

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



Meeting Agenda

Tuesday, October 19, 2021

Closed Session - 5:00PM

Regular Meeting - 6:30PM

**City Council Chambers
9700 Seventh Ave., Hesperia CA, 92345
City Clerk's Office: (760) 947-1007**

City Council Members

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

**Nils Bentsen, City Manager
Eric Dunn, City Attorney**

**See page (3) for details on public meeting guidelines during the
COVID-19 (Coronavirus) Pandemic**



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) 947-1026. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.



Public Access to City Council Meetings:

City Council meetings are now open to the public within the guidelines provided by the State which may include wearing masks and socially distancing from other attendees.

Public Comments can be made in-person at City Council Meetings and/or can be submitted via telephone recording that will be played during the meeting.

City Council meetings may be viewed live or after the event on the City's website at www.cityofhesperia.us.

Remote Public Comment:

Public Comments Made By-Telephone Process

Public comments will be accepted in advance until 5:30 pm on the day of the scheduled meeting by calling and leaving a recorded message at (760) 947-1056. Comments received past 5:30 pm will not be included in the record. If you would like to comment remotely, please follow the protocols below:

- Call (760)947-1056 to leave a detailed message of your public comment.

- Identify your name and the item you wish to comment on in your message.
- Contact information in your voicemail is optional, but will allow staff to easily follow up with you if necessary.
- Each public comment received by voicemail will be played by a staff member for up to three (3) minutes for Consent Calendar/New Business items and up to five (5) minutes for Public Hearing items.

Remote public comments received outside of the comment period outlined above will not be included in the record.

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

9700 7th Avenue, Council Chambers, Hesperia, CA 92345

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 - 5:00 PM

Roll Call

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

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

Two (2) Cases

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

1. Assistant Secretary for FHEO v. City of Hesperia, California, et al.; Case Number 09-16-4717-8
2. City of Hesperia v. Lake Arrowhead Community Service District, et al., Court of Appeal Case No. E067679 (Superior Court Case No. CIVDS1602017)
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 Cameron Gregg
Mayor Pro Tem Brigit Bennington
Council Member Larry Bird
Council Member William J. Holland
Council Member Rebekah Swanson*

D. Agenda Revisions and Announcements by City Clerk**E. Closed Session Reports by City Attorney****JOINT CONSENT CALENDAR**

1. Page 7 Consideration of the Draft Minutes from the Regular Meeting held Tuesday, October 5, 2021.

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, October 5, 2021.

Staff Person: Assistant City Clerk Erin Baum

Attachments: [Draft CC Min 2021-10-05](#)

2. Page 13 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 Administrative Services Casey Brooksher

Attachments: [SR Warrant Run 10-19-2021](#)
 [Attachment 1 - Warrant Run](#)

3. Page 15 Treasurer's Cash Report for the unaudited period ended August 31, 2021

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 Administrative Services Casey Brooksher

Attachments: [SR Treasurer's Report 10-19-2021](#)

[Attachment 1 - Treasurer's Report](#)

4. Page 25

Amendment to Contract with Data Ticket, Inc. for additional Hearing Officer

Recommended Action:

It is recommended that the City Council authorize the City Manager to approve an amendment of \$16,000 to the existing contract with Data Ticket, Inc., for a revised not-to-exceed amount of \$216,000, for the management and collection of citations, cost recovery, appeals, and additional hearing officer services for animal control.

Staff Person: Director of Government Services/City Clerk Melinda Sayre

Attachments: [SR Amendment to Contract with Data Ticket, Inc. 10-19-2021](#)

5. Page 27

Vehicle Procurement - Two Full-Size and Four Mid-Size Trucks

Recommended Action:

It is recommended that the City Council and Board of Directors of the Hesperia Water District (HWD) authorize the City Manager to approve the procurement of six (6) 2022 Ford 4 X 4 trucks, awarding the bid to Fairview Ford in the not-to-exceed amount of \$178,890. Two full-size trucks are for the Water Distribution and Production Programs and four mid-size trucks are for the Street Maintenance Traffic Program, Water Customer Service and Production Programs, and the Sewer Division.

Staff Person: Director of Public Works Jeremy McDonald

Attachments: [SR Vehicle Procurement 10-19-2021](#)

[Attachment 1- Bid Comparison RFB 2021-22-003 Two New Full-Size Trucks](#)

[Attachment 2- Bid Comparison RFB 2021-22-002 Four New Mid-Size Trucks](#)

6. Page 31

Amendment to Advance Disposal Franchise Agreement Establishing the Provisions of the HEART Program

Recommended Action:

It is recommended that the City Council authorize the City Manager to execute an amendment, in a form approved by the City Attorney, to add Section 5.14 of the Bestway Disposal, Inc., dba Advance Disposal (Advance Disposal) Franchise Agreement creating the standards of the Hesperia Environmental Assistance Response Team (HEART) Program.

Staff Person: Management Analyst Jamie Carone

Attachments: [SR Amendment to Advance Disposal Agreement HEART Program 10-19-2021](#)

[Resolution 2021-52](#)

[Attachment 2 - Amendment 2 to Franchise Agreement](#)

CONSENT ORDINANCES**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.

7. Page 39 Specific Plan Amendment SPLA21-00003; Applicant: SRD Design Studio, Inc; APNs: 3064-551-04, -07 and portions of 3064-551-03, -06 & -08

Recommended Action:

Place on second reading and adopt by title waiving the text of Ordinance No. 2021-09 approving Specific Plan Amendment SPLA21-00003 to change approximately 40 gross acres of land within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP).

Staff Person: Associate Planner Edgar Gonzalez

Attachments: [SR SPLA2021-00003 10-5-2021](#)
[Ordinance 2021-09 with Exhibit "A"](#)
[Attachment 2 - Planning Commission Staff Report with Attachments](#)

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.

8. Page 49 Consideration of a Tobacco Retail Licensing Ordinance

Recommended Action:

It is recommended that the City Council introduce and place on first reading Ordinance No. 2021-07 adopting Chapter 5.80 of the Hesperia Municipal Code, regulating tobacco product sales, requiring the licensure of tobacco retailers.

Staff Person: Management Analyst Jamie Carone

Attachments: [SR Consideration of a Tobacco Retail Licensing Ordinance 10-19-2021](#)
[Ordinance 2021-07](#)
[Attachment 2 - Exhibit A Municipal Code](#)
[Attachment 3 - Map of existing tobacco retailer locations](#)
[Attachment 4 - List of Current Hesperia Tobacco Retailers](#)

9. Page 67 Amend City Fee Schedule Related to the Deemed Approved Program and Implement Fees for the Tobacco Retailer License Program

Recommended Action:

It is recommended that the City Council and respective Commission/Boards adopt Joint Resolution No. 2021-51, CDC No. 2021-06, Resolution HHA No. 2021-10, and Resolution HWD No. 2021-19, amending the City-wide fee schedule related to the fees for the Deemed Approved Program and implement fees for the Tobacco Retailer License Program.

Staff Person: Administrative Analyst Tina Bulgarelli and Administrative Analyst Jacquelyn Castillo

Attachments: [SR Amend City Wide Fee Schedule 10-19-2021](#)
[Joint Resolution 2021-51](#)
[Attachment 1- Exhibit A City Fee Schedule Clean Copy](#)
[Attachment 2- Exhibit B City Fee Schedule Track Changes](#)

10. Page 75

Second Public Hearing - Redistricting due to 2020 Census

Recommended Action:

It is recommended that the City Council 1) Receive a presentation from National Demographics Corporation, the City's redistricting consultant, detailing the redistricting process and permissible criteria to be considered to create district boundaries; 2) Conduct the second public hearing to receive public input on the redistricting process and composition of districts; and 3) Provide any additional guidance concerning the drafting of redistricting maps.

Staff Person: Assistant City Clerk Erin Baum

Attachments: [SR Redistricting 10-19-2021](#)

NEW BUSINESS

11. Page 77

Potential Vaccine Ordinance Discussion Item

Recommended Action:

It is recommended that the City Council discuss a potential Ordinance prohibiting Hesperia businesses from requiring proof of a COVID-19 vaccine from patrons to enter their establishments.

Staff Person: City Attorney Eric Dunn

Attachments: [SR Potential Vaccine Ordinance Discussion 10-19-2021](#)

12. Page 79

Consideration of Resolutions Opposing Vaccine Mandates for School Children, Teachers and Other School Employees

Recommended Action:

It is recommended that the City Council consider Resolutions 2021-53 and 2021-54, opposing vaccination mandates for school children, teachers and other school employees.

Staff Person: Director of Government Services/City Clerk Melinda Sayre

Attachments: [SR Opposition to Vaccine Mandates 10-19-2021](#)
[Resolution 2021-53](#)
[Resolution 2021-54](#)

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, Erin Baum, Assistant City Clerk of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, October 14, 2021 at 5:30 p.m. pursuant to California Government Code §54954.2.

*Erin Baum,
Assistant 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.



City of Hesperia

Meeting Minutes - Final

City Council

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345

Tuesday, October 5, 2021

6:30 PM

**REGULAR MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA WATER DISTRICT
October 5, 2021
9700 7th Avenue, Council Chambers, Hesperia, CA 92345**

CLOSED SESSION - 5:30 PM

Roll Call

Present: 4 - Mayor Gregg, Mayor Pro Tem Bennington, Council Member Swanson and Council Member Holland

Absent: 1 - Council Member Bird

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

1. Assistant Secretary for FHEO v. City of Hesperia, California, et al.; Case Number 09-16-4717-8

CALL TO ORDER - 6:30 PM

A. Invocation

B. Pledge of Allegiance to the Flag

C. Roll Call

Present: 4 - Mayor Gregg, Mayor Pro Tem Bennington, Council Member Swanson and Council Member Holland

Absent: 1 - Council Member Bird

D. Agenda Revisions and Announcements by City Clerk

Item 6 from the Consent Calendar was moved to the New Business Calendar after the posting of the Agenda.

E. Closed Session Reports by City Attorney

ANNOUNCEMENTS/PRESENTATIONS

1. Certificate of Recognition to Eagle Scout Isaiah Herrera by the City Council
2. Traffic Enforcement Update by Jon Billings, Captain

JOINT CONSENT CALENDAR

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

Aye: 4 - Gregg, Bennington, Swanson and Holland

Nay: 0

Absent: 1 - Bird

1. Consideration of the Draft Minutes from the Regular Meeting held Tuesday, September 21, 2021.

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, September 21, 2021.

Sponsors: Assistant City Clerk Erin Baum

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 Water District.

Sponsors: Director of Administrative Services Casey Brooksher

3. Treasurer's Cash Report for the unaudited period ended July 31, 2021

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.

Sponsors: Director of Administrative Services Casey Brooksher

4. Vehicle Procurement for Water Production Program

Recommended Action:

It is recommended that the Board of Directors of the Hesperia Water District authorize the City Manager to adopt Hesperia Water District (HWD) Resolution No. HWD 2021-18, amending the Fiscal Year (FY) 2021-22 Budget and appropriating \$102,360, for the procurement of one (1) new Ford Heavy Duty F-550 truck with a welder body, and eleven foot (11') certified auto crane for the Production program from Sunrise Ford in Fontana.

Sponsors: Director of Public Works Jeremy McDonald

5. Final Tract Map 17959

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2021-49 approving Final Tract Map No. 17959 to create 31 Single-family Residential lots on approximately 15.6 gross acres designated R-1 18,000 located 218 feet south from the southwest corner of Ranchero Road and Farmdale Avenue (Applicant: Farmdale Homes, LLC APN: 3097-161-06).

Sponsors: Administrative Analyst Bethany Hudson

General Public Comments were heard at this time

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

*Bob Nelson commented on speaking limits.
Alexandria Dinsdale commented on a farmer's market.
Janine Dinsdale commented on a farmer's market.
Daniel Krist commented on community issues.
June Kripal commented on vaccines and HUSD.
Kelly Gregg commented on vaccines and HUSD.
Nickoli Boruff commented on vaccines and HUSD.
Darla Johnston commented on vaccines and HUSD.
Melissa King commented on vaccines and HUSD.
Cheri Garrison commented on community issues.
Aaron Atkins commented on vaccines and HUSD.
Deborah Philips commented on vaccines and HUSD.
Tina Viayra commented on vaccines and HUSD.
John Dunbar commented on vaccines and HUSD.
Kristy Philips commented on vaccines and HUSD.
Kaeden Bond commented on vaccines and HUSD.*

Council Comments were heard at this time.

COUNCIL COMMITTEE REPORTS AND COMMENTS

*Council Member Holland commented on vaccines and HUSD.
Council Member Swanson commented on vaccines and HUSD.
Mayor Pro Tem Bennington commented on vaccines and HUSD.
Mayor Gregg commented on vaccines and HUSD.*

Meeting went into Recess

Meeting Reconvened

PUBLIC HEARING

7. Formation of Underground Utility District 21-01

Recommended Action:

Staff recommends that the City Council adopt Resolution No. 2021-045 establishing an underground utility district at the Northwest corner of the intersection of Seventh Avenue and Ranchero Road (per Exhibits A1 & A2).

Sponsors: Project Construction Manager David Burkett

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

Aye: 4 - Gregg, Bennington, Swanson and Holland

Nay: 0

Absent: 1 - Bird

8. Specific Plan Amendment SPLA21-00003; Applicant: SRD Design Studio, Inc; APNs: 3064-551-04, -07 and portions of 3064-551-03, -06 & -08

Recommended Action:

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2021-09 approving Specific Plan Amendment SPLA21-00003 to change approximately 40 gross acres of land within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP).

Sponsors: Associate Planner Edgar Gonzalez

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

Aye: 4 - Gregg, Bennington, Swanson and Holland

Nay: 0

Absent: 1 - Bird

9. Conditional Use Permit CUP20-00003 and Minor Exception ME20-00003; Applicant: George Mikhail; APNs: 0357-304-01 & 02

Recommended Action:

The Planning Commission recommends that the City Council adopt Resolution No. 2021-48 approving CUP20-00003 and Minor Exception ME20-00003.

Sponsors: Senior Planner Ryan Leonard

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

Aye: 4 - Gregg, Bennington, Swanson and Holland

Nay: 0

Absent: 1 - Bird

NEW BUSINESS

6. Award Construction Contract for the Ranchero Road Corridor Widening Project, C.O. Nos. 7094 and 7139

Recommended Action:

It is recommended that the City Council and Board of Directors of the Hesperia Water District 1) award a construction contract for the Ranchero Road Corridor Widening Project (C.O. Nos. 7094 and 7139) to the

lowest responsive/responsible bidder, Sully-Miller Contracting Company, Inc. at the base bid amount of \$37,492,000; 2) award bid Add/Alternate Item C in the amount of \$423,630; 3) approve a 10% contingency in the amount of \$3,791,563 for a total not-to-exceed contract amount of \$41,707,193; 4) approve the design of the project represented by the plans and Contract Documents and Specifications; and 5) authorize the City Manager to execute the contract.

Sponsors: Management Analyst Tina Souza

A motion was made by Holland, seconded by Gregg, that this item be approved. The motion carried by the following vote:

Aye: 4 - Gregg, Bennington, Swanson and Holland

Nay: 0

Absent: 1 - Bird

10. Discussion of the development standards and requirements of metal accessory buildings.

Recommended Action:

It is recommended that the City Council review and discuss the existing development standards for the use of metal buildings in Hesperia.

Sponsors: Principal Planner Chris Borchert

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

There were no additional public comments at this time

COUNCIL COMMITTEE REPORTS AND COMMENTS

Mayor pro tem Bennington commented on her recent trip to the LOCC conference and a sales tax item for consideration.

Council Member Swanson commented on upcoming Trunk or Treat events in the area.

Council member Holland commented on vaccine mandates.

Mayor Gregg commented on support of an Oak Hills Farmer's Market.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

The City Manager extended support to the Secretary to the City Council.

ADJOURNMENT

Meeting was adjourned with wishes for a speedy recover to the Secretary to the City Council at 9:50 PM.

Erin Baum,
Assistant City Clerk

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City of Hesperia STAFF REPORT



DATE: October 19, 2021

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 Administrative Services
Anne Duke, Deputy Finance Director
Rosa Roman, Accountant

SUBJECT: 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.

BACKGROUND

The Warrant Run totals represented below are for the period September 04, 2021 through September 24, 2021.

<u>Agency/District</u>	<u>Accounts Payable *</u>	<u>Payroll</u>	<u>Wires</u>	<u>Totals</u>
City of Hesperia	\$4,455,842.50	\$241,011.06	\$959,049.00	\$5,655,902.56
Successor Agency	0.00	0.00	0.00	0.00
Housing Authority	289.80	0.00	0.00	289.80
Community Development Commission	0.00	0.00	0.00	0.00
Water	568,339.34	99,773.72	0.00	668,113.06
Totals	\$5,024,471.64	\$340,784.78	\$959,049.00	\$6,324,305.42

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

The wire amount for \$959,049.00 is to Wilmington Trust, N.A. for 2021B Statewide Community Infrastructure Program (Topaz SCIP) DIF Fees.

ATTACHMENT(S)

1. Warrant Runs

City of Hesperia
WARRANT RUNS
09/04/2021 - 09/24/2021

Attachment 1

FUND #	FUND NAME	W/E 9/10/2021	W/E 9/17/2021	W/E 9/24/2021	WARRANT TOTALS	Wires	YEAR-TO DATE TOTALS *	PRIOR FY YTD DATE TOTALS
Accounts Payable								
100	GENERAL	\$ 1,689,308.14	\$ 64,350.94	\$ 316,937.14	\$ 2,070,596.22	\$ -	\$ 7,301,528.11	\$ 6,434,156.17
204	MEASURE I - RENEWAL	\$ -	\$ -	\$ 997.50	\$ 997.50	\$ -	\$ 52,465.97	\$ 269,744.08
207	LOCAL TRANSPORT-SB 325	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,000.00	\$ 16,902.70
209	GAS TAX-RMRA	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 67,468.24	\$ 838,259.85
210	HFPD (PERS)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,007,746.00	\$ 975,994.00
251	CDBG	\$ 553.00	\$ -	\$ 15,860.00	\$ 16,413.00	\$ -	\$ 477,605.35	\$ 493,572.21
254	AB2766 - TRANSIT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
256	ENVIRONMENTAL PROGRAMS GRANT	\$ 44.01	\$ 12.00	\$ 3,392.10	\$ 3,448.11	\$ -	\$ 12,513.27	\$ 4,385.36
257	NEIGHBORHOOD STABILIZATION PROG	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,719.00
258	CDBG-CV CARES ACT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
260	DISASTER PREPARED GRANT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
263	STREETS MAINTENANCE	\$ 10,351.57	\$ 16,172.77	\$ 57,125.59	\$ 83,649.93	\$ -	\$ 519,564.92	\$ 758,788.93
300	DEV. IMPACT FEES - STREET	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 32,543.33	\$ 38,188.26
301	DEV. IMPACT FEES - STORM DRAIN	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,919.50	\$ 31,146.25
302	DEV. IMPACT FEES - FIRE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
303	DEV. IMPACT FEES - POLICE	\$ 17,048.00	\$ -	\$ -	\$ 17,048.00	\$ -	\$ 17,048.00	\$ -
304	DEV. IMPACT FEES - PUBLIC WKS.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
306	DEV. IMPACT FEES - 2018-STREETS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,901.83	\$ -
312	DIF 2018-POLICE FACILITIES	\$ 6,888.17	\$ -	\$ -	\$ 6,888.17	\$ -	\$ 6,888.17	\$ -
313	DIF A-04 DRAINAGE	\$ -	\$ -	\$ -	\$ -	\$ 959,049.00	\$ 959,049.00	\$ -
396	DEVELOPMENT IMPACT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
399	FEMA-1203-DR (DISASTER)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
400	2004 STREETS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
401	CITY DEBT SERVICES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
402	WATER RIGHTS ACQUISITION	\$ -	\$ -	\$ 1,074,335.70	\$ 1,074,335.70	\$ -	\$ 1,074,335.70	\$ -
403	2013 REFUNDING LEASE REV BONDS	\$ -	\$ 632,972.25	\$ -	\$ 632,972.25	\$ -	\$ 632,972.25	\$ -
501	CFD 91-3 BELGATE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
504	CITY WIDE STREETS - CIP	\$ -	\$ -	\$ 731.50	\$ 731.50	\$ -	\$ 67,537.16	\$ 72,044.79
509	CITY FACILITIES CIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
800	EMPLOYEE BENEFITS	\$ 77,101.58	\$ 129,883.12	\$ 151,429.21	\$ 358,413.91	\$ -	\$ 1,990,714.16	\$ 1,953,321.15
801	TRUST/AGENCY	\$ 635.00	\$ 185,802.77	\$ 3,910.44	\$ 190,348.21	\$ -	\$ 856,339.48	\$ 893,114.85
802	AD 91-1 AGENCY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
804	TRUST-INTEREST BEARING	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,283.00	\$ -
807	CFD 2005-1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 925,830.82	\$ 1,481,101.05
808	HFPD (TRANSITION)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 369,875.18	\$ 349,144.56
815	PLAN REVIEW TRUST - FRONTIER	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	CITY	\$ 1,801,929.47	\$ 1,029,193.85	\$ 1,624,719.18	\$ 4,455,842.50	\$ 959,049.00	\$ 16,427,129.44	\$ 14,611,583.21
163	REDEVELOP OBLIG RETIREMENT-2018	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,657,907.27	\$ 7,577,378.44
	SUCCESSOR AGENCY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,657,907.27	\$ 7,577,378.44
370	HOUSING AUTHORITY	\$ -	\$ -	\$ 289.80	\$ 289.80	\$ -	\$ 3,894.38	\$ 17,499.92
	HOUSING AUTHORITY	\$ -	\$ -	\$ 289.80	\$ 289.80	\$ -	\$ 3,894.38	\$ 17,499.92
170	COMMUNITY DEVELOPMENT COMMISSION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,135.42
	COMMUNITY DEVELOPMENT COMMISSION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,135.42
700	WATER OPERATING	\$ 368,403.60	\$ 39,727.50	\$ 149,240.89	\$ 557,371.99	\$ -	\$ 3,296,033.58	\$ 9,902,394.29
701	WATER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,540.15	\$ 403,649.21
710	SEWER OPERATING	\$ 3,320.84	\$ 3,201.96	\$ 4,176.39	\$ 10,699.19	\$ -	\$ 931,413.62	\$ 612,601.85
711	SEWER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 148,077.37	\$ 752,901.72
713	SEWER CAPITAL REHAB AND REPLACE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 54,882.50
720	RECLAIMED WATER OPERATIONS	\$ 76.10	\$ 192.06	\$ -	\$ 268.16	\$ -	\$ 755.46	\$ -
	WATER	\$ 371,800.54	\$ 43,121.52	\$ 153,417.28	\$ 568,339.34	\$ -	\$ 4,383,820.18	\$ 11,726,429.57
	ACCOUNTS PAYABLE TOTAL	\$ 2,173,730.01	\$ 1,072,315.37	\$ 1,778,426.26	\$ 5,024,471.64	\$ 959,049.00	\$ 28,472,751.27	\$ 33,934,026.56
REG. PAYROLL								
	City	\$ -	\$ 241,011.06	\$ -	\$ 241,011.06	\$ -	\$ 1,431,826.29	\$ 1,323,597.39
	Housing Authority	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 745.24	\$ 914.61
	Water	\$ -	\$ 99,773.72	\$ -	\$ 99,773.72	\$ -	\$ 603,753.95	\$ 613,545.54
	PAYROLL TOTAL	\$ -	\$ 340,784.78	\$ -	\$ 340,784.78	\$ -	\$ 2,036,325.48	\$ 1,938,057.54

* The year to date totals for this Warrant Report are for the 2021-22 fiscal year starting July 1, 2021; however, the year-to-date totals include a total of \$219,412.79 in payments issued on 6/28/21 and 6/29/21.

City of Hesperia

STAFF REPORT



DATE: October 19, 2021

TO: Mayor and Council Members
City Council, Serving 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 Administrative Services
Anne Duke, Deputy Finance Director
Nichole Eddleman, Financial Analyst

SUBJECT: Treasurer's Cash Report for the unaudited period ended August 31, 2021.

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 August 31, 2021.

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

<u>FUND</u>	<u>VALUE</u>
General Fund (100 & 800)	\$ 13,100,739.65
Fire District Fund (200)	321.00
HFPD (PERS) (210)	2,246,480.90
AB27666 - Transit (254)	23,891.04
AB3229 Supplemental Law (255)	79,507.66
AD No. 91-1 (802)	372,163.04
Beverage Recycling Grant (256)	198,162.84
CFD 2005-1 (807)	620,804.44
HFPD Transition (808)	13,546.44
City Wide-Capital Projects (504)	(495,063.49)
Community Dev Block Grant (251, 252, & 253)	341,985.87
Development Impact Fund (300-304)	5,574,723.96
Development Impact Fund 2018 (306-312)	8,657,115.28
Development Impact Fund A-04 Drainage (313)	960,135.17
CDBG-CV Cares Act (258)	0.00
Disaster (260)	44,131.74
Gas Tax Fund (205)	686,634.05
Gas Tax - RMRA (209)	861,853.31
Gas Tax Swap (206)	424,291.32
Local Transportation SB325 (207)	2,230,773.87
Measure I - Renewal (204)	6,940,694.14
Neighborhood Stabilization Prog (257)	2,445,007.31
Public Works Street Maint (263)	775,729.77
Trust Fund (801, 803-806, & 815)	1,908,081.27
2012 Water Rights Acquisition (402)	1,622,136.85
2013 Refunding Lease Rev Bonds (403)	1,948,110.64
TOTAL CITY FUNDS	\$ 51,581,958.07

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY

<u>FUND</u>	<u>VALUE</u>
RORF Retention - (163)	\$ <u><u>603,907.87</u></u>

HESPERIA HOUSING AUTHORITY

<u>FUND</u>	<u>VALUE</u>
Hesperia Housing Authority Fund (370)	\$ 3,658,172.41
VVEDA Housing Authority (371)	1,820,137.53
TOTAL HOUSING AUTHORITY FUNDS	\$ <u><u>5,478,309.94</u></u>

COMMUNITY DEVELOPMENT COMMISSION

<u>FUND</u>	<u>VALUE</u>
Community Development Commission Fund (170)	\$ <u><u>(600,672.50)</u></u>

WATER

<u>FUND</u>	<u>VALUE</u>
Water Operating (700)	\$ 8,722,567.66
Water Capital (701)	(7,506,873.51)
Water Capital Rehab and Replace (703)	1,421,230.63
Water Contamination Mitigation (704)	1,915,695.21
Sewer Operating (710)	13,671,208.64
Sewer Capital (711)	3,024,885.77
Sewer Capital Rehab and Replace (713)	740,382.21
Reclaimed Water Operations (720)	(234,292.52)
TOTAL WATER FUNDS	<u>\$ 21,754,804.09</u>

City of Hesperia
Investment Report
Unaudited
August 31, 2021

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>
Investments under the direction of the City:								
Local Agency Investment Funds	State of Calif.	0.221%	31-Aug-21	Demand	\$ 47,133,466.01	47,133,466.01	47,133,466.01	
Local Bank Checking Accounts	U.S. Bank	n/a	31-Aug-21	Demand	4,448,492.06	4,448,492.06	4,448,492.06	
Total Unaudited Investments under the direction of the City					\$ 51,581,958.07	\$ 51,581,958.07	\$ 51,581,958.07	

Investments under the direction of fiscal agents:

2012 Lease Revenue Bonds	US Bank	0.000%	31-Aug-21	Demand	1.82	1.82	1.82	2012 - Water Rights Revenue Fund
2012 Lease Revenue Bonds	US Bank	0.010%	31-Aug-21	Demand	1,452,245.71	1,452,245.71	1,452,245.71	2012 - Water Rights Reserve Fund
2012 Lease Revenue Bonds	US Bank	0.000%	31-Aug-21	Demand	0.31	0.31	0.31	2012 - Water Rights Surplus Revenue Fund
2013 Refunding Lease Revenue Bonds	US Bank	0.000%	31-Aug-21	Demand	3.75	3.75	3.75	2005 Civic Plaza - Revenue Fund
2013 Refunding Lease Revenue Bonds	US Bank	0.000%	31-Aug-21	Demand	1,149,840.62	1,149,840.62	1,149,840.62	2005 Civic Plaza - Reserve Fund
2013 Refunding Lease Revenue Bonds	US Bank	0.000%	31-Aug-21	Demand	0.31	0.31	0.31	2005 Civic Plaza - Surplus Rev Fund
2014 CFD 2005-1 Refunding	US Bank	0.010%	31-Aug-21	Demand	134.98	134.98	134.98	2014 CFD 05-1 - Special Tax Fund
2014 CFD 2005-1 Refunding	US Bank	0.000%	31-Aug-21	Demand	922,118.75	922,118.75	922,118.75	2014 CFD 05-1 - Bond Fund
2014 CFD 2005-1 Refunding	US Bank	0.010%	31-Aug-21	Demand	1,428,083.72	1,428,083.72	1,428,083.72	2014 CFD 05-1 - Reserve Fund
2014 CFD 2005-1 Refunding	US Bank	0.010%	31-Aug-21	Demand	23,889.62	23,889.62	23,889.62	2014 CFD 05-1 Administrative Expense Bonds
Deposits - Workers' Comp	PERMA	n/a	31-Aug-21	n/a	1,526,516.50	1,526,516.50	1,526,516.50	GL 1352
Total Unaudited Investments under the direction of fiscal agents					\$ 6,502,836.09	6,502,836.09	6,502,836.09	

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 Villaseñor, Senior Accountant

Investment Report

Unaudited

August 31, 2021

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

Local Agency Investment Funds	State of Calif.	0.221%	31-Aug-21	Demand	\$ 551,826.11	\$ 551,826.11	551,826.11	
Local Bank Checking Accounts	U.S. Bank	n/a	31-Aug-21	Demand	52,081.76	52,081.76	52,081.76	
Total Unaudited Investments under the direction of the City					\$ 603,907.87	\$ 603,907.87	\$ 603,907.87	

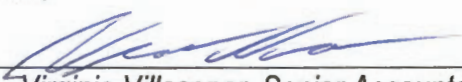
Investments under the direction of fiscal agents:

2018 Refunding Bonds	US Bank	0.000%	31-Aug-21	Demand	1.00	1.00	1.00	2018A & 2018B - Debt Service Account
2018 Refunding Bonds	US Bank	0.030%	31-Aug-21	Demand	2,137,990.64	2,137,990.64	2,137,990.64	2018A & 2018B - Interest Account
2018 Refunding Bonds	US Bank	0.030%	31-Aug-21	Demand	5,520,000.00	5,520,000.00	5,520,000.00	2018A & 2018B - Principal Account
2018 Refunding Bonds	US Bank	0.000%	31-Aug-21	Demand	1.00	1.00	1.00	2018A & 2018B - Reserve Account
Total Unaudited Investments under the direction of fiscal agents					\$ 7,657,992.64	\$ 7,657,992.64	\$ 7,657,992.64	

**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

Hesperia Housing Authority

ATTACHMENT 3

Investment Report

Unaudited

August 31, 2021

<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>
Investments under the direction of the City:							
Local Agency Investment Funds	State of California	0.221%	31-Aug-21	Demand	\$ 5,005,853.69	5,005,853.69	5,005,853.69
Local Bank Checking Accounts	U.S. Bank	n/a	31-Aug-21	Demand	472,456.25	472,456.25	472,456.25
Total Unaudited Investments under the direction of the City					\$ 5,478,309.94	\$ 5,478,309.94	\$ 5,478,309.94

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**August 31, 2021

<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>
Investments under the direction of the City:							
Local Agency Investment Funds	State of California	0.221%	31-Aug-21	Demand	\$ (548,869.76)	(548,869.76)	(548,869.76)
Local Bank Checking Accounts	U.S. Bank	n/a	31-Aug-21	Demand	(51,802.74)	(51,802.74)	(51,802.74)
Total Unaudited Investments under the direction of the City					\$ (600,672.50)	\$ (600,672.50)	\$ (600,672.50)

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

Hesperia Water District
Investment Report
Unaudited
August 31, 2021

ATTACHMENT 5

<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	0.221%	31-Aug-21	Demand	\$ 19,878,642.79	19,878,642.79	19,878,642.79	
Local Bank Checking Accounts	U.S. Bank	n/a	31-Aug-21	Demand	1,876,161.30	1,876,161.30	1,876,161.30	
Total Unaudited Investments under the direction of the City					\$ 21,754,804.09	\$ 21,754,804.09	\$ 21,754,804.09	

Investments under the direction of fiscal agents:

Deposits - Workers' Comp	PERMA	n/a	31-Aug-21	n/a	760,308.36	760,308.36	760,308.36	GL 1352
Total Unaudited Investments under the direction of fiscal agents					\$ 760,308.36	\$ 760,308.36	\$ 760,308.36	

**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 Villasenor, Senior Accountant

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City of Hesperia

STAFF REPORT



DATE: October 5, 2021
TO: Mayor and City Council Members
FROM: Nils Bentsen, City Manager
BY: Melinda Sayre, Director of Government Services/City Clerk
SUBJECT: Amendment to Contract with Data Ticket, Inc. for additional Hearing Officer Services

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to approve an amendment of \$16,000 to the existing contract with Data Ticket, Inc., for a revised not-to-exceed amount of \$216,000, for the management and collection of citations, cost recovery, appeals, and additional hearing officer services for animal control.

BACKGROUND

In 2012, the City contracted with Data Ticket, Inc. (Data Ticket) to provide for the management and collection of citations, cost recovery, appeals and specific hearing officer services. In 2015, the City also re-instituted the use of the special assessment program offered by the County of San Bernardino for collection of outstanding fines. These two programs are used in conjunction to collect fines and fees due from enforcement procedures.

On June 5, 2018, the City Council authorized the current three-year contract with Data Ticket in the amount of \$200,000, with an option to extend for two additional years. The contract was extended for one year on July 1, 2021. The current contract expiration date is June 30, 2022, with one additional one-year extension available.

ISSUES/ANALYSIS

The Animal Control program previously contracted with Graves & King LLP for hearing officer services and that contract expired on September 30, 2021. In September 2021, the City released a Request for Proposal (RFP) for hearing officer services and two responses were received and evaluated by a panel of staff pursuant to the City's Purchasing policy, with Data Ticket deemed the highest ranked firm.

The contract amendment of \$16,000 will be sufficient to cover costs for the current fiscal year.

FISCAL IMPACT

The FY 2021-22 Budget includes funding for these services.

ALTERNATIVE(S)

1. Provide alternate direction to staff.

ATTACHMENT(S)

None

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City of Hesperia

STAFF REPORT



DATE: October 19, 2021

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

FROM: Nils Bentsen, City Manager

BY: Jeremy McDonald, Director of Public Works
Robert Worby, Fleet/Warehouse Supervisor

SUBJECT: Vehicle Procurement – Two Full-Size and Four Mid-Size Trucks

RECOMMENDED ACTION

It is recommended that the City Council and Board of Directors of the Hesperia Water District (HWD) authorize the City Manager to approve the procurement of six (6) 2022 Ford 4 X 4 trucks, awarding the bid to Fairview Ford in the not-to-exceed amount of \$178,890. Two full-size trucks are for the Water Distribution and Production Programs and four mid-size trucks are for the Street Maintenance Traffic Program, Water Customer Service and Production Programs, and the Sewer Division.

BACKGROUND

The Fiscal Year (FY) 2021-22 Budget includes funding for the replacement of the six vehicles. These existing units have reached the end of their useful lifespan as annual costs attributed to maintaining the assets exceed salvage value. The current four (4) trucks (service and utility vehicles) in the Water Division were purchased between 2001 and 2006, and have over 155,000 miles; the Street Maintenance Traffic Program utility truck was purchased in 2006, has a faulty engine control module and approximately 107,000 miles; and finally the Sewer Division utility vehicle was purchased in 2007 and has approximately 110,000 miles. Additional benefits for the replacement vehicles include improved occupant safety and lower fuel expenditures.

ISSUES/ANALYSIS

The Public Works Division released two formal requests for bids (RFB's) on Thursday, September 9, 2021, soliciting bids from vendors both locally and out of the area to maximize bid response. A public bid opening was held for RFB 2021-22-002 and RFB 2021-22-003 on Tuesday, September 28, 2021, and two responses were received. One of the bids that was received was incomplete from Victorville Motors. Staff recommends awarding the bid to Fairview Ford who has been deemed to be the lowest responsive/responsible vendor.

FISCAL IMPACT

Funding for the purchase of the replacement vehicles has been included in the FY 2021-22 Budget.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Bid results.

RFB 2021-22-003 Two (2) New Full-Size 4 X 4 Trucks

Bid Comparison Type: **Taxable**

Bid Comparison Completed By: **R. WORBY**

Date: **9/28/2021**

			Fairview Ford San Bernardino, CA			Victorville Motors Victorville, CA		
Item No.	Qty	Description	Bidder Item	Unit Cost	Extended Amount	Bidder Item	Unit Cost	Extended Amount
1	2	Two (2) New Full-Size 4 X 4 Trucks	Ford F-150 Supercabs	\$28,998.00	\$57,996.00	Ram 1500 Quad Cabs	\$42,375.00	\$84,750.00
1	2	California Tire Fee (Non-Taxable)	N/A	\$8.75	\$17.50	N/A	\$0.00	\$0.00
1	2	Third Key	N/A	\$0.00	\$0.00	N/A	\$420.00	\$840.00
			Total Bid Before Tax		\$58,013.50	Total Bid Before Tax		\$85,590.00
			Sales Tax		\$4,494.69	Sales Tax, Title, and Document Fees		\$7,952.00
			Bid Amount (with tax)		\$62,508.19	Bid Amount (with tax)		\$93,542.00
			Total Actual Bid		\$62,508.19	Total Actual Bid		\$93,542.00
			Submitted Bid Amount		\$62,510.20	Submitted Bid Amount		\$93,542.00
			Difference		\$2.01	Difference		\$0.00
			Final Total		\$62,508.19	Final Total		\$93,542.00
			WINNING BID			INCOMPLETE BID (EMAILED WITH NO ATTACHMENTS FILLED OUT)		

NOTE: No Bid Responses Received From Greiner GMC, Rotolo Chevrolet, Sunland Ford, Sunrise Ford, Ed Butts Ford, Mountain View Chevrolet, Or Mark Christopher Chevrolet.

RFB 2021-22-002 Four (4) New Mid-Size 4 X 4 Trucks

Bid Comparison Type: **Taxable**

Bid Comparison Completed By: **R. WORBY**

Date: **9/28/2021**

			Fairview Ford San Bernardino, CA		
Item No.	Qty	Description	Bidder Part #	Unit Cost	Extended Amount
1	4	Four (4) New Ford Full-Size 4 X 4 Trucks	Ford Ranger Supercabs	\$26,994.00	\$107,976.00
1	4	California Tire Fee (Non-Taxable)	N/A	\$8.75	\$35.00
			Total Bid Before Tax		\$108,011.00
			Sales Tax		\$8,368.14
			Bid Amount (with tax)		\$116,379.14
			Total Actual Bid		\$116,379.14
			Submitted Bid Amount		\$116,379.16
			Difference		\$0.02
			Final Total		\$116,379.14
			WINNING BID		

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City of Hesperia

STAFF REPORT



DATE: October 19, 2021

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Rachel Molina, Assistant City Manager
Jamie Carone, Management Analyst

SUBJECT: Amendment to Advance Disposal Franchise Agreement Establishing the Provisions of the HEART program

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to execute an amendment, in a form approved by the City Attorney, to add Section 5.14 of the Bestway Disposal, Inc., dba Advance Disposal (Advance Disposal) Franchise Agreement creating the standards of the Hesperia Environmental Assistance Response Team (HEART) Program.

BACKGROUND

On May 18, 2021, Staff introduced a report to the City Council on a proposed program that would take a proactive approach to mitigating the perpetual illegal dumping issue that plagues much of the high desert. The City Council gave direction to conduct, at a later date, a Proposition 218 Public Hearing on the matter and the subsequent rate increase for the program.

On July 20, 2021, a Public Hearing was held whereby new maximum rates were established to fund the HEART Program. The increase in rates was determined by the total cost to fund the program including software for reporting and tracking, specialty vehicles, equipment, and adequate staffing.

ISSUES/ANALYSIS

An amendment to the Amended and Restated Exclusive Franchise Agreement for Provision of Solid Waste Handling Services is necessary to determine and finalize the requirements, provisions, and responsibilities of the City of Hesperia and Advance Disposal in facilitating the City's new HEART Program.

The new Agreement between the City of Hesperia and Advance Disposal provides a definition for the HEART Program and articulates that the Program consists of both proactive and reactive measures to address illegal dumping within City boundaries. The amendment also describes the protocol for receiving and addressing specific complaints regarding illegal dumping that will be reported and received through the HEART Program software including the provision to address said complaints.

Per the amendment, Advance Disposal will be responsible for proving the City of Hesperia with reports on a quarterly basis or upon request. These reports will include information on the number

of reports received, the location of illegal dumping, the dates cases are closed, and the number of outstanding cases, among other metrics.

This amendment also aims to address customer service expectations and includes provisions such as proper training for Customer Service Representatives, ensuring sufficient staffing levels for the HEART Program, and all other operations, and addressing customer complaints as shown in "Attachment 2."

FISCAL IMPACT

There is no fiscal impacts associated with the recommended actions.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. 2021-052
2. Amendment No 2 to Franchise Agreement

RESOLUTION NO. 2021-052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING AN AMENDMENT TO THE AMENDED AND RESTATED EXCLUSIVE FRANCHISE AGREEMENT WITH ADVANCE DISPOSAL FOR PROVISION OF SOLID WASTE HANDLING SERVICES WITHIN THE CITY LIMITS OF THE CITY OF HESPERIA.

WHEREAS, on April 20, 2000, the City of Hesperia, California and Bestway Disposal, Inc., dba Advance Disposal (Advance Disposal) entered into an Agreement and Exclusive Permit for the collection and disposal of solid waste within the City of Hesperia; and

WHEREAS, on February 21, 2012, the City of Hesperia and Advance Disposal entered into an agreement and Restated Exclusive Franchise Agreement for the collection and disposal of solid waste within the City of Hesperia; and

WHEREAS, the City of Hesperia and Advance Disposal seek to establish a City-wide cleanup program called the Hesperia Environmental Assistance Response Team (HEART) Program commencing October 20, 2021, whereby Advance Disposal will proactively, and in response to notification, collect and dispose of illegally dumped solid waste; and

WHEREAS, On July 20, 2021, following a Proposition 218 hearing, the City adopted a rate structure to fund the HEART Program, including the software program for reporting and tracking, specialty vehicles, equipment, and adequate staffing; and

WHEREAS, a new section 5.14 will be added to the existing Agreement and will include the terms agreed upon by the City of Hesperia and Advance Disposal for the full and successful operation of the HEART program; and

WHEREAS, the amendment to the Agreement will include additional customer service provisions to ensure customer complaints are being addressed, staff are properly trained, and response times are reduced; and

WHEREAS, the City Council has determined that the provisions of the HEART Program and the customer service additions as identified in "Attachment 2" are fair and reasonable for the additional solid waste collection and disposal services to be provided by Advance Disposal.

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

- Section 1. All of the recitals in this Resolution, as set forth above, are true and correct.
- Section 2. The provisions for the HEART Program as set forth in "Attachment 2" of this Resolution are hereby adopted.
- Section 3. The effective date of this Resolution shall be October 20, 2021 at which time the HEART Program will be fully operational.

Section 4. 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 19th day of October 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre
City Clerk

AMENDMENT NO. 2 TO
AMENDED & RESTATED EXCLUSIVE FRANCHISE AGREEMENT
FOR PROVISION OF SOLID WASTE HANDLING SERVICES

THIS AMENDMENT NO. 2 TO AMENDED & RESTATED EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF SOLID WASTE HANDLING SERVICES ("Amendment") is made and entered into as of October 20, 2021 by and between BESTWAY DISPOSAL, INC. dba ADVANCE DISPOSAL ("Franchisee") and CITY OF HESPERIA, a municipal corporation of the State of California ("City"). City and Franchisee are occasionally herein referred to each as a "Party" and collectively as the "Parties".

RECITALS

A. The Parties previously entered into that certain Amended and Restated Exclusive Franchise Agreement for Provision of Solid Waste Handling Services dated February 21, 2012, as amended by Amendment No. 1 dated October 18, 2016 ("Agreement").

B. The Parties seek to establish a City-wide cleanup program commencing September 1, 2021, whereby Franchisee will proactively and in response to notification collect and dispose of illegally dumped solid waste.

C. On July 20, 2021, following a Proposition 218 hearing, the City adopted a rate structure to fund the program, including specialty vehicles, equipment, and staffing.

AGREEMENT

NOW THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are true and correct and are incorporated herein as if set forth in full.
2. **Definitions.** All capitalized terms shall have the same definitions ascribed to them in the Agreement.
3. **Hesperia Environmental Assistance Response Team Program.** A new section 5.14 is hereby added to the Agreement to read in its entirety as follows:

“5.14 Hesperia Environmental Assistance Response Team Program. The City has established a new Hesperia Environmental Assistance Response Team (“HEART”) Program for the collection and disposal of illegally-dumped Solid Waste on public and private property, commencing on September 1, 2021. The HEART Program consists of both proactive and reactive measures. Franchisee shall proactively travel throughout the City to locate and dispose of Solid Waste illegally dumped on private and public property.

Franchisee shall also respond to telephone calls and electronic communication from City staff and the members of the public reporting new locations of illegal dumping. These reports may be submitted via the HEART software program which will provide the public with the opportunity to report specific illegal dumping locations. Franchisee shall respond to reports made via the HEART program software within 72 hours of report receipt. Franchisee will be responsible for providing a report to the City on a quarterly basis, or upon request, that details the number of reports received through the HEART software, the dates the reports are received, the dates cases are closed, and the number of outstanding cases.

Franchisee shall be responsible for the implementation of the HEART Program including acquiring a specialty vehicle or vehicles equipped to pick up Bulky Waste and other Solid Waste and compacting such waste in the vehicle for disposal. Franchisee shall be solely responsible for the HEART reporting software (purchase and annual license), all other necessary equipment, and for staffing the Program. Franchisee acknowledges that the rate schedule adopted by the City on July 20, 2021 is sufficient to fully fund Franchisee's implementation and operation of the HEART Program.

Franchisee and City shall develop administrative procedures required for the HEART Program and shall agree to such procedures administratively in writing from time to time. Such procedures shall include the method of reporting dumping sites and materials collected, response times, methods of communication between the Parties and residents, areas of focus, timelines and collection routes, abatement warrants for private property, and other issues as may be determined by the Parties.

Annually, and upon hiring of new staff, the Franchisee is required to conduct thorough training of all Customer Service Representatives who may respond to calls and/or complaints regarding the HEART program. Franchisee shall provide training to staff with a focus on customer service, including contractor systems, policies and procedures of the HEART Program, submitting reports of illegal dumping, and the HEART Program software system.

The City reserves the right to require changes to the call routing process and the training and qualifications for Customer Service Representatives if a pattern of inaccurate information or complaints are observed.

The Franchisee shall provide sufficient staffing to meet and execute all requirements of this Agreement. Staffing shall include members responsible for outreach, education, customer training, and reporting. The Franchisee shall provide additional staffing as necessary to meet and execute the requirements of this Agreement. The Franchisee shall have written policies and procedures in place to guide recruiting and retaining the best human resources available.

Trained company representatives of the Franchisee will be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

Complaints of illegal dumping shall be resolved and closed out within 72 hours of receipt under

Attachment 2

normal operating conditions. All complaints shall be closed out in the HEART Program software. These performance standards shall be evaluated on a quarterly basis. Franchisee shall provide said reports to the City quarterly and upon request.

Franchisee shall promptly investigate and correct, where appropriate, any complaint by customer(s) in the franchise area with respect to its service or its employees. Franchisee shall maintain a written record of all customer complaints and the actions taken by Franchisee in response to these complaints. The City may request and receive from Franchisee an up-to-date written record of all customer complaints and actions taken by Franchisee in response to these complaints.

4. Full Force and Effect. Except as expressly modified herein, the provisions of the Agreement shall remain in full force and effect.

[Signatures On Next Page]

Attachment 2

IN WITNESS WHEREOF, the Parties hereto do hereby set their hands and seals as of the day and the year first written above.

CITY OF HESPERIA By: _____ Cameron Gregg, Mayor ATTEST: _____ Melinda Sayre, City Clerk APPROVED AS TO FORM: ALESHIRE & WYNDER, LLP _____ Eric L. Dunn, City Attorney	FRANCHISEE Bestway Disposal, Inc., dba Advance Disposal _____ By: Sheila Bath, President
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City of Hesperia

STAFF REPORT



DATE: October 5, 2021

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager **SECOND READING AND ADOPTION**

BY: Chris Borchert, Principal Planner
Edgar Gonzalez, Associate Planner

SUBJECT: Specific Plan Amendment SPLA21-00003; Applicant: SRD Design Studio, Inc; APNs: 3064-551-04, -07 and portions of 3064-551-03, -06 & -08

RECOMMENDED ACTION

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2021-09 approving Specific Plan Amendment SPLA21-00003 to change approximately 40 gross acres of land within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP).

PROJECT SUMMARY

Proposal: SRD Design Studio, Inc, submitted an application requesting a Specific Plan Amendment to change approximately 40 gross acres of land from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP). Over the past few years, the retail industry has undergone a major shift as traditional retail uses face stiffening competition from online-only stores. Although the City originally planned for the subject parcels to be developed with commercial uses, very little interest has ever been expressed from commercial developers. Given that the subject parcels are not located in close proximity to a freeway interchange, it is unlikely that the subject parcels would ever be developed with regional-serving commercial uses.

Location: Generally located on the west side of Highway 395, east of the wash and approximately 600 feet north of Aspen Street (APNs: 3064-551-04, -07 and portions of 3064-551-03, -06 & -08).

Planning Commission Review: On September 9, 2021, the Planning Commission voted 5-0 to forward this item to the City Council with a recommendation for approval.

Conclusion: The change from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP) is appropriate as retail trends are shrinking the amount of needed square footage and close proximity to a freeway interchange is critical. Furthermore, changing the zoning of the area to Commercial Industrial Business Park (CIBP) will further the City's goal to attract investment and jobs to the City.

ATTACHMENT(S)

1. Ordinance No. 2021-09, with Exhibit "A"
2. Planning Commission Staff Report with attachments

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA ADOPTING A SPECIFIC PLAN AMENDMENT TO CHANGE APPROXIMATELY 40 GROSS ACRES OF LAND WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM REGIONAL COMMERCIAL (RC) TO COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) (SPLA21-00003)

WHEREAS, on January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, On September 2, 2008, the City Council of the City of Hesperia adopted Ordinance No. 2008-12, thereby adopting the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, the applicant submitted an application for Specific Plan Amendment SPLA21-00003 described herein (hereinafter referred to as the "Application"); and

WHEREAS, the application proposes to change approximately 40 gross acres within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP); and

WHEREAS, there has been very little interest from developers to develop the property with commercial uses due to: 1) a shift in the retail industry as traditional retail uses face stiffening competition from online-only stores, and 2) the subject parcels are not located in close proximity to a freeway interchange; and

WHEREAS, it is unlikely the subject parcels would ever be developed with regional-serving commercial uses and are more likely to be developed with a mix of manufacturing, warehousing and light industrial uses that would otherwise be allowed in the Commercial Industrial Business Park (CIBP) zone; and

WHEREAS, the proposed Specific Plan Amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Specific Plan Amendment does not include any development. As future development is proposed, the proposed project will be reviewed independently for CEQA compliance. In addition, the proposed Specific Plan Amendment would not introduce any new significant environmental impacts that were not previously analyzed in the General Plan Environmental Impact Report; and

WHEREAS, on September 9, 2021, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed amendment and concluded said hearing on that date; and

WHEREAS, on October 5, 2021, the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed amendment and concluded said hearing on that date; and

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

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

Section 1. The City Council hereby specifically finds that all of the facts set forth in this Ordinance are true and correct.

Section 2. Based upon substantial evidence presented to the City Council, including written and oral staff reports, the City Council specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Ordinance, this Council hereby adopts Specific Plan Amendment SPLA21-00003, to change approximately 40 gross acres of land within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP), as shown on Exhibit "A".

Section 4. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 5. The City Clerk shall certify to the adoption of this 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 No. 2007-101

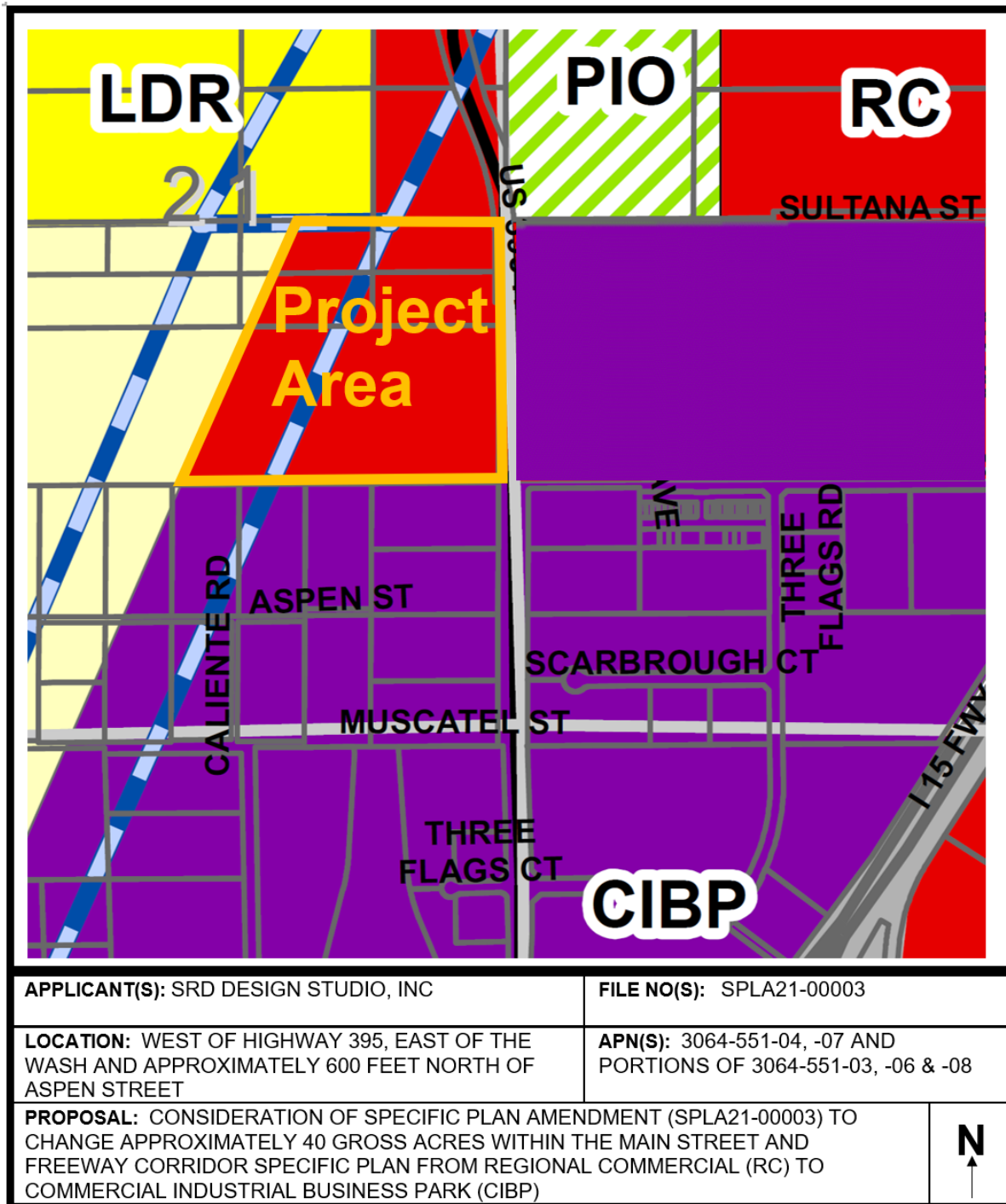
ADOPTED AND APPROVED on this 5th day of October 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre, City Clerk

Exhibit "A"



Attachment 2



DATE: September 9, 2021
TO: Planning Commission
FROM: Chris Borchert, Principal Planner
BY: Edgar Gonzalez, Associate Planner
SUBJECT: Specific Plan Amendment SPLA21-00003; Applicant: SRD Design Studio, Inc; APNs: 3064-551-04 through 07 and portions of 3064-551-03, -06 & -08

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2021-15 recommending that the City Council introduce and place on first reading an ordinance approving SPLA21-00003.

BACKGROUND

Proposal: SRD Design Studio, Inc, submitted an application requesting a Specific Plan Amendment to change approximately 40 gross acres within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP) (Attachment 1). The CIBP zone would permit service commercial, manufacturing, warehousing, and light industrial uses, mainly conducted in enclosed buildings.

Location: Generally located on the west side of Highway 395, east of the wash and approximately 600 feet north of Aspen Street (APNs: 3064-551-04, 07 and portions of 3064-551-03, 06 & 08).

General Plan and Land Uses: The project consists of five vacant parcels that total approximately 40 gross acres. The subject parcels are currently zoned Regional Commercial (RC) and Rural Estate Residential (RER) within the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 1. All surrounding properties consist of vacant land.

ISSUES/ANALYSIS

Land Use: The subject parcels are within the previous Competitive Edge racetrack, which was closed approximately three years ago, due to lack of business activity. The City of Hesperia recently offered the property for sale and received multiple bids in which several expressed interest in developing the subject parcels as industrial, specifically for warehouse distribution centers. As these types of uses are restricted in Regional Commercial (RC) zone, staff is recommending changing the zone from commercial to industrial to be consistent with adjacent zones in the area by allowing industrial uses.

Although the City originally planned for the subject parcels to be developed with commercial uses, very little interest has ever been expressed from commercial developers. Furthermore, within the past few years the retail industry has undergone a major shift as traditional retail uses face

stiffening competition from online-only stores. Given that the subject parcels are not located in close proximity to a freeway interchange, and retailers are closing some of their stores, it is unlikely that the subject parcels would ever be developed with regional-serving commercial uses.

Drainage: Any future development will be required to handle the increase in storm water runoff as a result of construction of a project. Future applicants will be required to submit a drainage study when they apply for a site plan review.

Water and Sewer: The subject parcels have the ability to connect to an existing water line and will be required to extend the existing sewer line for connection.

Environmental: The project is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Specific Plan Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Specific Plan Amendments are exempt if they do not propose to increase the density or intensity allowed in the General Plan. Regional Commercial has a higher impact to services than Commercial Industrial Business Park.

Conclusion: The proposed Specific Plan Amendment will allow future applications to move forward with building and site design for this location. The change from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP) is appropriate as retail trends are shrinking the amount of needed square footage and close proximity to freeway interchanges is critical. Furthermore, changing the zoning of the area to Commercial Industrial Business Park (CIBP) will further the City's goal to attract investment and jobs to the city.

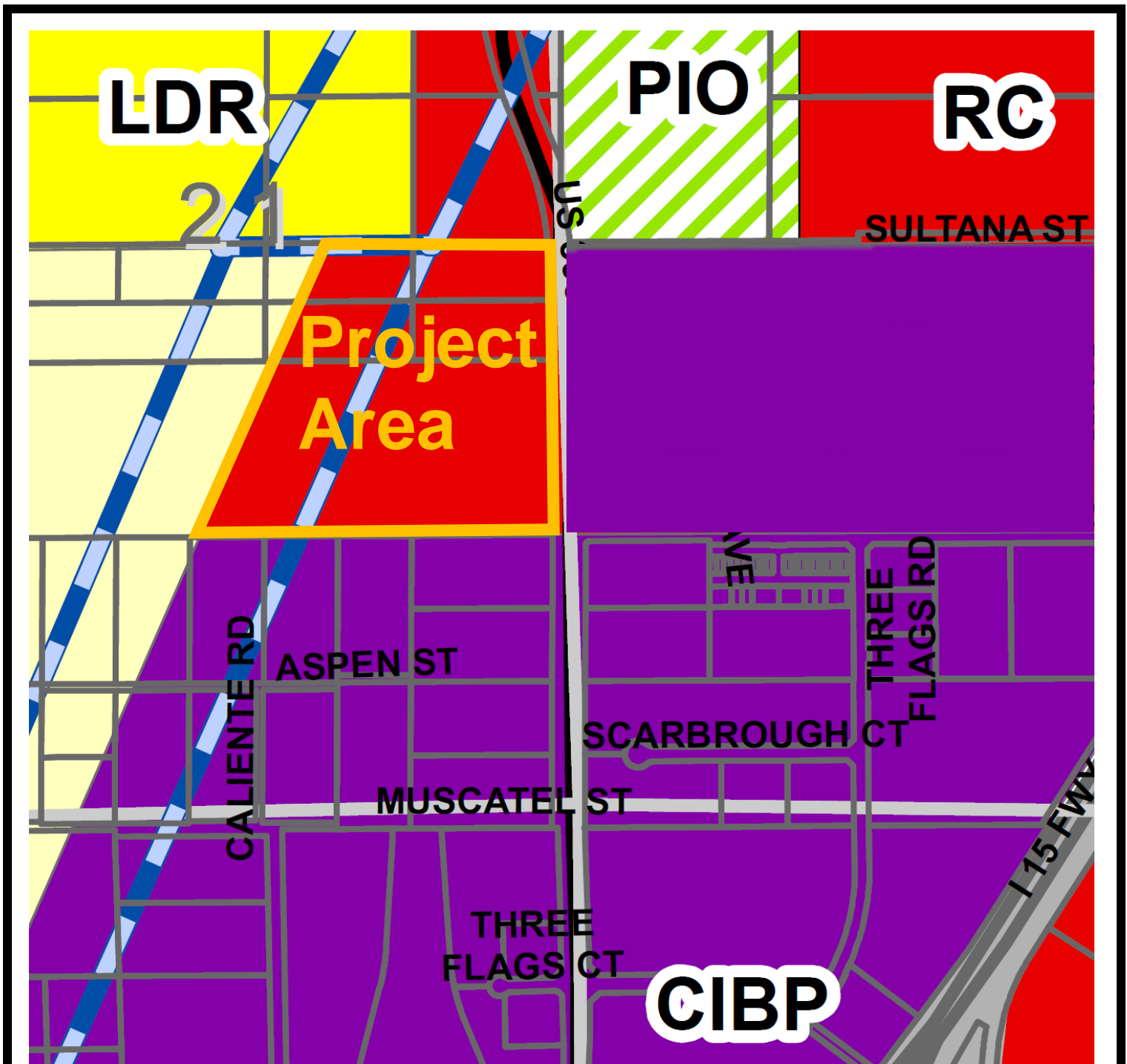
ALTERNATIVE(S)

Provide alternative direction to staff.

ATTACHMENT(S)

1. General Plan Map
2. Aerial Photo
3. Resolution No. PC-2021-15

ATTACHMENT 1



APPLICANT(S): SRD DESIGN STUDIO, INC

FILE NO(S): SPLA21-00003

LOCATION: WEST OF HIGHWAY 395, EAST OF THE WASH AND APPROXIMATELY 600 FEET NORTH OF ASPEN STREET

APN(S): 3064-551-04, -07 AND PORTIONS OF 3064-551-03, -06 & -08

PROPOSAL: CONSIDERATION OF SPECIFIC PLAN AMENDMENT (SPLA21-00003) TO CHANGE APPROXIMATELY 40 GROSS ACRES WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM REGIONAL COMMERCIAL (RC) TO COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP)



GENERAL PLAN & ZONING MAP

ATTACHMENT 2



APPLICANT: SRD DESIGN STUDIO, INC

FILE NO: SPLA21-00003

LOCATION: WEST OF HIGHWAY 395, EAST OF THE WASH AND APPROXIMATELY 600 FEET NORTH OF ASPEN STREET

APN(S): 3064-551-04, -07 AND PORTIONS OF 3064-551-03, -06 & -08

PROPOSAL: CONSIDERATION OF SPECIFIC PLAN AMENDMENT (SPLA21-00003) TO CHANGE APPROXIMATELY 40 GROSS ACRES WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM REGIONAL COMMERCIAL (RC) TO COMMERCIAL INDUSTRIAL BUISNESS PARK (CIBP)



AERIAL PHOTO

ATTACHMENT 3

RESOLUTION NO. PC-2021-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A SPECIFIC PLAN AMENDMENT TO CHANGE APPROXIMATELY 40 GROSS ACRES WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM REGIONAL COMMERCIAL (RC) TO COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) (SPLA21-00003)

WHEREAS, on January 5, 1998, the City Council of the City of Hesperia adopted Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, On September 2, 2008, the City Council of the City of Hesperia adopted Ordinance No. 2008-12, thereby adopting the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, the applicant has submitted an application for SPLA21-00003 described herein (hereinafter referred to as the "Application") for assessor's parcels 3064-551-04, 07, and portions of 3064-551-03, 06 & 08; and

WHEREAS, the application proposes to change approximately 40 gross acres within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP); and

WHEREAS, there has been very little interest from developers to develop the property with commercial uses due to: 1) a shift in the retail industry as traditional retail uses face stiffening competition from online-only stores, and 2) the subject parcels are not located in close proximity to a freeway interchange; and

WHEREAS, it is unlikely the subject parcels would ever be developed with regional-serving commercial uses and are more likely to be developed with a mix of manufacturing, warehousing and light industrial uses that would otherwise be allowed in the Commercial Industrial Business Park (CIBP) zone; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Specific Plan Amendment is exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Specific Plan Amendments are exempt if they do not propose to increase the density or intensity allowed by the General Plan, Regional Commercial uses are more intensive than Commercial Industrial type uses; and

WHEREAS, on September 9, 2021, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed amendment and concluded said hearing on that date; and

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

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. The subject parcels of the proposed Amendment are suitable for the land uses allowed in the Commercial Industrial Business Park zoning classification, and adequate space exists which can meet the standards for setbacks, height, floor area ratio, parking and circulation within the proposed Specific Plan designation.

Section 3. The proposed change in zone will not have a significant adverse impact on surrounding properties or the community in general, as the property is south and east of an existing CIBP zone, has the wash as a western border and Highway 395 as an eastern border.

Section 4. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan. The subject parcels are capable of utilizing existing supporting infrastructure and municipal services, as directed by the City's adopted General Plan.

Section 5. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Specific Plan Amendment SPLA21-0003, to change approximately 40 gross acres within the Main Street and Freeway Corridor Specific Plan from Regional Commercial (RC) to Commercial Industrial Business Park (CIBP) as shown on Attachment 1.

Section 6. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 9th day of September 2021.

Cody Leis, Chair, Planning Commission

ATTEST:

Maricruz Montes, Secretary, Planning Commission

City of Hesperia

STAFF REPORT



DATE: October 19, 2021

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Rachel Molina, Assistant City Manager
Jamie Carone, Management Analyst

SUBJECT: Consideration of a Tobacco Retail Licensing Ordinance

RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2021-07 adopting Chapter 5.80 of the Hesperia Municipal Code, regulating tobacco product sales, requiring the licensure of tobacco retailers.

BACKGROUND

Tobacco use remains the leading cause of preventable disease, disability, and death in the United States. Tobacco use is responsible for the premature death of more than 480,000 people each year and typically begins during adolescence. According to the Center for Disease Control (CDC), 90% of adults who smoke cigarettes daily began smoking before 18 years of age. Each day, approximately 1,600 youth smoke their first cigarette, and an estimated 34,000 youth start smoking in California each year despite federal and state laws prohibiting the sale of tobacco to youth under 21 years of age.

The enforcement of state and federal tobacco laws is difficult to enforce at the local level, and consequences for violating these laws aren't always punitive enough to deter violations, such as selling tobacco products to underage youth. Consequently, many states and cities have implemented Tobacco Retail Licensing (TRL) to reduce youth usage, bolster existing state and federal laws, and foster health equality. In short, a TRL program requires retailers to obtain a license before selling tobacco products and enforces the concept that retailers selling tobacco products must comply with all relevant tobacco laws or risk losing the ability to sell these products.

On May 4, 2021, City Council received a report regarding Tobacco Retail License programs and directed staff to draft an ordinance with a specific focus of deterring the sale of tobacco to underage youth.

ISSUES/ANALYSIS

The City of Hesperia has an interest in reducing the number of individuals of all ages who use cigarettes and other tobacco products, and a particular interest in protecting adolescents from tobacco usage and dependence as well as the illnesses associated with tobacco use. The proposed TRL program will provide the City with the ability to enforce existing state and federal laws and the opportunity to create provisions that specifically deter retailers from selling tobacco products to underage youth. Existing state and federal laws found in the TRL include no selling

tobacco to any person under 21 years of age and requiring a valid government-issued photographic identification to purchase tobacco products.

Youth often fall victim to deceptive and clever advertising created by tobacco companies. For example, many tobacco products are displayed in fun, colorful packaging and are sold in candy or fruit flavors to attract children and adolescents. Tobacco retailers also sell cigars and little cigars individually and offer coupons and discounts to make these products more accessible. Therefore, the proposed TRL ordinance includes provisions that ban the advertisement of flavored tobacco products. The license also prohibits the sale of individually packaged tobacco products and prohibits tobacco and flavored tobacco coupons, discounts, promotions, and/or samples.

The proposed program will mandate that all tobacco retailers within the City obtain a Tobacco Retail License. This license shall be renewed annually and shall be displayed at all times at the retail location. Violations of the TRL will result in license suspension or revocation, depending on the number and type of offense (see Exhibit A). Tobacco retailers who sell tobacco to a minor are subject to the penalties above; additionally, a retailer who sells tobacco to underage youth shall, upon the first violation of this nature, apply for a Conditional Use Permit (CUP) which may result in losing the ability to sell all tobacco products.

Operating without a TRL will constitute a violation of the license which will also result in suspension and/or revocation of the license. During the period of suspension or revocation, the retailer shall not sell, display, or advertise tobacco products of any kind.

The proposed TRL ordinance will include compliance checks conducted by the City's Code Enforcement department. The San Bernardino County Sheriff's Department may also conduct sting operations to ensure compliance with the TRL ordinance and state and federal tobacco laws. A violation of any existing state or federal law will constitute a violation of the Tobacco Retail License.

The proposed fee for the program will fund code enforcement and business licensing staff to monitor the inspection and citation process, to process and issue tobacco retail licenses, and to respond to questions and concerns from tobacco retailers and the public. Sting operations conducted by the San Bernardino County Sheriff's Department may also be partially funded by the associated fees. Proposed fees will be collected annually from each tobacco retailer and the license must be renewed each year.

FISCAL IMPACT

The cost for a Tobacco Retail License will be \$210.00. The fee was determined by calculating 1.5 hours of a Code Enforcement Officer's time for the initial inspection, upon license application, as well as additional inspections throughout the year. Additionally, the fee is comprised of one-half hour of a Community Development Technician's time to administer the program, enter data, and issue each Tobacco Retail License.

A Combination License Fee will be available for retailers who fall under the City's Deemed Approved program. The cost of this license will be \$485. This fee is comprised of the Deemed Approved fee of \$325 plus an additional \$160 to cover the costs of the additional Code Enforcement inspections upon license application and throughout the year. If necessary, a re-inspection fee may be charged for an additional \$60 for each inspection.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance No. 2021-07
2. Exhibit A Municipal Code
3. Map of existing tobacco retailer locations
4. List of Current Hesperia Tobacco Retailers

ORDINANCE NO. 2021-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING CHAPTER 5.80 OF THE HESPERIA MUNICIPAL CODE, REGULATING TOBACCO PRODUCT SALES, REQUIRING THE LICENSURE OF TOBACCO RETAILERS

WHEREAS, the City of Hesperia finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Hesperia to protect the health, safety, and welfare of our residents; and

WHEREAS, approximately 480,000 people die in the United States from smoking-related diseases and exposure to secondhand smoke every year, making tobacco use the nation's leading cause of preventable death; and

WHEREAS, 5.6 million of today's Americans who are younger than 18 years of age are projected to die prematurely from a smoking-related illness; and

WHEREAS, despite the state's efforts to limit youth access to tobacco, youth are still able to access tobacco products, as evidenced by the following:

- In California, research indicates over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26;
- Unless smoking rates decline, an estimated 441,000 of all California youth who are alive today will die prematurely from smoking-related diseases;
- In 2017, 22.8% of high school students in California had tried cigarette smoking;
- Between 2014 and 2018, electronic smoking device use among California youth increased from 14.1% to 46.2%; and

WHEREAS, California retailers continue to sell tobacco to underage consumers, evidenced by the following:

- 9.3% of high school students in California reported buying their own electronic cigarette from a store;
- 19.1% of California tobacco retailers unlawfully sold tobacco products to underage persons in 2018; and

WHEREAS, flavored tobacco products are used by the majority of youth and young adult tobacco users (86.4% and 57.7%, respectively) in California; and

WHEREAS, flavored products have been shown to be "starter" products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction; and

WHEREAS, studies indicate that laws prohibiting the sale of flavored tobacco products lead to decreases in youth tobacco use; and

WHEREAS, many retailers sell little cigars and cigars individually, making them more affordable and appealing to youth; and

WHEREAS, strong policy enforcement and monitoring of retailer compliance with tobacco control policies is necessary to achieve reductions in youth tobacco sales; and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law; and

WHEREAS, over 180 cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop youth from using tobacco; and

WHEREAS, the City of Hesperia has a substantial interest in protecting youth populations from the harms of tobacco use.

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

- Section 1. All of the facts set forth in this Ordinance are true, correct and are adopted as findings.
- Section 2. It is the intent of the City of Hesperia, in enacting this ordinance, to ensure compliance with the business standards and practices of the City of Hesperia and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco products to youth, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.
- Section 3. Chapter 5.80 of the Hesperia Municipal Code is hereby adopted as set forth in Exhibit "A".
- Section 4. It is the intent of the City Council of the City of Hesperia to supplement applicable state and federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraphs, sentence, clause, or phrase of this article, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this article or its application to any other person or circumstance. The City Council of the City of Hesperia hereby declares that it would have adopted each section, subsection, subdivisions, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.
- Section 5. This Ordinance shall take effect sixty (60) days from the date of adoption.

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 No. 2007-101.

ADOPTED AND APPROVED this 19th day of October, 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre, City Clerk

Exhibit A

Title 5 – Business Licenses and Regulations

Chapters

Chapter 5.80 – Licensing and Regulation of Tobacco Retailers

5.80.010 – Definitions

5.80.020 – General Requirements and Prohibitions

5.80.030 – Sale of Flavored Tobacco Products Prohibited

5.80.040 – Tobacco Product Pricing and Packaging

5.80.050 – Limits on Eligibility for a Tobacco Retailer License

5.80.060 – Application for Tobacco Retailer License

5.80.070 – License Issuance

5.80.080 – Denial of Tobacco Retailer License

5.80.090 – License Issuance

5.80.100 – Licenses not Transferable

5.80.110 – Past Violations

5.80.120 – License Conveys a Limited, Conditional Privilege

5.80.130 – Fee for License

5.80.140 – Compliance Monitoring and Inspections

5.80.150 – Suspension or Revocation of License

5.80.160 – Appeals

5.80.170 – License Issued in Error – Voiding of a License

5.80.180 – Tobacco Retailing without a Valid License

5.80.190 – Additional Remedies

SECTION 5.80.010 - Definitions

The following words and phrases, whenever used in this article, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (A) “Arm’s Length Transaction” means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing parties, neither of which is under any compulsion to participate in the transaction.

Attachment 2

- (B) "Child-Resistant Packaging" mean packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15 (b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.
- (C) "Cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than 4.5 pounds per thousand.
- (D) "Cigarette" means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased consumers as a cigarette described herein.
- (E) "Compliance Checks" means systems the department uses to investigate and ensure that tobacco retailers are following and complying with the requirements of this article. Compliance checks may involve the use of persons between the ages of 18 and 20 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the department or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.
- (F) "Delivery Sale" means the sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a tobacco retail establishment. Delivery sale includes the sale of any tobacco product when the sale is conducted by telephone, other voice transmissions, mail, the internet, or app-based service. Delivery sale includes delivery by licenses or third parties by any means, including curbside pick-up.
- (G) "Department" means the City of Hesperia Code Enforcement Department and any agency or person designated by the Department to enforce or administer the provisions of this article.
- (H) "Electronic Smoking Device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
- (I) "Flavored Tobacco Product" means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice.
- (J) "Full Retail Price" means the price listed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale, plus all applicable taxed and fees if such taxes and fees are not included in the list price.
- (K) "Little Cigar" means any toll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than 4.5 pounds per thousand. "Little Cigar" includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.

Attachment 2

- (L) “Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.
- (M) “Moveable place of business” means any form of business that is operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- (N) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (O) “Proprietor” means a person with an ownership or interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt.
- (P) “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.
- (Q) “Self-Service Display” means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.
- (R) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an electronic smoking device.
- (S) “Tobacco Product” means:
 - 1. Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
 - 2. Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
 - 3. Any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.
- (T) “Tobacco Retailer” means any person who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, tobacco products. This definition is without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.
- (U) “Tobacco Retailing” means engaging, in the activities of tobacco retailer.

5.80.020 – General Requirements and Prohibitions

- A. TOBACCO RETAILER’S LICENSE REQUIRED. It shall be unlawful for any person to engage in tobacco retailing in the City of Hesperia without first obtaining and maintaining a valid tobacco retailer’s license for each location at which tobacco retailing is to occur. Tobacco retailing without a valid tobacco retailer’s license is declared a public nuisance.

Attachment 2

- B. **LAWFUL BUSINESS OPERATION.** In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation of this code for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to the sale of tobacco products.
- C. **MINIMUM LEGAL SALES AGE.** No person engaged in tobacco retailing shall sell a tobacco product to a person under 21 years of age.
- D. **ADVERTISEMENT OF FLAVORED TOBACCO PRODUCTS PROHIBITED.** It shall be unlawful for any tobacco retailer to advertise or display signage that includes any flavored tobacco product.
- E. **ADVERTISEMENT FOR PRESUMPTIVE FLAVORED TOBACCO PRODUCTS PROHIBITED.** Advertising and signage shall not include presumptive flavored tobacco products, including a public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has a taste or smell other than tobacco shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.
- F. **DISPLAY OF LICENSE.** Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.
- G. **POSITIVE IDENTIFICATION REQUIRED.** No person engaged in tobacco retailing shall sell a tobacco product to another person without first verifying by means of unexpired government-issued photographic identification that the recipient is at least 21 years of age.
- H. **ON-SITE SALES.** All sales of tobacco products shall be conducted in-person in the licensed location. It shall be a violation of this article for any tobacco retailer or any of the tobacco retailer's agents or employees to engage in the delivery sale of tobacco products or to knowingly or recklessly sell or provide tobacco products to any person that intends to engage in the delivery sale of the tobacco product in the City.
- I. **MOBILE VENDING.** No license may issue to authorize tobacco retailing anywhere other than a fixed location. No tobacco retail license will be issued to a moveable place of business.
- J. **PACKAGING AND LABELING.** No tobacco retailer shall sell any tobacco product to any consumer unless the tobacco product: (1) is sold in the manufacturer's packaging intended for sale to consumers; (2) conforms to all applicable federal labeling requirements; and (3) conforms to all applicable child-resistant packaging requirements.
- K. **MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS.** No tobacco retailer shall sell:
 - (1) little cigars unless they are sold in a package of at least 20 little cigars; or
 - (2) cigars unless they are sold in a package of at least six cigars.
- L. **DISTRIBUTION OF TOBACCO SAMPLES OR PROMOTIONAL ITEMS.** It is unlawful for any person to distribute free or nominally priced tobacco products.
- M. **PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS.** No tobacco retailer shall:
 - (1) honor or redeem or offer to honor or redeem, a coupon to allow a customer to purchase a tobacco product for less than the full retail price.

Attachment 2

- (2) sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item.
 - (3) provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.
- N. All tobacco retailers must provide education and training to employees on local laws preventing sales to those under 21 years of age; training should include how to properly and accurately check a customer's age on a photo ID and how to refuse tobacco sales.

5.80.030 – Application for Tobacco Retailer License

- A. An application for a tobacco retailer's license shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. All proprietors must be listed on one application. All applications shall be submitted on a form supplied by the City of Hesperia.
- B. A license issued contrary to this article, contrary to any other law, or on the basis of false or misleading information shall be void. Nothing in this article shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.
- C. Applicant submissions shall contain the following information:
 - (1) The home address, name, business address, and telephone number of the location for which a license is sought.
 - (2) The business name, address, and telephone number of the location for which a license is being sought.
 - (3) The name and mailing address authorized by each proprietor to receive all communications and notices required by, authorized by, or convenient to the enforcement of this article.
 - (4) Proof that the location for which a tobacco retailer's license is sought has been issued all necessary state licenses for the sale of tobacco products.
 - (5) Whether or not any proprietor or any agent of the proprietor has admitted violating, or has been found to have violated, this article or any other local, state, or federal law governing the sale of tobacco products, and if so, the dates and locations of all such violations within the previous five years.
 - (6) A signed affidavit affirming that the proprietor has not sold and will not sell any tobacco product without a license required by this article.
 - (7) Such other information as the City deems necessary for the administration or enforcement of this article as specified on the application form required by this section.
 - (8) All required fees.
 - (9) Authorization for the City to seek verification of the information contained within the application.
 - (10) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

Attachment 2

- D. A licensed tobacco retailer shall inform the City in writing of any change in the information submitted on an application for a tobacco retailer's license within ten business days of change.
- E. An inspection will be conducted at the tobacco retail location upon application of a Tobacco Retail License. If violations are found, a Correction Notice will be sent to the applicant listing all violations. A license shall not be issued until all violations are corrected.

5.80.040 – License Issuance

Upon the receipt of a complete and adequate application for a tobacco retailer's license and the license fee required by this article, the City may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary.

5.80.050 – Denial of Tobacco Retailer License Application

- A. The City may deny an application for a tobacco retailer's license based on any of the following:
 - (1) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this article;
 - (2) The application seeks authorization for tobacco retailing at a location for which this article prohibits a license to be issued;
 - (3) The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a license to be issued;
 - (4) The application seeks authorization for tobacco retailing in a manner that is prohibited pursuant to this article, that is unlawful pursuant to any other article of this Code, or that is unlawful pursuant to any other law;
 - (5) Any other reason the granting of a license to the applicant is not consistent with the public health and welfare, including but not limited to, the applicant's history of noncompliance with this article and other laws relating to the sale of tobacco products.

5.80.060 – License Issuance

- A. RENEWAL OF A LICENSE. A tobacco retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a tobacco retailer license is one year. Each tobacco retailer shall apply for the renewal of their tobacco retailer's license and submit the license fee no later than 30 days prior to expiration of the current license. A retailer that fails to timely submit a renewal application and fee is ineligible for license renewal and must submit a new application pursuant to Section 5.80.060

5.80.070 – Licenses not Transferrable

- A. LICENSES NOT TRANSFERRABLE. A tobacco retailer's license may not be transferred from one person to another or from one location to another. A new tobacco retailer's license is required whenever a tobacco retailing location has a change in proprietors.

Attachment 2

5.80.080 – Past Violations

- A. Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply at a location unless:
- (1) the location has been transferred to new proprietor(s) in an arm's length transaction; and
 - (2) the new proprietor(s) provide the City with clear and convincing evidence that the new proprietor(s) have acquired the location in an arm's length transaction.

5.80.090 - License Conveys a Limited, Conditional Privilege

Nothing in this article shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City identified on the face of the license. Nothing in this article shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law.

5.80.100 – Fee for License

The fee to issue or to renew a tobacco retailer's license shall be established from time to time by resolution of the City and are nonrefundable except as may be required by law. The fee for a Tobacco Retailer License shall be in addition to, and not in lieu of, any other fees that are required.

5.80.110 – Compliance Monitoring and Inspections

- A. Compliance with this article shall be monitored by the City Manager or Designee(s). All licensed premises must be open to inspection by City Officials or designated persons during regular business hours.
- B. The Department shall inspect each tobacco retailer at least one (1) time per 12-month period to ensure compliance.
- C. The Department may conduct at least one (1) compliance check per 12-month period that involves the participation of persons between the ages of 18 and 20 to enter licensed premises to attempt to purchase tobacco products.
- D. A fee may be charged for re-inspection as adopted via Resolution by City Council.
- E. Nothing in this section shall create a right of action in any license or other person against the City or its agents.

5.80.120 – Suspension or Revocation of License

- A. In addition to any other penalty authorized by law, a tobacco retailer's license may be suspended or revoked if it is found to have violated any portion of this Chapter or any applicable State Law regarding the sale of tobacco products. Upon a finding by the Department of a first violation of this article, at a location, the license shall be suspended for 30 days.
- (1) Upon a finding by the Department of a second violation of this article at a location, the license shall be suspended for 90 days.
 - (2) Upon a finding by the Department of a third violation of this article at a location, the license shall be suspended for one year.
 - (3) Upon a finding by the Department of four or more violations of this article at a location within a five-year period, the license shall be revoked.

Attachment 2

- B. During the suspension or revocation period, no retailer shall be allowed to vend any tobacco product. All tobacco products shall be removed, and no tobacco product shall be displayed.
 - (1) Each day on which a tobacco product is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article which will constitute further suspensions or revocation of a license.
 - (2) Each individual tobacco product that is distributed, sold, or offered for sale in violation of this article shall constitute a separate violation of this article which will constitute further suspensions or revocation of a license.
- C. If it is found that a tobacco retailer has sold tobacco or a tobacco product to a minor under 21 years of age, they will be subject to the penalties noted above, and upon the first violation of this nature, that retailer shall also apply for a Conditional Use Permit (CUP) which may result in losing the ability to sell any and all tobacco products and/or a complete revocation of the tobacco retail license.

5.80.130 – Appeals

Any decision regarding the suspension or revocation of a tobacco retailer's license may be appealed to the City Council by the licensee as follows:

1. Appellant must file a written appeal with the Hesperia City Clerk within ten calendar days of the decision. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.
2. Notice of the time and place of an appeal hearing shall be provided to the appellant within thirty (30) days of receipt of the written appeal by the Hesperia City Clerk.
3. The appeal hearing shall be held within sixty (60) days of the filing of the written appeal with the Hesperia City Clerk, unless the 60-day time limit is waived by the appellant, or unless the city manager or designee continues the appeal hearing date for good cause and upon written notification to the appellant.
4. The City Council shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the director's decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final.
5. The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any final determination.

5.80.170 – License Issued in Error – Voiding of a License

Any application that is found to contain inaccurate, false, misleading, or fraudulent statements, or that omits material facts regarding the operation of the business, or the application was not accompanied by all required supporting documentation, shall void the license.

5.80.180 – Tobacco Retailing without a Valid License

- A. **INELIGIBLE FOR LICENSE.** In addition to any other penalty authorized by law, if the Department finds, or if a court of competent jurisdiction determines, based on a preponderance of evidence after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the

Attachment 2

person shall be ineligible to apply for, or to be issued, a tobacco retailer's license as follows. Operating without a valid license includes operating with a license that has been suspended or revoked:

- (1) After a first violation of this section at a location, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until 30 days have passed from the date of the violation.
- (2) After a second violation of this section at a location within any five-year period, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until 90 days have passed from the date of the violation.
- (3) After a third or subsequent violation of this section at a location within any five-year period, no new license may issue for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction), until one year has passed from the date of the violation.

5.80.190 – Additional Remedies

- A. The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity.
- B. Whenever evidence of a violation of this article is obtained in any part through the participation of a person under the age of 18 years, such a person shall not be required to appear to give testimony in any civil or administrative process brought to enforce this article, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- C. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued and shall be subject to all remedies and enforcement measures authorized by the Hesperia Municipal Code, Title 1.
- D. To the fullest extent allowed under state law, any person, whether as principal, employee, agent, partner, director, officer, stockholder, or trustee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and any conviction thereof shall be punishable of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six months, or by both such fine and imprisonment.
- E. The violation of any of the provisions of this chapter is deemed a public nuisance and may be abated by the city through civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. Violations of this chapter may also be punishable in accordance with the provisions of Title 1 of this code. Remedies are not exclusive of each other.

City Limits

MLC egreene
TE: 5/11/2021

TOBACCO RETAILERS IN HESPERIA

NAME	ADDRESS	BUSINESS TYPE
BEAR VALLEY FIRESTONE	BEAR VALLEY RD	GASOLINE SERVICE STATION
DESERT VIEW LIQUOR	BEAR VALLEY RD	RETAIL
SMART & FINAL #354	BEAR VALLEY RD	RETAIL
WALGREENS #05556	BEAR VALLEY RD	RETAIL
SMART & FINAL #354	BEAR VALLEY RD	RETAIL MERCHANT
MY GOODS MARKET #5190	BEAR VALLEY RD	CONVENIENCE STORE
D & J MARKET	BEAR VALLEY RD	CONVENIENCE STORE
ARCO AM PM H	BEAR VALLEY RD	GAS STATION
HESPERIA GAS AND MART	BEAR VALLEY RD	GAS STATION
UP IN SMOKE	BEAR VALLEY RD	RETAIL
ALDI INC, ALDI #97	BEAR VALLEY RD	RETAIL
HUFF AND PUFF SMOKE SHOP	BEAR VALLEY RD	RETAIL
BECK OIL	D ST	GASOLINE SERVICE STATION
HESPERIA MESA MART	DANBURY AVE	CONVENIENCE STORE
RANCHERO 76	FASHION CT	CONVENIENCE STORE
RANCHERO CHEVRON	FASHION CT	GAS STATION
EL KIOSKO	HESPERIA RD	MARKET/FOOD STORE
SUNSET LIQUOR	HESPERIA RD	RETAIL
PILOT TRAVEL CENTER #381	HWY 395	GAS STATION
MARK'S LIQUOR MARKET	I AVE	CONVENIENCE STORE
CIRCLE K STORES, INC. #5057	I AVE	CONVENIENCE STORE
SHOP N GO FOOD STORE	I AVE	GAS STATION
FLYERS ENERGY LLC	I AVE	GAS STATION
JUNNY'S MARKET	I AVE	RETAIL
O.G. SMOKE SHOP	JACARANDA AVE	CIGAR AND TOBACCO DEALER
STATER BROS MARKET #122	MAIN ST	CONVENIENCE STORE
SEVEN ELEVEN 25517E	MAIN ST	CONVENIENCE STORE
SHOP N GO	MAIN ST	GAS STATION
HESPERIA FASTRIP #2	MAIN ST	GAS STATION
SKY MARKETING INC	MAIN ST	GAS STATION
HESPERIA FASTRIP	MAIN ST	GAS STATION
WALGREENS #09780	MAIN ST	RETAIL
WALGREENS #02223	MAIN ST	RETAIL
99 CENT DISCOUNT STORE	MAIN ST	RETAIL MERCHANT
R & M 99 CENT PLUS STORE	MAIN ST	RETAIL MERCHANT
DOLLAR TREE STORE #2961	MAIN ST	RETAIL MERCHANT
FIVE STAR SMOKE SHOP	MAIN ST	CIGAR AND TOBACCO DEALER
SMOKER'S PARADISE & HOOKAH LOUNGE	MAIN ST	CIGAR AND TOBACCO DEALER
STATER BROS MARKETS #190	MAIN ST	CONVENIENCE STORE
CARDENA'S MARKETS, LLC	MAIN ST	CONVENIENCE STORE
STATER BROS MARKET #97	MAIN ST	CONVENIENCE STORE

SEVEN ELEVEN #2171-27678	MAIN ST	CONVENIENCE STORE
WESTERN REFINING RETAIL	MAIN ST	GAS STATION
BEST FOOD & GAS	MAIN ST	GAS STATION
ORCHID ENTERPRISE INC	MAIN ST	GAS STATION
WESTERN REFINING RETAIL	MAIN ST	GAS STATION
GAIUS FAMILY CORP	MAIN ST	GAS STATION
CHEVRON TRAVEL CENTER	MAIN ST	GAS STATION
12675 MAIN STREET INC	MAIN ST	GAS STATION
THE DEPOT 5	MAIN ST	GAS STATION
G&M OIL CO #26	MAIN ST	GAS STATION
A-MART	MAIN ST	GAS STATION
MAIN STREET GAS AND MART	MAIN ST	GAS STATION
VERMA PETROLEUM	MAIN ST	GAS STATION
ARCO AMPM	MAIN ST	GAS STATION
FASTRIP FOOD STORE #561	MAIN ST	GAS STATION AND MINI MART
ARARAT MARKET	MAIN ST	MARKET/FOOD STORE
BEST PRICE SMOKE SHOP	MAIN ST	RETAIL
THE INDIA GROCERS	MAIN ST	RETAIL
OASIS SMOKE SHOP AND GIFTS	MAIN ST	RETAIL
BEST DEAL TOBACCO	MAIN ST	RETAIL
99 CENT ONLY STORES #281	MAIN ST	RETAIL
VALLARTA SUPERMARKET #45	MAIN ST	RETAIL
WALMART STORE #4340	MAIN ST	RETAIL
TARGET STORE T-2468	MAIN ST	RETAIL
RITE AID #5697	MAIN ST	RETAIL
ALDI #93	MAIN ST	RETAIL
DOLLAR TREE STORES #07008	MAIN ST	RETAIL
DOLLAR TREE #6768	MAIN ST	RETAIL
SMOKER'S PARADISE & HOOKAH LOUNGE	MAIN ST	RETAIL
SUN WINE & SPIRIT INC	MAIN ST	RETAIL
GOLDEN DEAL TOBACCO	MAIN ST	RETAIL MERCHANT
760 VAPOR	MAIN ST	RETAIL MERCHANT
FAMILY DOLLAR, INC #30503	MAIN ST	RETAIL MERCHANT
OAKWOOD MARKET	MARIPOSA RD	CONVENIENCE STORE
OAK HILLS MARKET	MARIPOSA RD	GAS STATION
VAPE TOWN II LLC	MARIPOSA RD	RETAIL
HAVANA CIGAR	POPLAR ST	RETAIL
TRIPCO MART	RANCHERO RD	CONVENIENCE STORE
VERMA CAP/CAR WASH	RANCHERO RD	GAS STATION
FLYER ENERGY LLC	SANTA FE AVE	GAS STATION
395 SERVICE INC	THREE FLAGS CT	GAS STATION
MAM OIL INC	THREE FLAGS CT	GAS STATION

City of Hesperia

STAFF REPORT



DATE: October 19, 2021

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

FROM: Nils Bentsen, City Manager

BY: Melinda Sayre, Director of Government Services/City Clerk
Tina Bulgarelli, Administrative Analyst
Jacquelyn Castillo, Administrative Analyst

SUBJECT: Amend City Fee Schedule Related to the Deemed Approved Program and Implement Fees for the Tobacco Retailer Licensing Program

RECOMMENDED ACTION

It is recommended that the City Council and respective Commission/Boards adopt Joint Resolution No. 2021-51, CDC No. 2021-06, Resolution HHA No. 2021-10, and Resolution HWD No. 2021-19, amending the City-wide fee schedule related to the fees for the Deemed Approved Program and implement fees for the Tobacco Retailer License Program.

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.

On March 17, 2020, the City Council approved an amendment to the City-Wide Fee Schedule related to Stormwater fees, Planning Fees, Engineering Fees and Supplemental Water Charges.

On January 5, 2021, the City Council approved an amendment to the City-Wide Fee Schedule related to the commercial parking permit fees and business license fees for residential rental properties.

On August 17, 2021, the City Council approved an amendment to the City-Wide Fee Schedule related to the fees for the Commercial Truck Parking program and amending fees for services provided by the Development Services Department.

ISSUES/ANALYSIS

Staff reviews the City Fee Schedule on an annual basis and as needed during each Fiscal Year. As new programs are implemented, fees are revisited to ensure that cost recovery is being achieved and the fees are still appropriate for the services provided. The following fee schedule revisions are recommended:

Deemed Approved Program

The City of Hesperia adopted the deemed approved program in March 2017 to mitigate potential problems that may arise from the sale of alcohol, and to provide a mechanism to address problems that arise when alcohol is consumed in public, such as loitering, litter, graffiti, and unruly behavior.

In order to comply with the program, the business receives a yearly inspection from Code Enforcement, based on a standard checklist. Currently, the City-Wide Fee Schedule has assessed the Deemed Approved Alcohol License and Annual Inspection program at \$475.

Staff has re-evaluated the fees associated with the program by considering average inspection and application processing times across a multitude of business types that offer retail sale of alcoholic beverages for off-site consumption, such as liquor stores, grocery stores, restaurants, fast food restaurants, gas stations, convenience stores, etc.

Staff recommends a fee of \$325 for all Alcoholic Beverage Control (ABC) license types, except for types 41 and 47, which are restaurant establishments and a fee of \$175 for restaurant establishments. Alcohol sales are ancillary to restaurant food services and inspections for these establishments require considerably less time when compared to other retail alcohol establishments.

The fee re-assessment would reduce the current fee for retail alcohol establishments, excluding restaurants, by \$150 and reduce the fee by \$300 for restaurants.

Staff is recommending these reductions as during the analysis it was noted that restaurant establishments require a less extensive inspection and that the inspection process overall

requires less staff time. All other inspection types were analyzed and a reduced fee will recover the City's cost adequately and so can be reduced. Creating two fees will address the different levels of administration that different establishments require, while still recovering the City's costs.

Staff has determined that it is also necessary for the City to implement a \$60 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Deemed Approved establishments. This fee will be applied if an establishment requires multiple inspections to come into compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

Tobacco Retailer License (TRL) Program

On May 4, 2021, City Council received a report regarding Tobacco Retailer License (TRL) programs and directed staff to draft an ordinance with a specific focus of deterring the sale of tobacco to underage youth.

The proposed program will mandate that all tobacco retailers within the City obtain a Tobacco Retailer License. The proposed ordinance will include compliance checks conducted by the City's Code Enforcement department. The San Bernardino County Sheriff's Department may also conduct sting operations to ensure compliance with state and federal tobacco laws. The proposed fee is designed to recover the cost of the annual inspection and does not include cost recovery for the Sheriff's Department.

Staff is proposing a fee of \$210 for the Tobacco Retailer License. This fee will recover the City's cost of performing a compliance inspection annually, which will include items such as signage, product placement, minimum package sizes, and any prohibitions in place, such as the prohibition related to the sale of flavored tobacco products.

Staff has determined that it is also necessary for the City to implement a \$60 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Tobacco Retailer establishments. This fee will be applied if an establishment requires multiple inspections to come into compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

Combination License Fee for Alcohol and Tobacco Retailers

For those establishments that operate as both alcohol and tobacco retailers, staff recommends implementing a combination fee. A fee that combines both license inspections is recommended not only to introduce efficiency into the programs, but to ensure that cost recovery is appropriate. The cost of the combination fee is recommended to be \$485. This fee includes the Deemed Approved Program fee of \$325 plus an additional \$160 to recover the cost of performing the Tobacco Retailer inspection at the same time. This fee can be applied to licenses that retail both alcohol and tobacco, such as grocery stores and gas stations. The higher Deemed Approved fee is included because there are no restaurants or eating establishments that also retail tobacco.

Staff has determined that it is also necessary for the City to implement a \$75 re-inspection fee, as there is currently no fee to recover costs related to the re-inspections of Alcohol and Tobacco Retailers. This fee will be applied if an establishment requires multiple inspections to come into

compliance beyond the normally included inspections, which is usually two, one for the initial and one to inspect any corrective measures noted during the first inspection.

FISCAL IMPACT

Adoption of this resolution will allow the City to continue to collect fees that adequately recover costs based on services provided.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Joint Resolution No. 2021-51, CDC No. 2021-06, HHA No. 2021-10, and HWD No. 2021-19
2. Exhibit "A"
3. Exhibit "B"

**JOINT RESOLUTION NO. 2021-51
RESOLUTION CDC No. 2021-06
RESOLUTION HHA No. 2021-10
RESOLUTION HWD No.2021-19**

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, THE BOARD OF DIRECTORS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AND THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT AMENDING THE CITY-WIDE FEE SCHEDULE RELATED TO THE DEEMED APPROVED ALCOHOL LICENSE AND ANNUAL INSPECTION PROGRAM AND IMPLEMENTATION OF FEES FOR THE TOBACCO RETAILER LICENSING PROGRAM

WHEREAS, on December 6, 2016, the City of Hesperia City Council, Community Development Commission, Hesperia Housing Authority, Hesperia Fire Protection District, and the Hesperia Water District adopted a revised City-wide fee schedule inclusive of all City, Commission, and District 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 Community Development Commission, the Board of Directors of the Hesperia Housing Authority, and the Board of Directors of the Hesperia Water District, 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 City Council heard and took action on Ordinance No. 2017-03, related to deemed approved operations conditions and regulating off-sale alcohol beverage sales establishments; and

WHEREAS, deemed approved establishments present potential risks that may arise from the sale of alcohol such as loitering, litter, graffiti, and unruly behavior, a mechanism to monitor these establishments for compliance is necessary through annual inspections and re-inspections as applicable; and

WHEREAS, the City Council/Commission/Board desires to modify the existing fees for the Deemed Approved Program to address the different levels of administration that different establishments require, while still recovering program related costs; and

WHEREAS, the City Council received a report regarding the implementation of a Tobacco Retailer License (TRL) program, compliance checks and inspections are necessary to deter the sale of tobacco to underage youth; and

WHEREAS, the proposed TRL program will include such compliance and inspection checks by the City's Code Enforcement Department, a fee is necessary to recover costs for the annual inspections and re-inspections as applicable; and

WHEREAS, those establishments that operate as both alcohol and tobacco retailers, a combination fee is recommended that combines both licenses, inspections, and re-inspection fees for efficiency and appropriate cost recovery purposes.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, THE BOARD OF DIRECTORS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AND THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT AS FOLLOWS:

- Section 1. In all respects, the facts as set forth in this resolution are true and correct.
- Section 2. 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 December 19, 2021.
- Section 3. All fees described are for each identified process and additional fees shall be required for each additional process or service required.
- Section 4. Interpretation of this resolution may be made by the City Manager and/or designee. When there are conflicts between fees, the lower fee shall be applied.
- 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 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 19th day of October 2021

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre, City Clerk

Exhibit A

SECTION 70: Business License

11)	Deemed Approved Alcohol License and Annual Inspection for all ABC license types, except for types 41 and 47	\$325
12)	Deemed Approved Alcohol License and Annual Inspection for ABC license types 41 and 47 (e.g., restaurant establishments)	\$175
13)	Deemed Approved Alcohol License Re-Inspection	\$60
14)	Tobacco Retailer License and Annual Inspection	\$210
15)	Tobacco Retailer License Re-Inspection	\$60
16)	Combination License for Alcohol and Tobacco Retailers	\$485
17)	Combination License for Alcohol and Tobacco Retailers Re-Inspection	\$75

Exhibit B

SECTION 70: Business License

11)	Deemed Approved Alcohol License <u>and Annual Inspection for all ABC license types, except for types 41 and 47</u>	\$325 ^{\$475}
<u>12)</u>	<u>Deemed Approved Alcohol License and Annual Inspection for ABC license types 41 and 47 (e.g., restaurant establishments)</u>	<u>\$175</u>
<u>13)</u>	<u>Deemed Approved Alcohol License Re-Inspection</u>	<u>\$60</u>
<u>14)</u>	<u>Tobacco Retailer License and Annual Inspection</u>	<u>\$210</u>
<u>15)</u>	<u>Tobacco Retailer License Re Inspection</u>	<u>\$60</u>
<u>16)</u>	<u>Combination License for Alcohol and Tobacco Retailers</u>	<u>\$485</u>
<u>17)</u>	<u>Combination License for Alcohol and Tobacco Retailers Re-Inspection</u>	<u>\$75</u>

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City of Hesperia

STAFF REPORT



DATE: October 19, 2021

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Melinda Sayre, Director of Government Services/City Clerk
Erin Baum, Assistant City Clerk

SUBJECT: Second Public Hearing – Redistricting due to 2020 Census

RECOMMENDED ACTION

It is recommended that the City Council 1) Receive a presentation from National Demographics Corporation, the City's redistricting consultant detailing the redistricting process and permissible criteria to be considered to create district boundaries; 2) Conduct the second public hearing to receive public input on the redistricting process and composition of districts; and 3) Provide any additional guidance concerning the drafting of redistricting maps.

BACKGROUND

Redistricting is the process of adjusting City Council voting districts so that each district has substantially the same number of voting-aged residents. Cities with voting districts are required to update district maps following the release of the centennial US Census data. Due to delays caused by the COVID-19 pandemic, the release of US Census data, which would normally be released in March 2021, is now expected to be released on October 10, 2021. The deadline for the City to adopt new district maps is April 17, 2022.

ISSUES/ANALYSIS

On June 6, 2017 the City Council approved Ordinance 2017-09 establishing a by-district election system including five (5) districts, each having one (1) City Council seat representative and each serving a four (4) year term with a rotating appointed mayor. By-district elections were implemented in a staggered manner with the first by-district election held in 2018 for districts two (2), three (3) and four (4). In 2020, by-district elections were held for districts one (1) and five (5).

In July the City contracted National Demographic Corporation (NDC) to coordinate the City's redistricting process and required community outreach. Assembly Bill 849, known as the "Fair and Inclusive Redistrict for Municipalities and Political Subdivisions (FAIR MAPS) Act in 2019 requires cities to engage communities in the redistricting process by holding a minimum of four (4) public hearings and/or workshops. The purpose of this second public hearing is to inform the public about the redistricting process and allow the public to provide input regarding the composition of one or more council districts. Pursuant to the FAIR MAPS act, no draft map will be presented at the second hearing.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ALTERNATIVE(S)

1. Provide alternative direction to staff

ATTACHMENT(S)

None

City of Hesperia

STAFF REPORT



DATE: October 19, 2021
TO: Mayor and Council Members
FROM: Nils Bentsen, City Manager
BY: Eric Dunn, City Attorney
SUBJECT: Potential Vaccine Ordinance Discussion Item

RECOMMENDED ACTION

It is recommended that the City Council discuss a potential Ordinance prohibiting Hesperia businesses from requiring proof of a COVID-19 vaccine from patrons to enter their establishments.

BACKGROUND

During the October 5, 2021 City Council meeting it was requested that staff bring back an item for discussion regarding the introduction of an Ordinance prohibiting Hesperia businesses from requiring patrons to show proof of a COVID-19 vaccination to enter.

ISSUES/ANALYSIS

Item is up for discussion.

FISCAL IMPACT

There is no fiscal impact attached to this discussion.

ALTERNATIVE(S)

1. Provide alternate direction to staff.

ATTACHMENT(S)

None

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City of Hesperia

STAFF REPORT



DATE: October 19, 2021

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Melinda Sayre, Director of Government Services/ City Clerk

SUBJECT: Consideration of Resolutions Opposing Vaccine Mandates for School Children, Teachers and Other School Employees

RECOMMENDED ACTION

It is recommended that the City Council consider Resolutions 2021-53 and 2021-54, opposing vaccination mandates for school children, teachers and other school employees.

BACKGROUND

During the October 5, 2021, City Council meeting it was requested that staff agendize resolutions for City Council consideration in opposition of COVID-19 vaccination mandates for students, teachers and other school employees.

ISSUES/ANALYSIS

On August 11, 2021, The California Department of Public Health issued a public health order requiring all school staff to either show proof of full vaccination or be tested at least once per week. As a result, some school districts have ordered teachers and other school staff to receive COVID-19 vaccinations to remain employed. School sites must be compliant with public health orders by October 15, 2021.

On October 21, 2021, Governor Newsom announced plans to add the COVID-19 vaccine to the list of vaccinations required for students to attend school in-person when the vaccine receives full approval from the Food and Drug Administration (FDA) for middle and high school grades.

FISCAL IMPACT

There is no fiscal impact attached to this item.

ALTERNATIVE(S)

1. Provide alternate direction to staff.

ATTACHMENT(S)

1. Resolution No. 2021-53, Opposing Vaccine Mandates for Teachers and School Staff
2. Resolution No. 2021-54, Opposing Vaccine Mandates for Students

RESOLUTION NO. 2021-53

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA,
CALIFORNIA, DECLARING OPPOSITION TO VACCINE MANDATES FOR
TEACHERS AND OTHER SCHOOL EMPLOYEES**

WHEREAS, On August 11, 2021, The California Department of Public Health issued a public health order requiring all school staff to either show proof of full vaccination or be tested at least once per week; and

WHEREAS, all schools must be in full compliance by October 15, 2021.

WHEREAS, some school districts have responded to the public health order by requiring vaccinations of all teachers and school employees; and

WHEREAS, the City Council desires to express opposition to vaccine mandates in both the public or private context; and

WHEREAS, the City Council proposes that teachers and other school employees choose the measures they want to take against COVID-19 as opposed to a mandate set forth by the government; and

WHEREAS, the City Council expresses support for the rights of teachers and other school employees living and working in this jurisdiction to direct their own health future while preserving their jobs and employment opportunities.

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

- Section 1. Any individual that decides to vaccinate should have easy access to one.
- Section 2. Hesperia teachers and school employees should have the right to make their own health care choices and move freely in society.
- Section 3. Teachers and other school employees should not be denied employment based on COVID-19 vaccination status.
- 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 19th day of October 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre
City Clerk

RESOLUTION NO. 2021-54

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA,
CALIFORNIA, DECLARING OPPOSITION TO VACCINE MANDATES FOR
SCHOOL CHILDREN**

WHEREAS, On October 21, 2021 Governor Newsom announced plans to add the COVID-19 vaccine to the list of vaccinations required to attend school in-person when the vaccine receives full approval from the Food and Drug Administration (FDA) for middle and high school grades; and

WHEREAS, the City Council desires to express opposition to vaccine mandates in both the public or private context; and

WHEREAS, the City Council proposes that individuals and families choose the measures they want to take against COVID-19 as opposed to a mandate set forth by the government; and

WHEREAS, the City Council expresses support for the rights of individuals and families living in this jurisdiction to direct their own health future

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

- Section 1. Any individual that decides to vaccinate should have easy access to one.
- Section 2. Hesperia families have the right to make their own health care choices and move freely in society.
- Section 3. Students should not be denied in-person education based on COVID-19 vaccination status.
- 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 19th day of October 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre
City Clerk