business license or a CAMTC license for the officer. A citation was issued for these violations.

The Development Services Department is responsible for the issuance and regulation of business licenses. Upon review of the evidence the department elected to revoke the business

license of Magic Hands Massage per Municipal Code Section 5.20.070(N) which requires a massage facility to have a CAMTC licensed massage therapist working during all hours they are open and 5.20.040(7) which states that a license may be revoked if the CAMTC certified massage therapist has a license that has been suspended or revoked within the previous five years. Additionally, the department is electing to revoke per Hesperia Municipal Code Section 5.04.140(A)(5) to protect the health, safety and welfare of the public.

The business owner has requested an appeal of the revocation of the business license. Per Municipal Code Section 5.04.150 the City Council hears and renders a decision on the appeal of the license revocation.

## **ISSUES/ANALYSIS**

The business owner, Keith Roberts, was not present at his business during the inspections. He stated in his appeal letter that “no massages were being given at the time of inspection”. Staff believes that to be true in a fashion. Based on the wardrobe of the employees, lingerie, buttocks showing, short robes, and the fact that the male customer ran from Code Enforcement, staff suspects that Magic Hands massage is likely a house of prostitution and the employees were likely providing sexual acts.

The massage community is rife with these types of situations. One of the main goals of the CA Massage Therapy Council is to regulate the industry to attempt to reduce this type of activity. The City of Hesperia’s Municipal Code follows state law and requires that the business owner have a Business License, must employ a CAMTC massage therapist, and that person must be working all hours they are open, in fact they may not be open if that person is not present and working. The massage therapist, if they are not an employee of the establishment is also required to have a business license for any facilities that they work for, in addition to their CAMTC license.

## **FISCAL IMPACT**

There is no fiscal impact related to this item.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. City Revocation Letter dated March 4, 2020
2. Appeal Packet from Keith Roberts, Owner of Magic Hands Massage



# City of Hesperia

Gateway to the High Desert

March 4, 2020

Keith Roberts  
12053 Mariposa Rd. Unit I  
Hesperia, CA 92345

RE: Revocation of Business License Number RB-43234

Dear Mr. Roberts,

Please consider this a correction to the letter date January 31, 2020. The code sections referenced in that letter were from a previous version of our Municipal Code. The City considers your appeal to remain active and has scheduled an appeal hearing for March 17, 2020 at 6:30 pm at Hesperia City Hall. As a reminder, you must appear at the appeal hearing. We apologize for the inconvenience of the previous letter containing outdated code sections.

In regards to the revocation of Business License RB-43234 for Magic Hands, which remains an active action by the City:

Pursuant to Hesperia Municipal Code Section 5.04.150, this letter is to notify you that the City of Hesperia intends to revoke Business License Number RB-43234 for Magic Hands, located at 12053 Mariposa Unit I, Hesperia, CA 92345

The reason for this revocation is due to an incident that occurred on January 14, 2020. On this date, Magic Hands was inspected by Code Enforcement and a female staff member was providing massage services without a valid CAMTC License. This violation also occurred on January 17, 2020 when a second inspection took place.

Pursuant to Hesperia Municipal Code Section 5.20.040(7) a license may be revoked if "The massage facility license or similar license or permit held by the applicant, permit holder, or any massage therapist who will work at the proposed business or location has been revoked or suspended for cause within the five years preceding the application."

Pursuant to Hesperia Municipal Code Section 5.20.070(N) "No massage facility shall be open for business without at least one massage technician, massage practitioner, or massage therapist on the premises in possession of a valid, current license."

Per the Hesperia Municipal Code Section 5.04.140 (A)(5) a license may be revoked by the City if the license holder "Conducts business in a manner that is detrimental to the peace, health, safety, and general welfare of the public".

Per the Hesperia Municipal Code Section 5.04.150 this action may be appealed. As stated above, the City considers your appeal to continue to be active and has scheduled an appeal hearing at a City Council meeting in accordance with this code. You do not need to reapply for an appeal, however, you must appear at the scheduled appeal hearing.

Larry Bird, Mayor  
Cameron Gregg, Mayor Pro Tem  
Bill Holland, Council Member  
Brigit Bennington, Council Member  
Rebekah Swanson, Council Member

Nils Bentsen, City Manager

9700 Seventh Avenue  
Hesperia, CA 92345  
760-947-1000  
TD 760-947-1119

[www.cityofhesperia.us](http://www.cityofhesperia.us)



City of Hesperia

Please be reminded, it is unlawful to carry out business within the City without a valid business license.

Should you choose to not continue to appeal this ruling or should the City's determination be upheld, you may no longer conduct business within the City of Hesperia for a period of one year.

If you have any questions, please feel free to contact me at (760) 947-1901.

Sincerely,

Michael Blay  
Assistant City Manager

## ATTACHMENT 2



**City of Hesperia**  
**Police Multiple Response Program/Crime Free Rental**  
**Housing/Building and Safety**

**APPEAL OF ADMINISTRATIVE CITATION**  
**TO**  
**ADMINISTRATIVE HEARING OFFICER**

Date: 02/10/2020 (Date Filed With City)  
 Fee: \$25.00 (\$25.00)  
 Issuing Officer: \_\_\_\_\_  
 Receipt #: \_\_\_\_\_ Appeal of Citation#: \_\_\_\_\_  
 Site Address: 12053 Mariposa Rd. Unit 1, Hesperia  
 APN#: CA 92341  
 Property Owner: Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone #: \_\_\_\_\_  
 Tenant: Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone #: \_\_\_\_\_  
 Applicant: Name: Kerth Owen Roberts  
 (If other than Address: 723 E. Gray Ave. #148, Monterey Park  
 above.) Phone#: 610-288-7777 CA 91755

I hereby appeal the fees at the above referenced address for the following reason(s):  
On 01/14/2020 and 01/15/2020, no staff members were  
providing Massage service when these two inspection took  
place

(Describe what is being appealed and what action or change you seek, be specific and attach any support documents.)

I/We hereby certify that I/We are the Appellant(s) and that the foregoing statement, in all respects, is true and Correct.

 _____ (Signature)	<u>02/10/2020</u> _____ (Print name)
_____ (Signature)	_____ (Print name)
_____ (Signature)	_____ (Print name)

V-01 Screen Name  
 Hesperia, CA 92341  
 (760) 927-1113 Fax (760) 927-1413  
 www.cityofhesperia.net